ORDINANCE NO. 2482

AN ORDINANCE OF THE COUNCIL OF THE CITY OF CENTRALIA, WASHINGTON, CONCERNING THE SHORELINE MASTER PROGRAM PERIODIC REVIEW REQUIRED BY RCW 90.58.080(4)

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

WHEREAS, the City of Centralia adopted a comprehensive SMP update as required by RCW 90.58.080(2), which was effective as of January 20, 2019; and

WHEREAS, RCW 90.58.080(4) requires the City of Centralia to periodically review and, if necessary, revise the master program on or before June 30, 2021; 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 Centralia developed a public participation program for this periodic review in accordance with WAS 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 Centralia has followed its adopted public participation program, including identification of stakeholders, workshops, website postings, public hearing, etc.; and

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

WHEREAS, the City of Centralia solicited comments on the draft proposal from the Department of Ecology in accordance with WAC 173-26-100(5); and

WHEREAS, the City of Centralia conducted a formal public comment period in compliance with requirements of WAC 173-26-100; and

WHEREAS, the City of Centralia published a legal notice in the Chronicle on 10/7/2021 and 10/9/2021 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, the Planning Commission took public testimony on the proposed Planning Commission recommendation(s) at a public hearing on 11/10/2021; and

WHEREAS, a State Environmental Policy Act (SEPA) environmental checklist was prepared based upon Planning Commission Public Hearing Draft, and the City of Centralia SEPA responsible official issued and circulated a copy of the checklist and a Determination of Non-Significance (DNS) on 10/2/2021; and

WHEREAS, the Planning Commission recommended approval of the proposed amendments and forwarded it to the City Council for review and adoption on 12/14/2021; 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, a Planning Commission Public Hearing Notice was posted in the Chronicle on 10/7/2021 and 10/9/2021, and said notice was emailed to interested parties and mailed to shoreline property owners; and

WHEREAS, there were no public comments nor 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 (WAC 173-26).

NOW, THEREFORE, in consideration of the above-referenced recitals,

THE CITY COUNCIL OF THE CITY OF CENTRALIA, WASHINGTON, DO ORDAIN AS FOLLOWS:
Section 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.

Section 2

Revisions. That the Table of Contents and sections 1.5, 1.9, 1.10, 2.5, 2.7 and Chapter 9, are hereby amended to read as set forth in Exhibit 1 attached to this ordinance and incorporated herein by this reference. The remaining portions of the City's SMP shall remain unchanged.

Section 3

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

Section 4

Submission to Department of Ecology. The Community Development Director or his 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, 2021.

Section 5

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

Section 6

That the provisions of this ordinance are declared to be severable and in the event a court of competent jurisdiction declares any portion of this ordinance invalid, the remaining provisions shall be unaffected thereby.

Section 7

That any previously enacted ordinance, or part thereof in conflict herewith be and the same hereby is repealed to the extent of such conflict.

Section 8

This ordinance shall become effective five days after its passage and publication as required by law.
PASSED on first and final reading by a majority of councilors present of the City Council of the City of Centralia, Washington and executed by its Mayor at a regularly scheduled meeting thereof this 14th day of December, 2021.

MAYOR

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney
EXHIBIT 1

City of Centralia Shoreline Master Program

Text Amendment #1

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Chapter 1 - General Provisions

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Text Amendment #2

Section 1.5 – Relationship to Other Codes, Ordinances, Regulations and Plans

F. The Critical Areas regulations, in Centralia Municipal Code Title 16 - Environment, in effect on April 10, 2018, by adoption of Ordinance No. 2396, contained in the City of Centralia Critical Areas Ordinance, CMC Chapters 16.16 through 16.21 shall be adopted as part of this Program, subject to the exceptions of section 5.7. Should any conflicts between the Critical Areas regulations and this Program arise, the provisions of this Program shall apply.

Text Amendment #3

Section 1.9 – Amendments

Amendments to this Program shall be processed per WAC 173-26-090 and RCW 90.58.080.

A minimum of every eight (8) years the City shall evaluate the SMP and shoreline conditions to assure the master program complies with current laws and rules; assure consistency with the city’s comprehensive plan and development regulations; and determine whether there are any changed local circumstances, new information or improved data. A review of city decisions (see 2.1 G) should
also help inform any proposed amendments. Specific evaluation issues include, but are not limited to, the following:


b. Historic, cultural, educational and/or scientific value.

c. Water quality.

d. Vegetation conservation and control of invasive species and noxious weeds.

e. Changes as a result of new, expansion, or alteration developments.

f. Shoreline stabilization.

g. Shoreline modification.

Text Amendment #4

Section 1.10 - Authorization of a Moratorium - pgs. 9-10

The City of Centralia may adopt a moratorium or other interim official controls on development and/or activities within the shoreline jurisdiction, as necessary and appropriate to implement and enforce the SMP.

The moratorium must be adopted in conformance with CMC 20.02 and RCW 90.58.590. Including, but not limited to, the following:

1. In adopting a moratorium or control under this section the City of Centralia must:

   i. Hold a public hearing on the moratorium or control;

   ii. Adopt detailed findings of fact that include, but are not limited to justifications for the proposed or adopted actions and explanations of the desired and likely outcomes;

   iii. Notify the Department of Ecology of the moratorium or control immediately after its adoption. The notification must specify the time, place, and date of any public hearing required by this subsection;

   iv. Provide that all lawfully existing uses, structures, or other development shall continue to be deemed lawful conforming uses and may continue to be maintained, repaired, and redeveloped, so long as the use is not expanded, under the terms of the land use and shoreline rules and regulations in place at the time of the moratorium.

   v. (b) The public hearing required by this section must be held within sixty days of the adoption of the moratorium or control.

