CITY OF BUCKLEY

ORDINANCE NO. 23-19

AN ORDINANCE OF THE CITY OF BUCKLEY, PIERCE COUNTY, WASHINGTON, AMENDING SECTION 1.16.010 BMC, REPEAL AND REPLACE THE CITY OF BUCKLEY SHORELINE MASTER PROGRAM, AND REPEAL AND REPLACE THE CITY OF BUCKLEY SHORELINE MASTER PROGRAM'S APPENDIX B, REPEAL AND REPLACE CHAPTER 19.42 BMC; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the State of Washington requires periodic updates of the city's Shoreline Master Program; and

WHEREAS, legislative changes were made to the Shoreline Management Act since the city's Shoreline Master Program was adopted; and

WHEREAS, the existing Shoreline Master Program was last updated in 2013 under Ordinance 04-13; and

WHEREAS, the city's 2013 Shoreline Master Program needed to be amended to meet the new changes to the Shoreline Management Act; and

WHEREAS, the City of Buckley obtained state funding under Agreement # SEASMP-1719-Buckle-00006; and

WHEREAS, the City of Buckley conducted an open house on January 28, 2019; and

WHEREAS, the 60-day notice was received February 7, 2019, by the Washington State Department of Commerce of the proposed change in development regulations under Material Identification Number (MID#) 25761; and

WHEREAS, the environmental review was performed under the State Environmental Policy Act with a determination of non-significance issued on February 13, 2019; and

WHEREAS, the planning commission conducted a public hearing on this proposal on March 18, 2019; and

WHEREAS, the planning commission met at its regular session on June 3, 2019, to discuss the hearing comments and associated code amendments in response to those comments, and recommended approval;

NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF BUCKLEY, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. The existing Shoreline Master Program is repealed and replaced with Exhibit 1.

Section 2. The existing Shoreline Master Program Appendix A contains no changes.

Section 3. The existing Shoreline Master Program Appendix B is repealed and replaced with Exhibit 2.

Section 4. The existing Shoreline Master Program Appendix C contains no changes.

Section 5. Chapter 19.42 BMC is hereby repealed and replaced as follows:

19.42.010 Purpose.

The purpose of this chapter is to do the following:

(1) Help effectuate the goal of the state, as stated in RCW 90.58.020.

(2) Establish an administrative system to assign responsibilities to implement the shoreline master program.

(3) Prescribe an orderly process by which to review proposals and permit applications.

(4) Ensure that all persons affected by this master program are treated in a fair and equitable manner.

(5) Help coordinate between the shoreline permit regulated by the Shoreline Management Act (RCW 90.58), the Shoreline Administrative Code (WAC 173-27), and the city's Shoreline Master Program as well as federal codes, which may also be involved in reviewing a shoreline permit application.

19.42.020 Shoreline master program adopted.

(1) The policies and use regulations attached as Exhibit A to Buckley Ordinance No. 23-19 along with Appendices A, B and C attached thereto, are hereby adopted by this reference as the city of Buckley shoreline master program.

(2) Permitting sections WAC 173-27-130 through -210 are adopted as if set forth in full, as now or hereafter amended.

(3) The SMP shall be periodically reviewed and adjustments shall be made as are necessary to reflect changing local circumstances, new information or improved data, and changes in state statutes and regulations. This review process shall be consistent with Chapter 173-26 WAC requirements and shall include a local citizen involvement effort and public hearing to obtain the views and comments of the public.

(4) Amendments to the city's SMP shall be reviewed first by the planning commission, which shall conduct at least one public hearing on the proposed amendment. The planning commission shall make a recommendation to the city council, which may hold at least one public hearing before making a decision. Amendments or revisions to the SMP do not become effective until after Department of Ecology approval.

19.42.030 Conflict of provisions.

(1) Should a conflict occur between the provisions of the city's shoreline master program (SMP) or this chapter and the SMA, the SMA shall be applied.

(2) Should a conflict occur between the provisions of this chapter and other laws, regulations, codes or rules promulgated by the city or any other authority having jurisdiction within the city, the most restrictive requirement shall be applied, except when constrained by federal or state law, or where specifically provided otherwise in this shoreline master program.

(3) Various permits may have different time frames or requirements than those mentioned in this chapter or in the Shoreline Master Program. Appropriate sections of the Washington Administrative Code or Revised Code of Washington requirements may supersede this chapter or parts thereof.

19.42.040 Shoreline administrator.

The shoreline administrator shall be as defined in the SMP Chapter 2 and is vested with the duties imposed by the Shoreline Master Program, including but not limited to:

(1) Overall administrative responsibility for this master program;
(2) Investigate, develop, and propose amendments to this program as deemed necessary to more effectively and equitably achieve its goals and policies;
(3) Advise interested citizens and applicants of the goals, policies, regulations, and procedures of this program;
(4) Enforce procedures incorporated in the Shoreline Master Program;
(5) Prepare forms deemed essential for the administration of this program;
(6) Make administrative decisions and interpretations of the policies and regulations of this program and the Shoreline Management Act;
(7) Determine if a shoreline substantial development permit, conditional use permit or variance permit is required;
(8) Collect applicable fees, as established by the city;
(9) Determine that all applications and necessary information and materials are provided;
(10) Ensure that proper notice is given to appropriate persons and the public for all hearings;
(11) Conduct and coordinate field inspections, as necessary;
(12) Review, insofar as possible, all provided and related information deemed necessary for appropriate applications needs;
(13) Conduct a thorough review and analysis of shoreline substantial development permit applications; make written findings and conclusions; and approve, approve with conditions, or deny such permits;
(14) Authority to approve, approve with conditions, or deny shoreline substantial development permits and permit revisions in accordance with SMP 7.2.1;
(15) Authority to grant statements of exemption or exception from shoreline substantial development permits; and
(16) Provide technical and administrative assistance to the hearings examiner as required for effective and equitable implementation of this program and the Act;
(17) Submit variance and conditional use permit applications and make written recommendations and findings on such permits to the hearings examiner for consideration and official action;
(18) Seek remedies for alleged violations of this program, of the provisions of the Act, or of conditions of any approved shoreline permit issued by the city of Buckley;
(19) Coordinate information with affected agencies;
(20) Forward shoreline permit decisions in accordance with WAC 173-27-130.

19.42.050 Enforcement and penalties.

(1) Violations are listed in SMP 7.4. Enforcement shall be as described in BMC 1.12, as modified by this chapter.
(2) The choice of enforcement action and the severity of any penalty should be based on the nature of the violation and the damage or risk to the public or to public resources. The existence or degree of bad faith of the persons subject to the enforcement action, benefits that accrue to the violator and the cost of obtaining compliance may also be considered.
(3) Fines are listed in WAC 173-27-280, Civil penalty.
(4) Violators may be liable for damages and attorney's fees and costs in accordance with RCW 90.58.230.

Section 6. Copy to the Department of Commerce. Pursuant to RCW 36.70A.106, the City Administrator is hereby authorized and directed to provide a copy of this ordinance to the State Department of Commerce within 10 days of adoption.

Section 7. Severability. If any section, sentence, clause or phrase of this ordinance should be 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 8. Effective date. This ordinance or a summary thereof consisting of the title shall be published in the official newspaper of the city, and shall take effect and be in full force five (5) days after publication.

Introduced, passed and approved this 12th day of November 2019.

Pat Johnson

Mayor Pat Johnson

ATTEST:

Treva Percival

City Clerk Treva Percival, MMC

APPROVED AS TO FORM:

Phil Olbrechts, City Attorney

Published: November 20, 2019
Effective: November 25, 2019