ORDINANCE NO. 668


WHEREAS, RCW Chapter 90.58, the Shoreline Management Act ("SMA") and the Growth Management Act, RCW 36.70A.480, require the City of Shoreline to develop and implement local Shoreline Master Program ("SMP") goals and policies as an element of its Comprehensive Plan and development regulations to implement this element; and

WHEREAS, Shoreline adopted King County's Shoreline Management Master Program as adopted in 1996 in Shoreline Municipal Code chapter 16.10; and

WHEREAS, the State Department of Ecology ("Ecology") adopted new SMP guidelines in requiring all jurisdictions in the state to update their Shoreline Master Programs; and

WHEREAS, the City Council adopted Resolution No. 327 on May 29, 2012 to submit the SMP packet to Ecology for review; and

WHEREAS, Ecology completed its review and the City received a Letter of Conditional Approval, Findings and Conclusions, and Required Changes on July 3, 2013; and

WHEREAS, the City Manager will notify Ecology Director Bellon of Council action adopting the SMP that incorporates Required Changes; and

WHEREAS, the City’s SMP will become effective 14 days following receipt of said letter; now, therefore

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

Section 1. Adoption of Findings and Conclusions. In support of adoption of the Shoreline Master Program, as provided in Section 2 below, the City Council adopts the Department of Ecology’s Findings and Conclusions set forth in Exhibit 1, attached hereto and incorporated herein by this reference as if set forth in full.

Section 2. Adoption of the Shoreline Master Program. The City of Shoreline’s Shoreline Master Program, Receiving No. 7321, as revised with final required changes from the Department of Ecology is hereby adopted.


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 preemption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

Section 6. Publication and Effective Date. This ordinance shall take effect 5 days after publication of a summary consisting of its title in the official newspaper of the City.

PASSED BY THE CITY COUNCIL ON AUGUST 5, 2013.

Keith A. McGlashan, Mayor

ATTEST:

Scott Passey
City Clerk

APPROVED AS TO FORM:

Ian Sievers
City Attorney

Date of publication: August 8, 2013
Effective date: August 13, 2013
ATTACHMENT A: FINDINGS AND CONCLUSIONS
FOR PROPOSED COMPREHENSIVE UPDATE TO THE CITY OF SHORELINE
SHORELINE MASTER PROGRAM

SMP Submittal accepted February 14, 2013, Ordinance No.327
Prepared by Barbara Nightingale on June 18, 2013

Brief Description of Proposed Amendment:

The City of Shoreline has submitted to Ecology for approval, the City’s first Shoreline Master Program (SMP) to comply with the Shoreline Management Act (SMA) and SMP Guidelines requirements of WAC 173-26. This master program contains locally tailored shoreline management policies, regulations, environment designation maps, and administrative provisions. The SMP includes many elements from the City’s Critical Areas Ordinance (Ordinance 398), adopted by reference as part of the SMP. Consistent with WAC 173-26-221(2)(c)(i)(A)(B)(C)(D) and (E), this SMP incorporates updated wetland standards that meet state standards for wetlands associated with state shorelines. This SMP and its updated standards and critical area provisions, adopted by reference, assures no net loss of shoreline ecological functions to sustain shoreline natural resources, as defined by Ecology guidelines adopted pursuant to RCW 90.58.060.

This SMP will regulate the shoreline jurisdiction of the City of Shoreline, totaling approximately three and one-half linear miles within the city limits. The BNSF railroad runs the entire length of the City shoreline with a full 70% of the railway right-of-way abutting Puget Sound and supported by continuous riprap. The remaining 30 % percent of the railway, within the City’s shoreline jurisdiction, is landward of Richmond Beach Saltwater Park, the Richmond Beach neighborhood, and the Point Wells industrial area, a potential annexation area. The extent of the remaining uses abutting the City’s Puget Sound shorelines and potential annexation area include 16% occupied by the Point Wells industrial facility, 9% single-family residential uses, and 5% parks and open space. If Point Wells is annexed by the City, the total shoreline SMP linear miles will be approximately 4 miles. The area has been redesignated with designations appropriate to the character of the area.

