

**ORDINANCE NO. 1993-20**

**AN ORDINANCE OF THE CITY OF MILTON, WASHINGTON, REPEALING ORDINANCE 1963-19; ADOPTING A NEW UPDATED SHORELINE MASTER PROGRAM AND AMENDMENTS TO CHAPTER 18.12 OF THE MILTON MUNICIPAL CODE TO PROVIDE FOR UPDATED ADMINISTRATIVE PROVISIONS; ADOPTING LEGISLATIVE FINDINGS; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.**

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**WHEREAS**, the Shoreline Management Act (SMA) requires the City of Milton to develop and administer a Shoreline Master Program (SMP); and

**WHEREAS**, the City of Milton adopted a comprehensive SMP update as required by RCW 90.58.080(2), which was effective as of November 13, 2012; and

**WHEREAS**, RCW 90.58.080(4) requires the City of Milton to periodically review and, if necessary, revise the SMP on or before June 30, 2019; and

**WHEREAS**, the review process is intended to bring the SMP into compliance with requirements of the act or state rules that have been added or changed since the last SMP amendment, ensure the SMP remains consistent with amended comprehensive plans and regulations, and incorporate amendments deemed necessary to reflect changed circumstances, new information, or improved data; and

**WHEREAS**, the City of Milton developed a public participation program for this periodic review in accordance with WAC 173-26-090(3)(a) to inform, involve and encourage participation of interested persons and private entities, tribes, and applicable agencies having interests and responsibilities relating to shorelines; and

**WHEREAS**, the City of Milton has followed its adopted public participation program, including a public open house and website for the public to provide feedback on proposed changes; and

**WHEREAS**, the City of Milton used Ecology's checklist of legislative and rule amendments to review amendments to chapter 90.58 RCW and department guidelines that have occurred since the SMP was last amended, to determine if local amendments are needed to maintain compliance in accordance with WAC 173-26-090(3)(b)(i); and

**WHEREAS**, the City of Milton reviewed changes to the comprehensive plan and development regulations to determine if the shoreline master program policies and regulations remain consistent with them in accordance with WAC 173-26-090(3)(b)(ii); and

**WHEREAS**, the City of Milton considered whether to incorporate any amendments needed to reflect changed circumstances, new information or improved data in accordance with WAC 173-26-090(3)(b)(iii); and

**WHEREAS**, the City of Milton Planning Commission held a public hearing on March 27, 2019 to receive testimony on topics the public believed should be addressed during the periodic review; and

**WHEREAS**, the City of Milton Planning Commission completed a review of staff recommendations and prepared initial amendments; and

**WHEREAS**, the City of Milton consulted with the Department of Ecology early and often during the drafting of the amendments. The City of Milton worked collaboratively with the Department of Ecology to address local interests while ensuring proposed amendments are consistent with the policy of RCW 90.58.020 and applicable guidelines in accordance with WAC 173-26-104; and

**WHEREAS**, the City of Milton conducted a formal public comment period in compliance with requirements of WAC 173-26-104; and

**WHEREAS**, the City of Milton published a legal notice in The News Tribune on February 27, 2019 for a public hearing on the proposed Planning Commission recommendation(s), including a statement that the hearings were intended to address the periodic review in accordance with WAC 173-26-090(3)(c)(ii); and

**WHEREAS**, a State Environmental Policy Act (SEPA) environmental checklist was prepared based upon Planning Commission Public Hearing Draft, and the City of Milton SEPA responsible official issued and circulated a copy of the checklist and a Determination of NonSignificance (DNS) on February 21, 2019; and

**WHEREAS**, the Planning Commission reviewed the public testimony and written comments on the proposed SMP revisions, and suggested revisions to the proposed amendments; and

**WHEREAS**, the Planning Commission recommended approval of the proposed amendments and forwarded it to the City Council for review and adoption on April 15, 2019; and

**WHEREAS**, the City of Milton provided Notice of Intent to Adopt to the Washington State Department of Commerce in accordance with WAC 173-26-100(5); and

**WHEREAS**, after considering all public comments and evidence, the City Council determined that the proposed amendments comply with all applicable laws and rules; and

**WHEREAS**, the City Council adopted Ordinance 1963-19 amending the SMP and proposed code amendments on April 15, 2019; and

**WHEREAS**, the City was notified by the Department of Ecology that its submittal for initial determination on January 10, 2019 was incomplete and the City had not completed the periodic review process; and

**WHEREAS**, the City submitted the amendments to the Department of Ecology on May 29, 2019 for Initial Determination review; and

**WHEREAS**, the Department of Ecology issued its Initial Determination on the City's SMP amendments on August 5, 2019; and

**WHEREAS**, the City having made all changes to the amendments as described in the Initial Determination must now repeal Ordinance 1963-19 and adopt a new ordinance adopting the revised amendments; and

**WHEREAS**, this completes the City of Milton's required process for periodic review in accordance with RCW 90.58.080(4) and applicable state guidelines (chapter 173-26 WAC).

