CITY OF KENMORE
WASHINGTON
ORDINANCE NO. 10-0312

AN ORDINANCE OF THE CITY OF KENMORE, WASHINGTON; REPEALING THE INTERIM SHORELINE SUB-ELEMENT OF THE COMPREHENSIVE PLAN; ADOPTING A NEW SUB-ELEMENT OF THE COMPREHENSIVE PLAN RELATING TO SHORELINE MASTER PROGRAM POLICIES; ADOPTING THE SHORELINE ENVIRONMENT DESIGNATIONS MAP; ADOPTING A SHORELINE RESTORATION PLAN; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, in 1972, the public adopted the Shoreline Management Act, codified at Chapter 90.58 RCW (SMA), by way of referendum to "prevent the inherent harm in an uncoordinated and piecemeal development of the state's shorelines"; and

WHEREAS, RCW 90.58.080 requires local governments to develop or amend master programs for the regulation and uses of the shorelines of the state consistent with the guidelines adopted by the Washington State Department of Ecology (Ecology); and

WHEREAS, RCW 90.58.020 directs local governments developing shoreline master programs to give preference to uses in the shorelines in the following 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 shorelines; 5) increase public access to publicly-owned areas of the shorelines; 6) increase recreational opportunities for the public in the shoreline; and 7) provide for any other element as defined in RCW 90.58.100 deemed appropriate or necessary; and

WHEREAS, in 2003, Ecology adopted new rules, pursuant to RCW 90.58.200, which gave procedural and substantive direction to local jurisdictions for updating shoreline uses and regulations, which became effective January 17, 2004; and

WHEREAS, when it incorporated in 1998, the City of Kenmore (City) adopted King County's original 1978 Shoreline Master Program (SMP). Pursuant to RCW 90.58.080, the City is required to adopt a comprehensive master program update consistent with the criteria set forth in Ecology's guidelines (SMP Update); and

WHEREAS, three bodies of water within the City are regulated under the City's SMP, including Lake Washington, Sammamish River and Swamp Creek. Lake Washington is the only shoreline designated as a "shoreline of statewide significance" under the SMA as it is a lake with a surface acreage over 1,000 acres; and
WHEREAS, in the fall of 2007, the City began its SMP Update with the assistance of grant funding from Ecology; and

WHEREAS, the City conducted a comprehensive inventory of the ecological functions and conditions within its shoreline jurisdiction to provide a scientific foundation for application of the shoreline environment criteria and assignment of the appropriate shoreline designations; and

WHEREAS, the results of this comprehensive inventory are contained in the document entitled, Kenmore Shoreline Master Program Update Inventory and Analysis, dated February 2010 (Inventory); and

WHEREAS, consistent with the requirements of WAC 173-26-186(8)(d), the City conducted an analysis of potential cumulative impacts of reasonably foreseeable future development on shoreline ecological functions and other shoreline functions fostered by the policy goals of the SMA. The cumulative impact analysis is contained in the memorandum entitled, City of Kenmore, Shoreline Master Program Update - Cumulative Impacts, dated February 4, 2010 (Cumulative Impact Analysis); and

WHEREAS, the City has utilized the scientific information from the Inventory and the Cumulative Impact Analysis to draft the proposed SMP Update; and

WHEREAS, consistent with the requirements of WAC 173-26-224(4)(c), the City has conducted a public access analysis, as set forth in a January 6, 2009 Memorandum entitled, "Shoreline Public Access - Demand, Opportunities and Priorities" ("Public Access Planning Memo"), which plans for an integrated shoreline public access system that identifies public needs and opportunities to provide public access; and

WHEREAS, consistent with the requirements of WAC 173-26-186(8)(c) and 173-26-201(2)(f), a document entitled City of Kenmore Shoreline Master Program Update, Restoration Plan, dated February 3, 2010 ("Restoration Plan") has been formulated so that the City's master program includes goals, policies and actions for restoration of impaired shoreline ecological functions; and

WHEREAS, over the past two years, the City's Planning Commission has reviewed and revised a number of documents, including: the Inventory; the Shoreline Sub-Element of the Comprehensive Plan; proposed revisions to shoreline regulations; the Restoration Plan; the Public Access Planning Memo; the Cumulative Impacts Memorandum; and a matrix of responses to public comments; and

WHEREAS, the purpose of the Shoreline Sub-Element of the Comprehensive Plan is to (1) promote the public health, safety and general welfare of the community by: (1) provide long range, comprehensive policies for development and use of the shorelines within the City; to manage shorelines in a positive, effective and equitable manner; and (3) carry out the responsibilities established by the SMA for the City, and to adopt and foster the policies contained in RCW 90.58.020 of the SMA; and
WHEREAS, pursuant to WAC 173-26-186(8)(c), master programs must include goals and policies that provide for restoration of impaired ecological functions, and which identify existing policies and programs that contribute to planned restoration goals and any additional policies and programs that local government will implement to achieve its goals; and