The topography of the City’s shoreline includes low elevation shorelines, to the north, surrounding the Point Wells Facility, the Richmond Beach Residential Community, and the Richmond Beach Saltwater Park. Those shorelines, south of the Richmond Beach Park, are largely high bluffs with slopes greater than 40%, and are presently separated from Puget Sound by the BNSF railroad and the shoreline stabilization supporting the railroad.

FINDINGS OF FACT

Need for amendment. The proposed SMP is needed to comply with the statutory deadline for comprehensive updates for cities located in King County pursuant to RCW 90.58.080 and 100. This amendment is also needed for compliance with the planning and procedural requirements of the SMA and its implementing rules. When the City of Shoreline incorporated in 1995, it adopted regulations outlined in Title 25 (Shoreline Management Plan) of the King County Code as the interim shoreline management code (Shoreline Municipal Code [SMC] 16.10). In 1998, with the adoption of its own Comprehensive Plan, the City included an SMP Element with goals, policies, and maps reflecting those elements of the King County SMP. In addition to these areas located in King County, the shoreline properties within the City’s potential annexation area at Point Wells are currently regulated.
under the Snohomish County SMP. This locally-adopted SMP includes all existing shoreline uses within existing City Limits and the Point Wells potential annexation area. This SMP is required to meet the RCW 90.58.080 master program timetable in the development of regulations for land uses over the reasonably foreseeable future specific to the City’s entire shoreline, including any potential annexation areas, such as Point Wells. If and when the City annexes the Point Wells area, this SMP will also regulate the Point Wells area, bringing the total linear miles regulated by the SMP to over four (4) linear miles of Puget Sound shoreline.

**SMP Provisions to be changed by the amendment as proposed:** This updated Shoreline SMP covers approximately four miles of marine shoreline in central Puget Sound, located between the boundaries of the cities of Woodway and Seattle, and the unincorporated Snohomish County area at Point Wells. It also regulates the area waterward of Ordinary High Water Mark (OHWM) west to the Kitsap Peninsula boundary along the middle of Puget Sound. In summary, this SMP update is needed to enable the City to regulate the present and future land uses. This SMP applies environmental protection and land use management policies and practices provided by the City’s 2006 Critical areas Ordinance, Comprehensive Plan elements, the 2003 SMP Guidelines (WAC 173-26), and state standards for wetlands. SMP changes include more site and use-specific policies and regulations for these City shorelines, based upon the City’s inventory of conditions and demonstration of the potential to achieve no net loss of ecological functions, as provided in their use analysis and cumulative impacts analysis. This is the City’s first SMP tailored to the City’s specific conditions and comprehensive planning.

**Amendment History, Review Process:** The City indicates the proposed SMP amendments originated from a local planning process that began on November 11, 2007. In April 2008, the City produced a Public Participation Plan for soliciting early and continuous feedback from the local community and statewide stakeholder groups. Phase I included collection of existing shoreline data from a variety of sources in order to connect people and organizations to relevant shoreline information. The record shows that the main forum for SMP discussions, occurred at Planning Commission meetings, with SMP background information presented at the July 17, 2008 Planning Commission meeting, and SMP open house workshops held in conjunction with the November 20, 2008 and August 20, 2009 planning commission meetings. Several SMP meetings were held by the planning commission and on March 1, 2012, the Planning Commission approved the draft SMP and recommended it be moved to the City Council for adoption. The City Council issued a notice of hearing in the Seattle Times for a public hearing on March 14, 2012. During that hearing, only one citizen commented and that comment was to urge the City Council to adopt the SMP. City Council then scheduled the SMP Resolution of Intent to Adopt (Resolution 327) for May 29, 2012. These meetings were widely noticed and open to the public. Over the last three years, the City has been working closely with citizens residing along the shoreline. The City has resolved all controversy with these homeowners. Affidavits of publication provided by the City indicate notice of the hearing was published in the Seattle Times on February 15, 2012 for a public hearing before the planning commission and a publication with the Seattle Times on May 3, 2012 for the City Council adoption on May 14, 2012.

