ORDINANCE 1476

AN ORDINANCE OF THE CITY OF NORTH BEND, WASHINGTON, REPEALING NBMC CHAPTER 15.44 SHORELINE MANAGEMENT, IN ITS ENTIRETY AND REPLACING THE CITY’S SHORELINE REGULATIONS WITH AN UPDATED SHORELINE MASTER PROGRAM CODIFIED IN A NEW CHAPTER 14.20 OF THE NORTH BEND MUNICIPAL CODE; ESTABLISHING A NEW SHORELINE ELEMENT IN THE CITY OF NORTH BEND’S COMPREHENSIVE PLAN WITH NEW POLICIES AND REGULATIONS FOR THE CITY’S SHORELINE JURISDICTION TO INCORPORATE THE GOALS AND POLICIES OF THE UPDATED SHORELINE MASTER PROGRAM BY REFERENCE; ADOPTING LEGISLATIVE FINDINGS; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, the Shoreline Management Act of 1971, codified at chapter 90.58 RCW ("SMA"), requires all cities and counties with "shorelines of the state" to prepare and adopt a Shoreline Master Program that is based on state laws and rules, but tailored to each specific jurisdiction; and

WHEREAS, in RCW 90.58.020 the State Legislature directed local governments developing Shoreline Master Programs for shorelines of State-wide significance to give preference to the following uses, in order of preference, which: 1) recognize and protect the State-wide interest over local interest; 2) preserve the natural character of the shoreline; 3) result in long-term over short-term benefit; 4) protect the resources and ecology of the shoreline; 5) increase public access to publicly-owned areas of shorelines; 6) increase recreational opportunities for the public in the shorelines; and 7) provide for any other element, as defined in RCW 90.58.100, deemed appropriate or necessary; and

WHEREAS, pursuant to Chapter 90.58 RCW, in 1993 the City of North Bend adopted and codified a Shoreline Master Program (SMP) as Chapter 15.44 North Bend Municipal Code (NBMC) governing land use and development within the City’s shoreline jurisdiction and no update of the SMP had been adopted since that time; and

WHEREAS, in 2003 the Washington State Department of Ecology (DOE) adopted new rules, pursuant to RCW 90.58.200, to carry out provisions of the Shoreline Management Act, effective January 17, 2004, implementing the SMA and the City’s existing shoreline
master program required a comprehensive update in order to achieve the procedural and substantive requirements of the SMA rules; and

WHEREAS, DOE's new rules are set forth in WAC 173-26, and these new rules provide direction to local jurisdictions concerning the regulation of uses on shorelines of the State; and

WHEREAS, RCW 90.58.080 directs local governments to develop or amend their shoreline master programs consistent with the required elements of the guidelines adopted by DOE, in accordance with a schedule established in that section; and

WHEREAS, the timetable set forth in RCW 90.58.080(2)(a)(ii) required the City of North Bend to amend its Shoreline Master Program consistent with the requirements set forth in the State Shoreline Management Act (RCW 90.58) and Shoreline Master Program Guidelines adopted in 2003 (WAC 173-26); and

WHEREAS, on October 12, 2009, an Introductory Meeting was held before the Planning Commission to describe the SMP Update process, to which all of the owners of real property within City of North Bend Shoreline Jurisdiction were invited, as well as local, state and federal agencies, tribes, and other interested parties (hereinafter called "Stakeholders"); and

WHEREAS, a community workshop was then held at the October 28, 2010 Planning Commission meeting to bring citizens up to speed on the project work, obtain public input on the future of North Bend's shorelines, and to answer questions. A Planning Commission kick-off meeting was held on November 19, 2009 following jurisdiction mapping and prior to the detailed analysis report and supporting data. Various meetings were held from March to July 2011, and a Public Hearing was held on June 23, 2011 after a notice of Public Hearing was published in the Valley Record on June 8, 2011, and the Planning Commission made a recommendation to Council on September 8, 2011; and

WHEREAS, on February 15, 2012, the City's SEPA responsible official issued a Determination of Nonsignificance ("DNS") pursuant to WAC 197-11-600(4)(a). The DNS was not appealed; and

WHEREAS, the North Bend City Council held a public hearing on March 6, 2012 to consider the draft SMP dated October 31, 2011; and

WHEREAS, on March 6, 2012, the City Council approved Resolution 1578 and forwarded the proposed SMP update to the Washington State Department of Ecology for review and comment prior to the City's formal adoption of the SMP in accordance with WAC 173-26-110;
WHEREAS, the Department of Ecology accepted written public comments on the City's March 6, 2012 SMP, and conducted a public comment period from April 25, 2012 to May 25, 2012; and

WHEREAS, thereafter, the Department of Ecology reviewed the updated SMP, and required and recommended certain changes as a condition of DOE approval; and

WHEREAS, the City Council concurs with and desires to adopt the required changes with an alternative to required change 1; and

WHEREAS, the City desires to repeal and replace its existing SMP with new, updated policies, regulations, standards, administrative provisions, and enforcement procedures in accordance with the required Comprehensive Master Program Update in Chapter 14.20 of the NBMC and establish a new Shoreline Element Chapter of the Comprehensive Plan; and

WHEREAS, in accordance with RCW 36.70A.480, the City desires to adopt and incorporate by reference the goals and policies of the updated SMP into the North Bend Comprehensive Plan;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF NORTH BEND, WASHINGTON, DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. North Bend Municipal Code Chapter 15.44 Repealed. North Bend Municipal Code Chapter 15.44 – Shoreline Management is hereby repealed in its entirety.


Section 3. North Bend Comprehensive Plan Amended. The Comprehensive Plan is hereby amended by creating a new Shoreline Element chapter, attached as Exhibit A pages 1-19.

Section 4. Copy to Commerce and Ecology. Pursuant to RCW 36.70A.106, the Planning Director is hereby authorized and directed to provide a copy of this ordinance to the Washington Department of Commerce and the Washington Department of Ecology within 10 days of adoption.

Section 5. Severability. Should any section, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.
Section 6. Effective Date. This ordinance or a summary thereof consisting of the title shall be published in the official newspaper of the City, and shall take effect and be in full force thirty (30) days after passage and approval by the Washington Department of Ecology.


CITY OF NORTH BEND:

Kenneth G. Hearing, Mayor

APPROVED AS TO FORM:

Michael R. Kenyon, City Attorney

ATTEST/AUTHENTICATED:

Susie Oppedal, City Clerk