

ORDINANCE NO. 2014-08-10

An ordinance amending Clark County Code (CCC) Sections 40.460.240, Prohibited Uses, 40.460.800, Definitions, 40.460.430, Shoreline Designations, Table 40.460.620-1. Shoreline Use, Modification, and Development Standards, and 40.460.630, Use-Specific Development Regulations.

WHEREAS, Shoreline Management is the 14th goal of the Growth Management Act (GMA); and

WHEREAS, the Board of County Commissioners adopted Clark County's Shoreline Master Program (SMP) on July 24, 2012, Ordinance No. 2012-07-16; and

WHEREAS, the Washington Department of Ecology approved Clark County's SMP, which took effect on September 12, 2012; and

WHEREAS, the Shoreline Master Program policies and regulations are in Chapter 13 of the Clark County Comprehensive Growth Management Plan and Chapter 40.460 CCC, respectively; and

WHEREAS, the Board finds that the implementation of the 2012 SMP has suggested that limited amendments pursuant to WAC 173-26-201 would correct errors and omissions, and improve consistency with the goals and policies of the Shoreline Management Act; and

WHEREAS, the Planning Commission held a duly advertised hearing on August 7, 2014 and voted 4-1 to forward the recommended approval of the proposed limited amendments to the 2014 SMP;

WHEREAS, the Board held a duly advertised public hearing on August 19, 2014 to review the recommendation of the Planning Commission that the limited amendments to the 2012 SMP should be adopted as proposed; and

WHEREAS, the Board finds that adoption of the proposed limited amendments to the SMP would be in the best interests of the public health, safety and welfare of Clark County; Now, Therefore,

BE IT ORDERED, RESOLVED AND DECREED BY THE BOARD OF COUNTY COMMISSIONERS OF CLARK COUNTY, STATE OF WASHINGTON, AS FOLLOWS:

Section 1. Amendatory. Ordinance 2012-07-16, and codified as CCC Section 40.460.240 are amended to read as follows:

40.460.240 PROHIBITED USES

The following modifications and uses are prohibited in all shoreline designations and are not eligible for review as a shoreline conditional use or shoreline variance. See Sections 40.100.070 and 40.460.800 for definitions of the following modifications and uses:

- A. Uses not otherwise allowed in the underlying zoning district;
- B. Parking as a primary use;
- C. Discharge of solid wastes, liquid wastes, untreated effluents, and other potentially harmful materials;
- D. Solid waste facilities;
- E. Hazardous waste facilities as defined in Section 40.100.070; and
- F. Speculative fill; and
- G. ~~Dredging or dredge material disposal in wetlands, or to construct land canals or small basins for boat moorage or launching, water ski landings, swimming holes or other recreational activities.~~

Section 2. Amendatory. Section 3, Part B, Ordinance 2012-07-16, and codified as CCC Section 40.460.800, are each amended to read as follows:

40.460.800 DEFINITIONS

Dredging	"Dredging" means the removal or displacement of earth or sediments such as gravel, sand, mud, silt, or debris from below the OHWM ₁ of any stream, river, lake, or water body, or wetland
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Section 3. Amendatory. Section 3, Part B, Ordinance 2012-07-16, and codified

as CCC Section 40.460.430 are amended to read as follows:

40.460.430 SHORELINE DESIGNATIONS

E. Medium Intensity Shoreline Designation.

1. Purpose.

The purpose of the "Medium Intensity" shoreline designation is to accommodate primarily residential development and appurtenant structures, but to also allow other types of development that are consistent with this chapter. An additional purpose is to provide appropriate public access and recreational uses.

2. Designation Criteria.

The following criteria are used to consider a Medium Intensity shoreline:

- a. The shoreline is located within incorporated municipalities and designated urban growth areas;
- b. The shoreline has low to moderate ecological function with low to moderate opportunity for restoration;
- c. The shoreline contains mostly residential development at urban densities and does not contain resource industries (agriculture, forestry, mining);
- d. The shoreline is planned or platted for residential uses in the comprehensive plan; or
- e. The shoreline has low to moderate potential for low-impact, passive or active water-oriented recreation where ecological functions can be restored.

3 Areas Designated.

The Medium Intensity shoreline designation applies to areas as shown on a copy of the Shoreline Map in Appendix B.

4. Management Policies.

In addition to the other applicable policies and regulations of this Program the following management policies shall apply:

- a. Encourage regulations that ensure no net loss of shoreline ecological functions as a result of new development such as limiting lot coverage, providing adequate setbacks from the shoreline, promoting vegetation conservation, reducing the need for shoreline stabilization and maintaining or improving water quality to ensure no net loss of ecological functions.
- b. The scale and density of new uses and development should be compatible with sustaining shoreline ecological functions and processes, and the existing residential character of the area.
- c. Public access and joint (rather than individual) use of recreational facilities should be promoted.