With passage of Resolution #327, on May 29, 2012, the City authorized staff to forward the proposed amendments to Ecology for approval of the City’s SMP.

Documents submitted by the City, indicate that the City has met all WAC 173-26 Guideline requirements and the RCW 90.58 SMA requirements for development policies and regulations based
on existing ecological conditions and land uses, as provided in the City’s Inventory and Characterization.

The locally-adopted SMP was received by Ecology for state review and verified as complete on February 14, 2013. Notice of the state comment period was distributed to state task force members and interested parties identified by the City on March 22, 2013 in compliance with the requirements of WAC 173-26-120. The Ecology website also posted the City’s proposed SMP and all supporting documents effective on March 14, 2013, and as follows: The state comment period began on March 27, 2013 and continued through April 28, 2013. Fourteen (14) individuals submitted comments on the proposed SMP. Ecology sent all written comments it received to the City on May 1, 2013. All 14 comments urged Ecology to adopt the SMP as drafted.

**Consistency with Chapter 90.58 RCW:** The proposed amendment has been reviewed for consistency with the policy of RCW 90.58.020 and the approval criteria of RCW 90.58.090(3), (4) and (5). The City has also provided evidence of its compliance with SMA procedural requirements for amending their SMP contained in RCW 90.58.090(1) and (2).

**Consistency with “applicable guidelines” (Chapter 173-26 WAC, Part III):** The proposed amendment has been reviewed for compliance with the requirements of the applicable Shoreline Master Program Guidelines (WAC 173-26-171 through 251 and 173-26-020 definitions). This included review of a SMP Submittal Checklist, which was completed by the City.

**Consistency with SEPA Requirements:** The City submitted evidence of SEPA compliance in the form of a SEPA checklist and issued a Determination of Non-Significance (DNS) for the proposed SMP amendments on (December 5, 2011). Notice of the SEPA determination was published in the Seattle Times on February 15, 2012. Ecology did not comment on the DNS.

**Other Studies or Analyses supporting the SMP update:** Ecology also reviewed the following reports, studies, map portfolio, and data prepared for the City in support of this SMP:

These supporting documents include:

- *December 2008 Land Use and Public Access Analysis*
- *April 2010 Shoreline Inventory and Characterization*
- *March 2012 Cumulative Impacts Analysis*
- *April 2010 Restoration Plan, and the*
- *April 2008 Public Participation Plan*
The proposed SMP divides the City shorelines into the following six (6) designations:

<table>
<thead>
<tr>
<th>Environment Designation</th>
<th>Objectives</th>
<th>Native Vegetation Conservation Area/Building Setbacks¹</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aquatic</td>
<td>To protect, restore, and manage unique characteristics and resources of the areas waterward of the OHWM out to the middle of Puget Sound.</td>
<td>N/A</td>
</tr>
<tr>
<td>Urban Conservancy</td>
<td>To protect and restore relatively undeveloped or unaltered shorelines to maintain open space, floodplains, or habitat, while allowing a variety of compatible uses. This designation is suitable for low intensity development and uses that are a combination of water-related or water-enjoyment uses that allow substantial number of people access to the shoreline.</td>
<td>150 feet or 50 feet from top of a landslide hazard area, whichever is greater</td>
</tr>
<tr>
<td>Shoreline Residential</td>
<td>To accommodate residential development and accessory structures consistent with the SMP. This designation shall apply to shorelines that do not meet criteria for Urban Conservancy, and are characterized by single-family or multifamily residential development.</td>
<td>115 feet</td>
</tr>
<tr>
<td>Waterfront Residential</td>
<td>Shoreline with high energy wind and wave action fully armored prior to December 4, 1969. This designation supports a number of nonconforming homes &amp; structures built prior to January 1, 1992. This designation is distinguished from existing residential property cut off from the shoreline by bluffs and railroad tracks and potential new residential properties at Point Wells.</td>
<td>20 feet</td>
</tr>
<tr>
<td>Point Wells Urban</td>
<td>To accommodate higher density uses while protecting and/or restoring ecological functions at the Point Wells potential annexation area.</td>
<td>200 feet with restoration required as part of development</td>
</tr>
<tr>
<td>Point Wells Urban Conservancy</td>
<td>This designation supports a different level of potential and existing ecological function within Point Wells and regulate uses and public access to protect and enhance those functions.</td>
<td>200 feet</td>
</tr>
</tbody>
</table>

