Town of Index
Ordinance #477
Adopting Comprehensive Updates to and Periodic Review of Shoreline Master Program

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

WHEREAS, the Town of Index adopted a comprehensive SMP update as required by RCW 90.58.080(2), on January 5, 2015; and

WHEREAS, the State Department of Ecology reviewed the comprehensive SMP update and concluded that it was not consistent with RCW 90.58.010 and applicable guidelines and recommended changes to the proposed master program; and

WHEREAS, RCW 90.58.080(4) requires the Town of Index to periodically review and, if necessary, revise the master program 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 Town of Index 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 Town of Index has followed its public participation program, including emails and notice to property owners in the shoreline, an open house workshop, and...; and

WHEREAS, the Town of Index 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 Town of Index 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, Town staff have engaged in early and continuous consultation with the Department of Ecology to develop and prepare the proposed amendments to the SMP both in response to Ecology’s recommended changes to the 2015 comprehensive update and the 2019 periodic review; and

Adopted Ordinance
WHEREAS, the Town of Index Town Council completed a review of staff recommendations and prepared initial amendments; and

WHEREAS, a State Environmental Policy Act (SEPA) environmental checklist was prepared, and the Town of Index SEPA responsible official issued and circulated a copy of the checklist and a Determination of Non-Significance (DNS) on (date); and

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

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

WHEREAS, the Town of Index published a legal notice in (name of paper) on (date) for a public hearing on the proposed amendments, 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 Town Council took public testimony on the proposed amendments at a public hearing on (date); and

WHEREAS, the Town Council reviewed the public testimony and written comments on the proposed SMP revisions, and suggested revisions to the proposed amendments; and

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

WHEREAS, this completes the Town of Index's required process for comprehensive update periodic review in accordance with RCW 90.58.080(4) and applicable state guidelines (WAC 173-26).

THEREFORE, BE IT HEREBY ORDAINED BY THE INDEX TOWN COUNCIL that:

Section 1. Review and Evaluation. The Town 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. A new Chapter 16.20 is hereby added to the Index Municipal Code to provide as follows:
Chapter 16.20
Shoreline Master Program

Sections:

16.20.010 Shoreline Master Program adopted.

16.20.010 Shoreline Master Program Adopted. (A) The Town of Index hereby adopts a Shoreline Master Program, as required by RCW 90.58.080(1), to be composed of the following elements:

1. The policies and use regulations attached as Exhibit A, “Town of Index Shoreline Master Program, 2019 Comprehensive Update and Periodic Review Agreement”, and incorporated by this reference as if set forth in full;
2. Chapter 173-27 WAC, as now or hereafter amended, with the following modifications:
   a. WAC 173-27-030(10) is modified to replace with ‘‘local government’ with ‘‘the Town of Index’’.
   b. A letter of exemption shall be required for any development requiring any Town of Index development permit in addition to those permits identified in WAC 173-27-050.
   c. The Town of Index may impose conditions on a project as necessary to achieve compliance with the variance criteria identified in WAC 173-27-170.
3. The review procedures for shoreline substantial development permits, shoreline conditional use permits and shoreline variances incorporated into Title 14 IMC.
4. Chapter 17.52 IMC, Code Enforcement. Any violation of the Index Shoreline Master Program shall be subject to the procedures and penalties of Chapter 17.52 IMC to the same extent as violations of Titles 15, 16 and 17 as identified in IMC 17.52.020.
5. In the case of conflict between any of the provisions adopted above, the more restrictive shall apply.
6. As required by RCW 36.70A.480(1), the policies of Exhibit A are adopted as an element of the Town of Index Comprehensive Plan.

Section 3. Adoption. The Town 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: 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 pre-emption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

Section 5. Submission to Department of Ecology. The Town of Index 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 6: 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).

ADOPTED BY THE INDEX TOWN COUNCIL ON THIS 17 DAY OF JUNE 2019.

Signed: 
Norm Johnson, Mayor

ATTEST: 
Jenny Johnson, Clerk/Treasurer

Proposed: 5/6/19
Posted: 4/22/19
Passed: 6/17/19
Published: ___________________