2. A moratorium or control adopted under this section may be effective for up to six months if a detailed work plan for remedying the issues and circumstances necessitating the moratorium or control is developed and made available for public review. A moratorium or control may be renewed for two six-month periods if the local government complies with subsection 1 of this section before each renewal. If a moratorium or control is in effect on the date a proposed master program or amendment is submitted to the Department of Ecology, the moratorium or control must remain in effect until the Department's final action under RCW 90.58.090; however, the moratorium expires six months after the date of submittal if the Department has not taken final action.

3. Nothing in this section may be construed to modify county and city moratoria powers
conferred outside this chapter.

Section 1.11 Effective Date

This Program and all amendments therto shall become effective fourteen (14) days from the date of written notice of final action by the Washington State Department of Ecology.

Text Amendment #5

Section 2.5 - Letter of Exemption, subsection A.1

1. Letters of Exemption are not required for the following activities:
   a. Any person conducting remedial action at a facility pursuant to a consent decree, order, or agreed order pursuant to RCW 70.105D – Hazardous Waste Cleanup, Model Toxics Control Act.
   b. WSDOT projects and activities that meet the conditions of RCW 90.58.356.
   c. Projects that meet the conditions of RCW 77.55.181 – Fish Habitat Enhancement Project.

Text Amendment #6

Section 2.5 - Letter of Exemption, subsection B.8(b)

b. In fresh waters, the fair market value of the dock does not exceed: (I) Twenty-two thousand five hundred dollars ($22,500) for docks that are constructed to replace existing docks, are of equal or lesser square footage than the existing dock being replaced, and are located in a county, city, or town that has updated its master program consistent with the master program guidelines in chapter 173-26 WAC as adopted in 2003; or (II) eleven thousand two hundred dollars ($11,200) for all other docks constructed in fresh waters. However, if subsequent construction occurs within five years of completion of the prior construction, and the combined fair market value of the subsequent and prior construction exceeds the amount specified in either (a) or (b) of this subsection (8), the subsequent construction shall be considered a substantial development.

Text Amendment #7

Section 2.7 - Permit Process and Revisions, subsection F

F. Permit procedures and timelines are as follows:

1. Procedures:
   a. After all city permit administrative appeals and reconsideration periods have lapsed and the permit documents are amended to incorporate any necessary changes, the city will mail the permit by return receipt requested mail to the Department of Ecology regional office and the Office of the Attorney General Ecology Division or submit by other authorized methods.
Projects that require both Conditional Use and/or Variance Permits shall be mailed simultaneously with the Substantial Development Permit for the project.

b. The permit and documentation of the final city decision will be submitted together with the complete permit application(s), a findings and conclusion letter, a completed permit data form (cover sheet), and applicable SEPA documents/determination.

c. Consistent with RCW 90.58.140(6), the state’s Shorelines Hearings Board twenty-one (21) day appeal period starts with the date of filing. The date of filing is defined as follows:
   i. For projects that only require a Substantial Development Permit the date of filing is the date that Ecology receives the city’s final decision.
   ii. For Conditional Use or Variance Permits the date of filing is the date that Ecology’s final decision on the project permit is transmitted to the applicant and city.
   iii. For Substantial Development Permits simultaneously mailed with Conditional Use (CUP) and/or Variance Permits, the date of filing is the date that Ecology’s final decision on the CUP or Variance is transmitted to the applicant and the city.

2. Timelines:
   a. Construction activities associated with a Substantial Development, Variance and/or Conditional Use permit(s) shall be commenced or, where no construction activities are involved, the use or activity shall be commenced within two years of the effective date of a substantial development permit. However, a single extension for a period not to exceed one year based on reasonable factors may be granted by the Administrator if a request for extension has been filed before the expiration date. A notice of the proposed extension shall be given to parties of record on the substantial development permit and to the department.
   b. Authorization to conduct development activities shall terminate five years after the effective date of a substantial development permit. However, the Administrator may authorize a single extension for a period not to exceed one year based on reasonable factors, if a request for extension has been filed before the expiration date and notice of the proposed extension is given to parties of record and to the department.
   c. The effective date of a substantial development permit shall be the date of filing as provided in RCW 90.58.140(6). The permit time periods in subsections (1) and (2) of this section do not include the time during which a use or activity was not actually pursued due to the pendency of administrative appeals or legal actions or due to the need to obtain any other government permits and approvals for the development that authorize the development to proceed, including all reasonably related administrative or legal actions on any such permits or approvals.
Text Amendment #8

Chapter 9 – Definitions

Development – A use consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals; bulkheading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters overlying lands subject to this chapter at any state of water level.

Development activity does not include the following activities: (1) interior building improvements; (2) exterior structure maintenance activities, including painting and roofing; (3) routine landscape maintenance of established, ornamental landscaping, such as lawn mowing, pruning, and weeding; (4) maintenance of the following existing facilities that does not expand the affected area: septic tanks (routine cleaning); wells; individual utility service connections; and individual cemetery plots in established cemeteries; (5) dismantling or removing existing structures without any associated development or redevelopment; and (6) forest practices that only involve timber cutting.

Text Amendment #9

Chapter 9 – Definitions

Non-Conforming Lot – means a lot that was legally established prior to the effective date of the SMP which does not conform to the applicable shoreline dimensional requirements.