

ORDINANCE NO. 1720

AN ORDINANCE OF THE CITY OF DES MOINES, WASHINGTON adopting amendments to the City of Des Moines Shoreline Master Program in compliance with RCW 90.58.080(4) relating to the Shoreline Master Program periodic review and amending DMMC 16.20.010.

WHEREAS, the Shoreline Management Act ("SMA") requires the City of Des Moines to develop and administer a Shoreline Master Program (SMP), and

WHEREAS, the City of Des Moines adopted a comprehensive SMP update as required by RCW 90.58.080(2), which was effective as of November 1, 2010, and

WHEREAS, RCW 90.58.080(4) requires the City of Des Moines 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 Des Moines 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 Des Moines has followed its adopted public participation program, including public open houses, a Farmers Market booth, news publications, a dedicated webpage, and comment periods, and

WHEREAS, the City of Des Moines 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 master program was last amended, and determine if local amendments are needed to maintain compliance in accordance with WAC 173-26-090(3)(b)(i), and

WHEREAS, the City of Des Moines reviewed changes to the comprehensive plan and development regulations to determine if the SMP policies and regulations remain consistent with them in accordance with WAC 173-26-090(3)(b)(ii), and

WHEREAS, the City staff prepared 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 Des Moines consulted with the Department of Ecology early and often during the drafting of the amendments. The Des Moines City Council 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, a State Environmental Policy Act (SEPA) environmental checklist was prepared based upon Draft Ordinance No. 19-010, and the Des Moines SEPA responsible official issued and circulated a copy of the checklist and a Determination of Non-Significance (DNS) on March 19, 2019, and

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

WHEREAS, the City of Des Moines provided a formal public comment period in compliance with requirements of WAC 173-26-104, and

WHEREAS, the City of Des Moines published a legal notice in the *Seattle Times* on March 19, 2019, for a public hearing on the proposed ordinance, including a statement that the hearing was intended to address the periodic review in accordance with WAC 173-26-090(3)(c)(ii), and

WHEREAS, the City Council took public testimony on the proposed amendments at a public hearing on April 11, 2019 and all people wishing to be heard were heard, and

WHEREAS, the City Council received public testimony at the public hearing on April 11, 2019, and reviewed said public testimony and written comments, and

WHEREAS, City Council moved Draft Ordinance No. 19-010 to a second reading on July 11, 2019, and

WHEREAS, the City of Des Moines submitted the proposed Shoreline Master Program amendments and public comments to the Department of Ecology for review. The Department of Ecology provided an initial determination of consistency on June 14, 2019, with comments recommending changes, and

WHEREAS, the City of Des Moines drafted additional amendments in response to the Department of Ecology's comments, 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, this completes the City's required process for periodic review in accordance with RCW 90.58.080(4) and applicable state guidelines (chapter 173-26 WAC), and

WHEREAS, the City Council finds that the amendments contained in this Ordinance are appropriate and necessary for the preservation of the public health and welfare; now therefore,

THE CITY COUNCIL OF THE CITY OF DES MOINES ORDAINS AS FOLLOWS:

Sec. 1. Review and evaluation. The City Council hereby finds that the review and evaluation required by RCW 90.58.080(4) have occurred, as described in the recitals above.

Sec. 2. Revisions. That out-of-date laws, rules, and guidelines, out-of-date environmentally critical area regulations, out-of-date non-conforming regulations, and development regulations regarding illuminated signs, dive/underwater parks, water-related and water-enjoyment commercial uses within the Urban Conservancy Environment, the nonconforming structure replacement cost threshold, single-family residential appurtenances, allowed

yard reductions, fill, allowed activity within buffers, maintenance dredging, and other provisions are hereby amended to read as set forth in Exhibit "A" attached to this Ordinance and incorporated herein by this reference. The remaining portions of the City of Des Moines' SMP shall remain unchanged.

Sec. 3. Adoption. The City Council hereby adopts the above referenced SMP revisions and finds the amended SMP consistent with the requirements of chapter 90.58 RCW and chapter 173-26 WAC, as they apply to these amendments.

Sec. 4. Submission to Department of Ecology. The Community Development 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 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.

Sec. 5. DMMC 16.20.010 and section 113 of Ordinance No. 1583 as amended by Section 7 of Ordinance 1649 are each amended to read as follows:

Adopted. The "City of Des Moines Shoreline Master Program" attached as Exhibit "A" to Ord. 1583, dated January 27, 2011, and consisting of eight chapters and Appendix "A" entitled "Shoreline Inventory and Characterization Report," dated March 2005, as amended by section 7 of Ordinance No. 1649, as amended by section 5 of this ordinance are adopted as the official Shoreline Master Program for the City. All SMP documents are available at the City Clerk's office and on the City's website, www.desmoineswa.gov.

Sec. 6. Effective date. The amendments to the SMP adopted through this Ordinance shall be effective 14 days after Department of Ecology final action as provided by RCW 90.58.090(7).

Sec. 7. Severability - Construction.

(1) If a section, subsection, paragraph, sentence, clause, or phrase of this Ordinance is declared unconstitutional or invalid for any reason by any court of competent jurisdiction,

such decision shall not affect the validity of the remaining portions of this Ordinance.

(2) If the provisions of this Ordinance are found to be inconsistent with other provisions of the Des Moines Municipal Code, this Ordinance is deemed to control.

PASSED BY the City Council of the City of Des Moines this 11th day of July, 2019 and signed in authentication thereof this 11th day of July, 2019.



M A Y O R

APPROVED AS TO FORM:



City Attorney

ATTEST:



City Clerk

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