

*Repealed by Ord. 1440*

**ORDINANCE NO. 1401**

**AN ORDINANCE OF THE CITY OF DES MOINES, WASHINGTON** adopting amendments to the City of Des Moines Shoreline Master Program in compliance with the State of Washington Shoreline Management Act and Chapter 173-26 WAC, and amending DMMC 18.90.010.

**WHEREAS**, the State Legislature enacted the Shoreline Management Act requiring cities and counties throughout the state to adopt and amend from time to time Shoreline Master Programs, and

**WHEREAS**, the Growth Management Act, RCW 36.70A.580, provides that the goals and policies of the Shoreline Master Program shall be considered an element of the City's comprehensive plan, and the other portions of the Shoreline Master Program shall be considered part of the City's development regulations, and

**WHEREAS**, the State Growth Management Act includes adopted goals and requirements to guide the development and adoption of Comprehensive Plans and development regulations (RCW 36.70A.020), and

**WHEREAS**, the City of Des Moines processes comprehensive plan amendments once annually and policies of the Shoreline Master Program (SMP) that are determined to be appropriate for inclusion into the comprehensive plan can be achieved at that time, and

**WHEREAS**, the Des Moines Planning Agency reviewed the draft update to the Shoreline Master Program at eight (8) public meetings starting on May 27, 2004 and concluding on November 7, 2005, and

**WHEREAS** after receiving public testimony at a public hearing conducted on November 21, 2005, the Des Moines Planning Agency recommended that the City Council approve the draft update to the SMP, and

**WHEREAS**, on February 23, 2006, after considering recommendations by City staff, the Planning Agency, and public testimony at a segmented public hearing over the course of three public meetings, the City Council approved a draft update of the SMP and directed staff to forward it to the Department of Ecology (DOE) for its review, and

**WHEREAS**, DOE concluded its review on June 30, 2006 and determined that the City of Des Moines draft update of the SMP required changes in order to comply with Chapter 90.58 RCW, the Shoreline Management Act of 1971 and the SMP guidelines (WAC 173-26, Part III), and

**WHEREAS**, the City was delayed in responding to review comments by DOE by five months due to the fact that funding for the SMP update was not renewed by the State for the 2006-2007 fiscal year until December 2006, and

**WHEREAS**, revisions and edits to the draft SMP in response to comments by DOE were reviewed in three meetings by the City Council Environment Committee in February and March 2007, and

**WHEREAS,** the City Council Environment Committee recommended on March 22, 2007 that the revisions to the draft SMP be reviewed by the full Des Moines City Council at future hearing scheduled on April 26, 2007, and

**WHEREAS,** pursuant to RCW 36.70A.106, the City of Des Moines notified the Washington State Department of Community Trade and Economic Development (CTED) of the update to the SMP and CTED acknowledged receipt of this notice on February 22, 2007, and

**WHEREAS,** the draft update to the SMP has been processed in accordance with the requirements of the State Environmental Policy Act (SEPA), a final determination of non-significance was issued on March 1, 2007 by the responsible official, and the appropriate comment period expired on March 16, 2007 without comment, and the appeal period concluded on March 26, 2007, and

**WHEREAS,** notice of the April 26, 2007 public hearing was given to the public in accordance with the law and a public hearing was held on the 26th day of April, 2007 and all persons wishing to be heard were heard, and

**WHEREAS,** the City Council finds that the policies and regulations set forth in the SMP update attached as "Exhibit A" are consistent with the Shoreline Management Act and its recently adopted implementing regulations (Chapter 173-26 WAC), the Growth Management Act, the City's comprehensive plan, the City's critical area ordinance and other applicable law, and

**WHEREAS,** this ordinance and the updated Shoreline Master Program amend and supersede the City of Des Moines Shoreline Master Program adopted October 15, 1987 under Ordinance No. 715; now therefore,

**THE CITY COUNCIL OF THE CITY OF DES MOINES ORDAINS AS FOLLOWS:**

**Sec. 1.** DMMC 18.90.010 and section 1 of Ordinance No. 715 are each amended to read as follows:

\* **Adopted.** The document kept on file and available from the City Clerk entitled "City of Des Moines Shoreline Master Program" attached as Exhibit "A" to this ordinance and codified in this chapter, dated April 26, 2007 and consisting of 114 pages, and Appendix "A" entitled "Shoreline Inventory and Characterization Report", dated March 2005, are adopted as the official Shoreline Master Program for the City.

**Sec. 2. Severability -- Construction.**

(1) If a section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or invalid for any reason by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

(2) If the provisions of this ordinance are found to be inconsistent with other provisions of the Des Moines Municipal Code, this ordinance is deemed to control.

**Sec. 3. Effective date of ordinance.** This ordinance shall take effect and be in full force thirty (30) days after its passage, approval, and publication in accordance with law.

**PASSED BY** the City Council of the City of Des Moines this 26th day of April, 2007 and signed in authentication thereof this 26th day of April, 2007.



M A Y O R

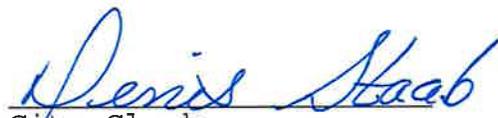
APPROVED AS TO FORM:



City Attorney

*\* Filed in City Clerk's  
top file drawer.*

ATTEST:



City Clerk

Published: May 9, 2007

Effective Date: May 26, 2007

LEGAL NOTICE

SUMMARY OF ADOPTED ORDINANCE

CITY OF DES MOINES

ORDINANCE NO. 1401, Adopted April 26, 2007.

DESCRIPTION OF MAIN POINTS OF THE ORDINANCE:

This ordinance adopts amendments to the City of Des Moines Shoreline Master Program in compliance with the State of Washington Shoreline Management Act and Chapter 173-26 WAC, and amends DMMC 18.90.010.

The full text of the ordinance will be mailed without cost upon request.

Denis Staab  
City Clerk

Published: May 9, 2007