¹. Native Conservation Area applies to unarmored shorelines, objective: to maintain natural, undisturbed, undeveloped and vegetated conditions. Building Setback applies to armored areas cut off by railroad or hard-armored conditions.

Summary of Issues Arising During the Public Review Process:

The City's SMP amendment drafting and public outreach process was at times contentious with considerable debate centered around the Richmond Beach waterfront homeowners and their need to maintain their Richmond Beach area bulkheads from high energy wind and waves. It was determined, that given the unique characteristics, location, and concerns for this particular beach segment, that it would have its own shoreline designation of Waterfront Residential. City staff worked closely with the
homeowner group to identify the unique risks of this segment of shoreline and meet the wind and wave protection needs in developing the SMP regulations and restoration plan. The City and Ecology staff worked closely on the risks and preventive measures applicable to this particular segment of shoreline.

Summary of Issues Identified by Ecology as Relevant To Its Decision:

<table>
<thead>
<tr>
<th>Key Issues</th>
<th>Policy &amp; Regulatory Approach</th>
</tr>
</thead>
<tbody>
<tr>
<td>Height Limitations</td>
<td>• SDP exemption requires SFR not to exceed 35 feet at average grade level.</td>
</tr>
<tr>
<td></td>
<td>• Shoreline Variance shall not be granted when it would allow a greater height or lesser shoreline setback than what is typical for the area immediately surrounding the development site.</td>
</tr>
<tr>
<td>Shoreline Stabilization</td>
<td>• All development shall be located and designed to avoid and minimize the need for shoreline stabilization measures. Where such measures are necessary, bio-stabilization techniques shall be preferred.</td>
</tr>
<tr>
<td></td>
<td>• For purposes of CZM consistency, the railroad is required to comply with City policies.</td>
</tr>
<tr>
<td>Public Access</td>
<td>• All non residential boating facilities require public access.</td>
</tr>
<tr>
<td></td>
<td>• Public access easements require a minimum 25 - ft width.</td>
</tr>
<tr>
<td></td>
<td>• Subdivision of land into more than 4 lots must provide public access.</td>
</tr>
<tr>
<td></td>
<td>• Multifamily structures containing more than four (4) dwelling units must provide public access.</td>
</tr>
<tr>
<td>Wetlands</td>
<td>• SMP Wetland definition, buffers, and mitigation ratios have been updated in the SMP for consistency with current state standards</td>
</tr>
<tr>
<td>Aquaculture</td>
<td>• Aquaculture is allowed in the Aquatic areas with a shoreline CUP.</td>
</tr>
<tr>
<td></td>
<td>• Aquaculture policies &amp; regulations are included in the SMP.</td>
</tr>
<tr>
<td>Setbacks-Native Vegetation Conservation</td>
<td>• 200 feet in both Point Wells Designations; 150 feet or 50 feet from top of a landslide hazard area, whichever is greater; 115 feet for Shoreline Residential, and 20 feet for Waterfront Residential.</td>
</tr>
<tr>
<td>Docks, Marinas,</td>
<td>• Marinas are prohibited across all designations.</td>
</tr>
<tr>
<td></td>
<td>• Piers and Docks are allowed only for public and joint-use only.</td>
</tr>
<tr>
<td></td>
<td>• Piers and Docks are prohibited in the Point Wells Urban Conservancy designation.</td>
</tr>
<tr>
<td>Dredging</td>
<td>• Prohibited in all designations except for restoration and enhancement purposes and for navigation purposes respective to a public pier in Point Wells Urban area.</td>
</tr>
</tbody>
</table>