- d. Access, utilities, and public services to serve proposed development within shorelines should be constructed outside shorelines to the extent feasible, and be the minimum necessary to adequately serve existing needs and planned future development.
- e. Public or private outdoor recreation facilities should be provided with proposals for subdivision development and encouraged with all shoreline development if compatible with the character of the area. Priority should be given first to water-dependent and then to water-enjoyment recreation facilities.
- f. Commercial development should be limited to water-oriented uses. Non-water-oriented commercial uses should only be allowed;
 - (1) as part of mixed-use developments where the primary use is residential and where there is a substantial public benefit with respect to the goals and policies of this Program such as providing public access or restoring degraded shorelines;
 - (2) where navigability is severely limited at the proposed site and the commercial use provides a significant public benefit with respect to the Act's objectives such as providing public access and ecological restoration; or
 - (3) if the site is physically separated from the shoreline by another property or public right of way.

F. High Intensity Shoreline Designation.

1. Purpose.

The purpose of the "High Intensity" shoreline designation is to provide for high-intensity water-oriented commercial, transportation, and industrial uses while protecting existing shoreline ecological functions and restoring ecological functions in areas that have been previously degraded.

2. Designation Criteria.

The following criteria are used to consider a High Intensity shoreline designation:

- a. The shoreline is located within incorporated municipalities and designated urban growth areas;
- b. The shoreline has low to moderate ecological function with low to moderate opportunity for ecological restoration or preservation;
- c. The shoreline contains mostly industrial, commercial, port facility, mixed-use, or multi-family residential development at high urban densities and may contain industries that are not designated agriculture, forestry, or mineral resource lands in the comprehensive plan;
- d. The shoreline may be or has been identified as part of a state or federal environmental remediation program;
- e. The shoreline is planned or platted for high intensity uses in the comprehensive plan; or
- f. The shoreline may support public passive or active water-oriented recreation where ecological functions can be restored.

3. Areas Designated.

The High Intensity shoreline designation applies to areas as shown on a copy of the Shoreline Map in Appendix B.

4. Management Policies.

In addition to the other applicable policies and regulations of this Program the following management policies shall apply:

- a. Encourage regulations that ensure no net loss of shoreline ecological functions as a result of new development.

- b. Promote infill and redevelopment in developed shoreline areas and encourage environmental remediation and restoration of the shoreline, where applicable with the goal of achieving full utilization of designated high-intensity shorelines.
- c. Encourage the transition of uses from non-water-oriented to water-oriented uses.
- d. Water-oriented uses are encouraged, however new non-water oriented uses may be allowed if that use has limited access to the shoreline and when included in a master plan or part of a mixed-use development.

Section 4. Amendatory. Section 3, Part B, Ordinance 2012-07-16, and codified

as CCC Section Table 40.460.620-1, are each amended to read as follows:

Table 40.460.620-1. Shoreline Use, Modification, and Development Standards

Table 40.460.620-1. Shoreline Use, Modification, and Development Standards							
Abbreviations P = Permitted; C = Conditional Use; X = Prohibited; N/A = Not Applicable; UNL = Unlimited.	AQ	NT	UC (UGA)	MI (UGA)	HI (UGA)	RC-RD	RC-RL
Shoreline Designation	Aquatic	Natural	Urban Conservancy	Medium Intensity	High Intensity	RC Residential	RC Resource Lands
Shoreline Uses							
Agriculture							
Agriculture	X	X	C	P	P	P	P
• Structure Setback	N/A	N/A	100'	100'	100'	100'	100'
• Structure Height	N/A	N/A	35'	35'	35'	35'	35'
Aquaculture							
Aquaculture, General	P	X	C	C	C	C	C
• Structure Setback	0'	N/A	50'	50'	50'	50'	50'
Boating Uses							
Motorized Boat Launches	P	X	C	C	P	P	P
Non-motorized Boat Launches	P	C	P	P	P	P	P
Marinas	P	X	X	C	P	C	C
• Structure Setback	0'	N/A	N/A	25'	25'	25'	25'
• Structure Height							
- 0-100' from OHWM	20'	N/A	N/A	25'	35'	25'	35'
- >100' from OHWM	20'	N/A	N/A	35'	45'	35'	45'
Docks, Piers, Mooring Buoys	P ¹	X	P ¹	P ¹	P ¹	P ¹	P ¹
• Structure Setback	0'	N/A	0'	0'	0'	0'	0'
Commercial Uses							
Water-dependent	C	X	X	P	P	C	C
• Structure Setback	0'	N/A	N/A	0'	0'	0'	0'

