

ORDINANCE NO. 2016-06

AN ORDINANCE of the City of Bainbridge Island, Washington, relating to aquaculture policies and regulations; amending the City's Shoreline Master Program and amending Sections 16.12.030-1, 16.12.030-2, 16.12.040 and 16.12.080 of the Bainbridge Island Municipal Code (BIMC).

WHEREAS, the City's Shoreline Master Program Update (hereafter "SMP") was approved by the Department of Ecology on July 16, 2014 and became effective on July 30, 2014; and

WHEREAS, on October 6, 2014, Bainbridge Alliance for Puget Sound; Association of Bainbridge Communities; and Coalition to Protect Puget Sound Habitat (hereafter the "Alliance") filed a Petition for Review with Washington Growth Management Hearings Board (GMHB)(Case No. 14-3-0011); and

WHEREAS, the Alliance, by through its Petition, alleged that the City's SMP regulations relating to aquaculture were not consistent with the Washington State Shoreline Management Act ("SMA") and in conflict with certain sections of Washington Administrative Code ("WAC") Chapter 173-26; and

WHEREAS, on November 5, 2014, the Pacific Cost Shellfish Growers Association ("PCSGA") moved to intervene in the above-described litigation in order to ensure that its interests not be impaired thereby; and

WHEREAS, at its December 9, 2014 regular business meeting, the City Council of the City of Bainbridge Island passed a motion directing the Planning and Community Development Department to prepare an amendment to the July 30, 2014 SMP pertaining to aquaculture to bring the aquaculture regulations into alignment with the language contained in the June 7, 2013 version of the SMP pertaining to aquaculture regulations; and

WHEREAS, as a result of the City Council's December 9, 2014 direction, and in order to obtain the GMHB's approval of an extension of the hearing on the merits, the City, the Alliance, and PCSGA (the "Parties") agreed to enter into settlement discussions; and

WHEREAS, the Parties met several times between January 2015 and January 2016 to identify revisions to the SMP's aquaculture regulations that would further the City Council's December 9, 2014 direction while balancing the interests of the Parties; and

WHEREAS, the revisions to the SMP's aquaculture regulations herein ("Revisions") represent the City's best efforts to comply with the City Council's December 9, 2014 direction while balancing the interests of the Parties; and

WHEREAS, the Planning Commission reviewed the Revisions at a study session on March 24, 2016; and

WHEREAS, the Planning Commission conducted a public hearing on the Revisions contained in this proposed Ordinance No. 2016-06 on April 14, 2016; and

WHEREAS, the City Council reviewed the Revisions at a business meeting on June 14, 2016 and June 28, 2016; and

WHEREAS, the City Council conducted a public hearing on this proposed Ordinance No. 2016-06 on July 26, 2016 that was continued to August 23, 2016; and

WHEREAS, the City Council reviewed the Revisions at a business meeting on September 13, 2016 and September 27, 2016; now therefore

THE CITY COUNCIL OF THE CITY OF BAINBRIDGE ISLAND, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. The City’s “WAC 173-26-110 Submittal Package,” which includes a summary of proposed amendments to policy and regulatory language with explanatory text and other materials which document the necessity for the proposed changes to the City’s Shoreline Master Program, is incorporated by this reference as findings of fact.

Section 2. That Subsection entitled “Aquaculture” within Table 16.12.030-1: Shoreline Use Modification Table of the Bainbridge Island Municipal Code is hereby amended to read as set forth in Exhibit 1 attached to this ordinance and incorporated herein by this reference and the remaining portions of Table 16.12.030-1 shall remain unchanged.

Section 3. That Subsection entitled “Aquaculture” within Table 16.12.030-2: Dimensional Standards Table of the Bainbridge Island Municipal Code is hereby amended to read as set forth in Exhibit 2 attached to this ordinance and incorporated herein by this reference and the remaining portions of Table 16.12.030-2 shall remain unchanged.

Section 4. The aquaculture policies and regulations of the SMP are hereby amended to read as set forth in Exhibit 3 attached to this ordinance and incorporated herein by reference. That Subsection 5.2 entitled “Aquaculture” of Section 5.0 – Specific Shoreline Use and Development Policies and Regulations – is amended and the remaining portions of Section 5.0 shall remain unchanged. Pursuant to RCW 36.70A.480(1), use regulations shall be a part of the City’s development regulations and shall be codified as an amended Chapter 16.12 of the Bainbridge Island Municipal Code, including an amended Section 16.12.040. The Director of Planning and Community Development shall work with the codifier of the Bainbridge Island Municipal Code in order to ensure that the regulations in the SMP are appropriately codified.

Section 5. Those Subsections within Section 16.12.080, Definitions, entitled “Aquaculture”; “Aquaculture, Shellfish Garden”; “Aquaculture, Commercial”; and “Aquaculture, Non-Commercial” of the Bainbridge Island Municipal Code are amended to read as follows and the remaining portions of Section 16.12.080 shall remain unchanged:

Aquaculture – The culture or farming of fish, shellfish, or other aquatic plants and animals. Aquaculture does not include the harvest of wild geoduck associated with the state-managed wildstock geoduck fishery. Upland finfish rearing facilities are included in the definition of agriculture and are not considered aquaculture for the purpose of this SMP. ~~Aquaculture activities include, but are not limited to, the hatching, cultivating, planting, feeding, raising, and harvesting of aquatic plants and animals, and the~~

~~maintenance and construction of necessary equipment and buildings. Cultivation methods include, but are not limited to, fish pens, shellfish rafts, racks and long lines, seaweed floats and nets, and the planting and harvesting of clams and oysters.~~

~~**Aquaculture, Shellfish Garden**—The cultivation, harvesting, and incidental preparation of shellfish for personal human use and consumption on public and private tidelands~~

Aquaculture, Commercial: Commercial Aquaculture is the cultivation of fish, shellfish or other aquatic plants and animals for sale.

Aquaculture, Non-Commercial: The cultivation of fish, shellfish or other aquatic plants and animals for personal consumption, research, or restoration or enhancement of native species.

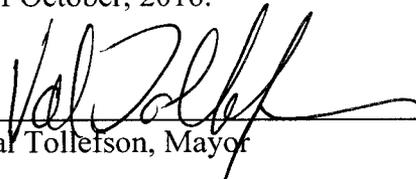
Section 6. That Subsection entitled “1.3.4 Relationship to Other Plans and Regulations is amended to read as follows and the remaining portions of Subsection 1.3.4 shall remain unchanged:

7. This SMP will be applied consistent with all applicable federal, state and local laws including, without limitation, those affecting tribal treaty rights.

Section 7. This ordinance shall take effect upon the date of a letter to the City of Bainbridge Island from the Washington State Department of Ecology approving the Shoreline Master Program Limited Amendment adopted by this ordinance.

PASSED BY THE CITY COUNCIL this 11th day of October, 2016.

APPROVED BY THE MAYOR this 11th day of October, 2016.


Val Tollefson, Mayor

ATTEST/AUTHENTICATE:


Rosalind D. Lassoff, CMC, City Clerk

FILED WITH THE CITY CLERK: July 12, 2016
PASSED BY THE CITY COUNCIL: October 11, 2016
PUBLISHED: October 14, 2016
EFFECTIVE DATE: This ordinance shall take effect upon the date of a letter to the City of Bainbridge Island from the Washington State Department of Ecology approving the Shoreline Master Program Limited Amendment adopted by this ordinance.
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