The draft SMP incorporates the 2006 CAO by reference except for CAO reasonable use determination, exemptions, variance procedures and wetland regulations. For wetland regulations, the City has incorporated wetland buffers, setbacks, mitigation ratios and associated uses and reports by incorporating into the SMP the standards from the Ecology Pub. No. 10-06-002 Wetlands & CAO Updates: Guidance for Small Cities, Western Washington Version. The City has incorporated all of Ecology’s comments in the development of inventory and maps. Due to the topography of the City’s Puget Sound shoreline and the private ownership of the BNSF railway along the extent of the shoreline, the only major roadway that falls within the City’s shoreline planning area is Richmond
Beach Drive NW. This roadway is the primary roadway that allows access to 32 residences along the shoreline in this northwestern portion of the City. These residences span a total of 1,886 linear feet of shoreline.

Marinas are prohibited in all designations within the City Limits with new docks permitted only for public or joint-use within the existing City limits. New boating facilities, docks and marinas are prohibited in the Point Wells Urban Conservancy designation. However, upon annexation, public docks and piers and launching ramps are permitted in the PW Urban designation.

The environment designation system and regulations were developed with extensive collaboration with the public to protect present uses, while achieving no-net-loss.

Similarly, the City worked closely with the Muckleshoot Tribe to define Aquaculture and Aquaculture Activity. Aquaculture is only allowed with a conditional use permit in the Aquatic designation.

CONCLUSIONS OF LAW

After review by Ecology of the complete record submitted and all public comments received, Ecology concludes that the City’s proposed SMP, subject to and including Ecology’s changes, is consistent with the policy and standards of RCW 90.58.020 and RCW 90.58.090 and the applicable SMP guidelines (WAC 173-26-171 through 251 and 020 definitions). This includes a conclusion that approval of the proposed SMP, with required changes, contains sufficient policies and regulations to assure that no net loss of shoreline ecological functions will result from implementation of the new updated master program (WAC 173-26-201(2)(c)).

Ecology concludes that those SMP segments relating to shorelines of statewide significance provide for the optimum implementation of Shoreline Management Act policy (RCW 90.58.090(5)).

Ecology concludes that the City has complied with the requirements of RCW 90.58.100 regarding the SMP amendment process and contents.

Ecology concludes that the City has complied with the requirements of RCW 90.58.130 and WAC 173-26-090 regarding public and agency involvement in the SMP update and amendment process.

Ecology concludes that the City has complied with the purpose and intent of the local amendment process requirements contained in WAC 173-26-100, including conducting open houses and public hearings, notices, consultation with parties of interest, and solicitation of comments from tribes, government agencies, and Ecology.

Ecology concludes that the City has complied with requirements of Chapter 43.21C RCW, the State Environmental Policy Act.

Ecology concludes that the City’s comprehensive SMP update submittal to Ecology was complete pursuant to the requirements of WAC 173-26-110 and WAC 173-26-201(3)(a) and (h) requiring a SMP Submittal Checklist.

Ecology concludes that it has complied with the procedural requirements for state review and approval of shoreline master program amendments as set forth in RCW 90.58.090 and WAC 173-26-120.
Ecology concludes that the City has chosen not to exercise its option pursuant to RCW 90.58.030(2)(f)(ii) to increase shoreline jurisdiction to include buffer areas of critical areas within shorelines of the state. Therefore, as required by RCW 36.70A.480(6), for those designated critical areas with buffers that extend beyond SMA jurisdiction, the critical area and its associated buffer shall continue to be regulated by the City’s critical areas ordinance. In such cases, the updated SMP shall also continue to apply to the designated critical area, but not the portion of the buffer area that lies outside of SMA jurisdiction. All remaining designated critical areas (with buffers NOT extending beyond SMA jurisdiction) and their buffer areas shall be regulated solely by the SMP.