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF MILTON, WASHINGTON, DO ORDAIN AS FOLLOWS:**

**Section 1. Findings.** The recitals set forth above are hereby adopted as the Milton City Council's findings in support this ordinance.

**Section 2.** Section 18.12.110 of the Milton Municipal Code is hereby modified as follows:

**18.12.110 Permit process.**

A. Notices and Scheduling of Hearings. When a complete application and associated information have been received by the administrator, the administrator shall cause a notice to be posted in a conspicuous manner on the property upon which the project is to be constructed in accordance with Chapter 17.71 MMC. The administrator shall also be responsible for delivering legal notice to the public within the area in which the development is proposed. Advertising costs will be the responsibility of the applicant and will be included in the permit fee. Further, the burden of proving that a proposed development is consistent with the approval criteria and master program policies and regulations shall be the applicants.

The applicant shall be responsible for applying for a variance or conditional use permit. The examiner shall schedule a public hearing in the case of a conditional use or variance permit. No public hearing is required for shoreline substantial development permits. Any interested person may submit his/her written views upon the application to the city within 30 days of notice of application or notify the city of his/her desire to receive a copy of the action taken upon the application. All persons who so submit their views shall be notified in a timely manner of the action taken upon the application.

B. Application Review – Administrator Action. The administrator shall make recommendation in the case of variance and conditional use permits and decisions in the case of substantial development permits, based upon whether or not the proposed development and/or use is consistent with the laws, policies and procedures of the Act, related WACs as amended, and this master program as amended. Pursuant to RCW 47.01.485, the permit review time for projects on a state highway shall be ninety days.

C. Public Hearings. One public hearing shall be held by the examiner regarding application for shoreline conditional use permits and shoreline variances.

The examiner or administrator shall review an application for a permit based upon the application, applicable SEPA documents (if required), evidence presented at the public hearing, written or oral comments from interested persons, and the findings, conclusions and recommendations of the administrator. (Ord. 1803 § 3, 2012; Ord. 1290 § 4, 1996).

**Section 3.** Section 18.12.195 of the Milton Municipal Code is hereby modified as follows:

**18.12.195 Department of Ecology review.**

After the examiner's approval of a conditional use or variance permit, the administrator shall submit the permit to the Department of Ecology by return receipt requested mail for its approval, approval with conditions, or denial. Upon receipt of Ecology's decision, the administrator shall notify those interested persons having requested notification of such decision. (Ord. 1803 § 3, 2012; Ord. 1290 § 4, 1996).

**END OF CODE REVISION**

**Section 4.** Ordinance 1963-19, having never been effective yet adopted, is hereby repealed in its entirety.

**Section 5.** The City of Milton Shoreline Master Program is hereby amended to read as set forth in Exhibit 1 attached to this ordinance and incorporated herein by this reference.

**Section 6. Submission to the Department of Ecology.** The planning director (or designee) is directed to submit the SMP and associated documents to the Department of Ecology for their review and approval prior to formal adoption. If/Once approved by the Department of Ecology, no further action is necessary for compliance with RCW 90.58.080(4) for the periodic review update due on June 30, 2019.

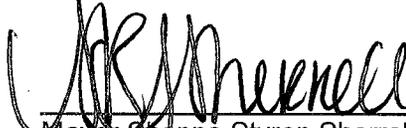
**Section 7. Severability.** If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

**Section 8. Publication.** This ordinance shall be published by an approved summary consisting of the title.

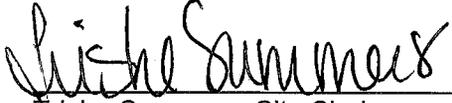
**Section 9. Effective Date.** This ordinance shall become effective and in full force upon the City's receipt of Ecology approval of the shoreline master program and associated documents outlined in Section 5 above, which will be at least fourteen (14) days after passage, approval, and publication as provided by law.

PASSED by the Council and approved by the Mayor of the City of Milton, this 21<sup>st</sup> day of September, 2020.

CITY OF MILTON

  
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Mayor Shanna Styron Sherrell

ATTEST/AUTHENTICATED:

  
\_\_\_\_\_  
Trisha Summers, City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
City Attorney

Published: 9-23-20  
Effective Date: 10-7-20

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