

CITY OF MUKILTEO
MUKILTEO, WASHINGTON
ORDINANCE NO. 1427

AN ORDINANCE OF THE CITY OF MUKILTEO, WASHINGTON RELATING TO SHORELINE REGULATIONS; AMENDING MUKILTEO MUNICIPAL CODE (MMC) TITLE 17B SHORELINE MANAGEMENT REGULATIONS IN ACCORDANCE WITH THE STATE SHORELINE MANAGEMENT ACT; AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

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

WHEREAS, the SMA of the State of Washington requires cities to update their Shoreline Management Plans and Regulations every eight (8) years; and

WHEREAS, the Growth Management Act ("GMA") of the State of Washington requires Shoreline Management Plans and Regulations be consistent with locally adopted Comprehensive Plans; and

WHEREAS, effective January 17, 2004, the regulations implementing the SMA promulgated under Washington Administrative Code (WAC) Chapter 173-26 (the "SMA guidelines") were substantially revised and are administered by the Department of Ecology (Ecology), and the City's current program requires a comprehensive master program update in order to achieve the procedural and substantive requirements of the SMA guidelines; and

WHEREAS, the City has authority under Title 35A RCW to adopt regulations related to the protection, mitigation and management of "shorelines of the state"; and

WHEREAS, in 2011 the City's Shoreline Master Plan and Development Regulations were adopted by the Mukilteo City Council and approved by Ecology (City of Mukilteo Ordinance No. 1295); and

WHEREAS, the adopted shoreline regulations limit the building height to 25 feet within the 200 foot shoreline jurisdiction; and

WHEREAS, the current setback from the ordinary high water mark is a range of 30 to 50 feet; and

WHEREAS, when these regulations were originally proposed, there were no specific development plans for the Tank Farm property besides the conceptual drawings listed in the 1995 Waterfront Redevelopment Plan; and

WHEREAS, the City began re-evaluating the adopted building height and setback requirements in the Waterfront Mixed-Use zoning district when the new First Street design and Tank

Farm property lot layout restricted future development potential after applying the lot restrictions and building development standards; and

WHEREAS, the proposed ordinance includes the elements addressed in the Waterfront Master Plan adopted in 2016, updates to State mandated regulations, and revises sections of the Shoreline Management Regulations that do not reflect the existing conditions of the waterfront; and

WHEREAS, the draft ordinance was circulated to affected agencies and interested groups for review and comment; and

WHEREAS, the City has complied with the requirements of the State Environmental Policy Act (SEPA), Chapter 43.21C RCW, by issuing a duly-noticed Determination of Nonsignificance (DNS) on February 4, 2019. The appeal period ended on February 19, 2019, and no appeals were filed; and

WHEREAS, the Planning Commission held a duly-noticed joint public hearing with the City of Mukilteo and the Department of Ecology on April 18, 2019 on the draft ordinance; and

WHEREAS, the City transmitted the draft Shoreline Master Program Update and Development Regulations to the Department of Ecology for comment on June 7, 2019, prior to the City's formal adoption of the SMP in accordance with WAC 113-26-110; and

WHEREAS, the Department of Ecology provided a written statement of initial concurrence and recommendations to the City regarding the draft Shoreline Master Program Update and Shoreline Management Regulations on August 2, 2019; and

WHEREAS, City Council finds that this ordinance for the shoreline management regulations is in the best interests of the citizens of the City of Mukilteo;

WHEREAS, the City Council reviewed and accepted the proposed changes and directed staff to submit the changes to Ecology through Resolution 2019-004; and

WHEREAS, the City's intention to approve via Resolution 2019-004 will be submitted to Ecology on September 4, 2019 and the City desires to receive approval from Ecology in Fall 2019 for the proposed changes to the SMP.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MUKILTEO, WASHINGTON, HEREBY ORDAINS AS FOLLOWS:

Section 1. Findings. The Mukilteo City Council hereby adopts by reference the findings and conclusions shown in Exhibit A, made and approved by the City Council September 3, 2019.

Section 2. Shoreline Master Program (SMP) Update. SMP – Shoreline Master Program, shall be updated to stay current with changes in laws and rules, remains consistent with other Mukilteo plans and regulations, and is responsive to changed circumstances, new information and improved data as shown in Exhibit B, attached hereto and incorporated herein by reference.

Section 3. Title 17B MMC. Title 17B MMC – Shoreline Management Regulations, shall be amended to read as shown in Exhibit C, attached hereto and incorporated herein by reference.

Section 4. Severability. If any section, sentence, clause, or phrase of this ordinance should 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 5. Authority to make necessary corrections. The City Clerk and the codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance including, but not limited to, the correction of scrivener’s clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

Section 6. Enforcement. Violations of this Ordinance are punishable under Title 18 MMC and as otherwise provided by law, and are subject to injunctive and other forms of civil relief which the City may seek.

Section 7. Conflict. In the event that there is a conflict between the provisions of this Ordinance and any other City ordinance, the provisions of this Ordinance shall control.

Section 8. Effective Date. This ordinance shall take effect and be in full force 5 days after publication of the attached summary.

PASSED by the City Council and APPROVED by the Mayor this 3rd day of September 2019.

APPROVED:

MAYOR, JENNIFER GREGERSON

ATTEST/AUTHENTICATED:

CITY CLERK, CAROL MOORE

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY:

By: _____
DANIEL P. KENNY

FILED WITH THE CITY CLERK:
PASSED BY THE CITY COUNCIL:
PUBLISHED:

EFFECTIVE DATE:
ORDINANCE NO. 1427

SUMMARY OF ORDINANCE NO. 1427
City of Mukilteo, Washington

On September 3, 2019, the City Council of the City of Mukilteo, Washington, approved Ordinance No. 1427, the main point of which may be summarized by its title as follows:

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The full text of this Ordinance will be mailed upon request.

APPROVED by the City Council at their meeting of September 3, 2019.

CITY CLERK, CAROL MOORE