DECISION AND EFFECTIVE DATE

Based on the preceding, Ecology has determined the proposed SMP to be consistent with Shoreline Management Act policy and the applicable guidelines and implementing rules, subject to the City’s acceptance Ecology’s required changes in Attachment B updated June 5, 2013.

As provided in RCW 90.58.090(2)(e)(ii), the City may choose to submit an alternative to some or all of the changes required by Ecology.

If Ecology determines that the alternative proposals are consistent with the purpose and intent of Ecology’s original changes and with RCW 90.58, then the department shall approve the alternative proposal and that action shall be the final. Approval of the updated SMP is effective 14 days from Ecology’s final action.
Appendix A

SHORELINE MASTER PROGRAM
Goals, Policies, and Analysis

Shoreline Master Program Element
Goals, Policies, and Analysis

INTRODUCTION

Washington’s Shoreline Management Act (SMA) was passed by the Legislature in 1971 and adopted by the public in a 1972 referendum. The goal of the SMA is “to prevent the inherent harm in an uncoordinated and piecemeal development of the state’s shorelines.” The SMA establishes a balance of authority between local and state government. Cities and counties are the primary regulators, but the State has authority to review local shoreline management programs and permit decisions.

The SMA has three broad policies:
- Encourage water-dependent and water-oriented uses: “uses shall be preferred which are consistent with control of pollution and prevention of damage to the natural environment, or are unique to or dependent upon use of the states’ shorelines....”
- Promote public access: “the public’s opportunity to enjoy the physical and aesthetic qualities of natural shorelines of the state shall be preserved to the greatest extent feasible consistent with the overall best interest of the state and the people generally.”
- Protect shoreline natural resources, including “...the land and its vegetation and wildlife, and the water of the state and their aquatic life....”

Shoreline Jurisdiction

Under the SMA, the shoreline jurisdiction includes areas that are 200 feet landward of the ordinary high water mark (OHWM) of waters that have been designated as “shorelines of statewide significance”. The City of Shoreline’s shoreline area includes approximately 3.5 miles of Puget Sound coastline. There are no shorelines of statewide significance associated with rivers, streams, or freshwater lakes in the city or its Future Service Annexation Area (FSAA) of Point Wells.
Appendix A

SHORELINE MASTER PROGRAM
Goals, Policies, and Analysis

Shoreline Master Programs

Under the SMA, each city and county adopts a Shoreline Master Program (SMP) that is based on State guidelines, but tailored to the specific needs of the community. Local SMPs combine both policies and regulations to guide and control development within the shoreline area. The plans are a comprehensive vision of how shoreline areas will be used and developed over time. Regulations are the standards that shoreline projects and uses must meet.

The City of Shoreline incorporated on August 31, 1995, and subsequently adopted the King County Shoreline Master Program (Ord. 23, 1995). With the adoption of the Comprehensive Plan in 1998, the City adopted a Shoreline Master Program Element that contained goals, policies and maps of shoreline environments. While largely consistent with the King County SMP, this newer SMP Element was not reviewed by Ecology, and therefore it did not qualify as part of the City’s recognized SMP. The 2005 Comprehensive Plan contained an SMP Update Strategy, and in 2007 the City received a grant from the Department of Ecology to develop its own SMP, which was adopted by City Council on May 29, 2012. Following a thorough review by Ecology, Council adopted the final SMP through Ordinance 668 on August 5, 2013.

Because the SMP contains Goals and Policies, and Analysis, as well as regulations and other information, rather than recreate these elements within this Comprehensive Plan, the City of Shoreline’s Shoreline Master Program is referenced at the following link in its entirety:

Environment Designations

Part of the process of drafting regulations involved classifying areas of the coastline according to their historic and existing conditions, and ecological function. This map is included as Figure SMP1.