WHEREAS, throughout the SMP Update process, the City has made a concerted effort to generate public involvement, including holding two public open houses; creating a citizen advisory committee to work with the Planning Commission; creating a comprehensive and regularly-updated web page devoted to the SMP Update; sending mailings to all shoreline property owners soliciting comments on the SMP Update and maintaining a large mailing list in order to keep interested parties informed; and

WHEREAS, on July 22, 2009, the Planning Commission presented their preliminary recommendations for the proposed SMP Update to the City Council, and

WHEREAS, the Planning Commission held a public hearing on the SMP Update and fifteen interested parties testified and a number of comments were received, including from the Muckleshoot Tribe, Friends of St. Edwards State Park, Waterfront Construction, the Lakepointe development, Futurewise and a number of private individuals; and

WHEREAS, on August 25, 2009 the City's Responsible Official under the State Environmental Policy Act issued a determination of non-significance for the proposed SMP Update; and

WHEREAS, on August 25, 2009 the City provided notice to the Washington State Department of Commerce regarding the proposed amendments to the shoreline regulations and SMP Update pursuant to RCW 36.70A.106; and

WHEREAS, Ecology completed its initial review of the proposed SMP Update and submitted comments to the City. The Planning Commission and City Staff have spent several months considering the recommendations and comments received from Ecology as demonstrated in the Public Comment Matrix; and

WHEREAS, on January 20, 2010, the Planning Commission made their final recommendation to the City Council for approval of the SMP Update; and

WHEREAS, on March 29, 2010, the City Council held a public hearing on the proposed SMP Update, which was continued for additional public comment on May 27, 2010 and September 13, 2010; and

WHEREAS, the City Council has considered public testimony and comments, staff and consultant input, and certain documents and information, including: 1) Overview of Draft Shoreline Master Program, Feb. 4, 2010 (ESA Adolfson); 2) the Inventory; 3) the Cumulative Impacts Memorandum; 4) the Shoreline Sub-Element of the Comprehensive Plan; 5) City of Kenmore Shoreline Master Program, Comprehensive Plan Policies, Shoreline Sub-Element; 6) City of Kenmore Shoreline Master Program Update, Draft Shoreline Regulations; 7) the Restoration Plan;
WHEREAS, the City Council finds that the SMP Update includes the necessary master program elements required by WAC 173-26-191(b), the master program basic requirements set forth in WAC 173-26-191(2) and the general master program provisions set forth in WAC 173-26-221; and

WHEREAS, RCW 36.70A.480 provides that the goals and policies contained in a local shoreline master program shall be considered an element of the City's comprehensive plan adopted under the Growth Management Act, codified at Chapter 36.70A RCW. All other portions of the City's shoreline master program, including use regulations, are considered a part of the City's development regulations; and

WHEREAS, RCW 36.70A.130(2)(a)(ii) allows amendments to a city's comprehensive plan more frequently than once per year if the amendment includes the adoption of a shoreline master program under the procedures set forth in chapter 90.58 RCW; and

WHEREAS, the City Council desires to repeal the existing Interim Shoreline Sub-Element of the City of Kenmore Comprehensive Plan; and

WHEREAS, the City Council desires to adopt the proposed Shoreline Master Program Policies as a new Sub-Element of the City of Kenmore Comprehensive Plan;

WHEREAS, the City Council also desires to adopt the Restoration Plan as part of its Shoreline Master Program Update as required by WAC 173-26-186(8)(c) and 173-26-201(2)(f); now therefore,

THE CITY COUNCIL OF THE CITY OF KENMORE, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Findings Adopted. The City Council adopts the foregoing recitals as findings for this Ordinance, which are incorporated by reference as if set forth in full.

Section 2. Repealer of Comprehensive Plan Shoreline Sub-Element. The City Council repeals the Shoreline Sub-Element (Interim), dated March 2001, of the City of Kenmore Comprehensive Plan in its entirety.

Section 3. Adoption of Shoreline Master Program Policies as a Sub-Element of the City of Kenmore Comprehensive Plan. The City Council adopts the City of Kenmore Shoreline Master Program Update, Comprehensive Plan Policies, Shoreline Sub-Element, as set forth in Exhibit 1, attached hereto and incorporated by reference, as a new Sub-Element of the City of Kenmore Comprehensive Plan.

Section 5. Adoption of Restoration Plan. The City Council adopts the City of Kenmore Shoreline Master Program Update, Restoration Plan (Restoration Plan) as set forth in Exhibit 3, attached hereto and incorporated by reference. The Restoration Plan shall be considered a part of the City's Shoreline Master Program Policies, adopted pursuant to Section 3 of this Ordinance.

Section 6. Effective Date. This Ordinance shall be published in the official newspaper of the City, and pursuant to RCW 36.70A.480(2) and RCW 90.58.090(1) shall take effect and be in full force upon the date approved by the Washington State Department of Ecology.


CITY OF KENMORE

David Baker, Mayor

ATTEST/AUTHENTICATED:
Lynn Suskin, City Clerk

Approved as to form:
Rod P. Kaseguma, City Attorney

Filed with the City Clerk: September 8, 2010
Passed by the City Council: September 13, 2010
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