

Example Ordinance for Shoreline Management Act Periodic Review: Findings of Fact and Adoption of Revisions

Introduction

All cities and counties in Washington state are required to “review, and revise if necessary” their SMPs adopted under the Shoreline Management Act (see RCW 90.58.080(4)). A specific “legislative action” is required by each city and county to demonstrate the completion of this requirement.

This document includes examples of findings that counties and cities could include in the final ordinance adopted by a local government’s elected officials to complete this requirement. This example includes optional language for a review that results in SMP revisions.

[See separate Example Resolution for jurisdictions that adopt a “Finding of Adequacy” with no changes.]

ORDINANCE NO. _____

AN ORDINANCE CONCERNING THE SHORELINE MASTER PROGRAM PERIODIC REVIEW REQUIRED BY RCW 90.58.080(4)

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

WHEREAS, the (name of jurisdiction) adopted a comprehensive SMP update as required by RCW 90.58.080(2), which was effective as of (effective date of comprehensive SMP update); and

WHEREAS, RCW 90.58.080(4) requires (name of jurisdiction) to periodically review and, if necessary, revise the master program on or before June 30, 20XX; 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, (name of jurisdiction) 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, (name of jurisdiction) has followed its adopted public participation program, including (describe key components of the program, e.g., public workshops, website, comment periods, etc.); and

WHEREAS, the (name of jurisdiction) 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 (name of jurisdiction) 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 (name of jurisdiction) 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

Option, if a local government decides to hold a scoping hearing:

WHEREAS, the (name of jurisdiction) Planning Commission held a public hearing on (date) at (location) to receive testimony on topics the public believed should be addressed during the periodic review; and

WHEREAS, the (name of jurisdiction) Planning Commission completed a review of staff recommendations and prepared initial amendments; and

[*Options:* WAC 173-26-100 or WAC 173-26-104 ("joint local-state comment period")]

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

-OR-

WHEREAS, the (name of jurisdiction) consulted with the Department of Ecology early and often during the drafting of the amendments. The (name of jurisdiction) 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 (name of jurisdiction) conducted a formal public comment period in compliance with requirements of [*options:* WAC 173-26-100 or WAC 173-26-104]; and

WHEREAS, the (name of jurisdiction) published a legal notice in (name of paper) on (date) 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 (date); and

WHEREAS, a State Environmental Policy Act (SEPA) environmental checklist was prepared

based upon Planning Commission Public Hearing Draft, and the (name of jurisdiction) SEPA responsible official issued and circulated a copy of the checklist and a Determination of Non-Significance (DNS) on (date); and

OR, where amendments only address changes in state law or procedures, or only minor clarifications that do not modify substantive standards:

WHEREAS, the (name of jurisdictions) has determined that proposed amendments are exempt from State Environmental Policy Act review based on WAC 197-11-800(19) which exempts resolutions or ordinances “relating solely to governmental procedures, and containing no substantive standards respecting use or modification of the environment,” or “text amendments resulting in no substantive changes respecting use or modification of the environment;

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/County Council] for review and adoption on (date); and

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

Option, where Council/Commission holds a public hearing (note state rules only require a minimum of one hearing at Planning Commission): WHEREAS, a (Council/Commission) Public Hearing Notice was posted in the (name of newspaper) on (date), and said notice was mailed to interested parties and to shoreline property owners; and

Option: WHEREAS, the (Council/Commission) received public testimony at the public hearing of (date) and reviewed said public testimony and written comments at a study session on (date); and

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

WHEREAS, this completes the [City/County’s] required process for periodic review in accordance with RCW 90.58.080(4) and applicable state guidelines (WAC 173-26).

NOW, THEREFORE, BE IT RESOLVED BY THE (Commission/Council) OF THE (jurisdiction):

Section 1. Review and Evaluation. The (Commission/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 (sections, subsections, tables, maps, figures, etc....) 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/County's] SMP shall remain unchanged.

Section 3. **Adoption.** The (Council/Commission) 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 (planning 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, 20XX.

Section 5. **Effective Date.** The amendments to the SMP adopted through (ordinance/resolution) shall be effective 14 days after Department of Ecology final action as provided by RCW 90.58.090(7).