Table 40.460.620-1. Shoreline Use, Modification, and Development Standards

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Shoreline Designation	Aquatic	Natural	Urban Conservancy	Medium Intensity	High Intensity	RC Residential	RC Resource Lands
• Structure Height							
- 0-100' from OHWM	15'	N/A	N/A	35'	35'	35'	35'
- >100' from OHWM	15'	N/A	N/A	45'	60'	45'	45'
Water-related, Water-enjoyment	X	X	X	P	P	C	C
• Structure Setback	N/A	N/A	N/A	25'	25'	25'	25'
• Structure Height							
- 0'-100' from OHWM	N/A	N/A	N/A	25'	35'	35'	35'
- >100' from OHWM	N/A	N/A	N/A	35'	45'	45'	45'
Non-water-oriented	X	X	X	C ²	C ²	X	X
• Structure Setback	N/A	N/A	N/A	100'	100'	N/A	N/A
• Structure Height	N/A	N/A	N/A	25'	25'	N/A	N/A
Forestry							
Log Storage	C	X	X	X	P	X	P
• Setback	0'	N/A	N/A	N/A	50'	N/A	50'
Timber Harvest	X	X	C	P	P	P	P
• Activity Setback	N/A	N/A	100'	100'	50'	100'	50'
Industrial Uses							
Water-dependent	P	X	X	X	P	X	X
• Structure Setback	0'	N/A	N/A	N/A	0'	N/A	N/A
• Structure Height							
- 0-100' from OHWM	20'	N/A	N/A	N/A	UNL	N/A	N/A
- >100' from OHWM	20'	N/A	N/A	N/A	UNL	N/A	N/A
Water-related	X	X	X	X	P	X	X
• Structure Setback	N/A	N/A	N/A	N/A	50'	N/A	N/A
• Structure Height							
- 0-100' from OHWM	N/A	N/A	N/A	N/A	UNL	N/A	N/A
- >100' from OHWM	N/A	N/A	N/A	N/A	UNL	N/A	N/A
Non-water-oriented	X	X	X	X	P	X	X
• Structure Setback	N/A	N/A	N/A	N/A	100'	N/A	N/A
• Structure Height	N/A	N/A	N/A	N/A	35'	N/A	N/A
Institutional Uses							
Water-dependent	C	X	C	P	P	C	C
• Structure Setback	N/A	N/A	0'	0'	0'	0'	0'

Table 40.460.620-1. Shoreline Use, Modification, and Development Standards

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Shoreline Designation	Aquatic	Natural	Urban Conservancy	Medium Intensity	High Intensity	RC Residential	RC Resource Lands
• <i>Structure Height</i>							
- 0-100' from OHWM	N/A	N/A	25'	35'	35'	35'	35'
- >100' from OHWM	N/A	N/A	35'	45'	35'	45'	45'
Water-related	X	X	X	P	P	C	X
• <i>Structure Setback</i>	N/A	N/A	N/A	25'	25'	50'	N/A
• <i>Structure Height</i>							
- 0-100' from OHWM	N/A	N/A	N/A	35'	45'	35'	N/A
- >100' from OHWM	N/A	N/A	N/A	45'	60'	35'	N/A
Non-water-oriented	X	X	X	C ²	C ²	X	X
• <i>Structure Setback</i>	N/A	N/A	N/A	100'	100'	N/A	N/A
• <i>Structure Height</i>	N/A	N/A	N/A	35'	35'	N/A	N/A
Mining							
Gravel Mining	C ³	X	X	X	C ³	C ³	C ³
• <i>Activity Setback</i>	0'	N/A	N/A	N/A	200'	200'	200'
Hard Rock Mining	X	X	X	X	C ³	C ³	C ³
• <i>Activity Setback</i>	N/A	N/A	N/A	N/A	100'	100'	50'
Parking							
Primary Use	X	X	X	X	X	X	X
• <i>Structure or Surface Lot Setback</i>	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Accessory Use	X	X	P	P	P	P	P
• <i>Structure or Activity Setback</i>	N/A	N/A	100'	100'	50'	100'	100'
• <i>Structure Height</i>	N/A	N/A	35'	35'	35'	35'	35'
Recreational Uses							
Water-dependent	P	P ⁴	P	P	P	P	P
• <i>Structure Setback</i>	0'	0'	0'	0'	0'	0'	0'
• <i>Structure Height</i>	15'	15'	15'	35'	35'	35'	35'
Water-related/enjoyment (trails, accessory buildings)	C ⁴	C ⁴	P	P	P	P	P
• <i>Structure Setback</i>	0'	50' ⁵	50' ⁵	50' ⁵	20'	20'	20'
• <i>Structure Height</i>	15'	15'	15'	35'	35'	35'	35'
Non-water-oriented (golf courses, sports fields)	X	X	C	C	C	C	X

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Shoreline Designation	Aquatic	Natural	Urban Conservancy	Medium Intensity	High Intensity	RC Residential	RC Resource Lands
• <i>Structure Setback</i>	N/A	N/A	100'	100'	100'	200'	N/A
• <i>Structure Height</i>	N/A	N/A	25'	25'	25'	15'	N/A
Residential Uses							
Single-family	X	X	P	P	X	P	P
• <i>Structure Setback</i>	N/A	N/A	100'	50'	N/A	100'	100'
• <i>Structure Height</i>	N/A	N/A	35'	35'	N/A	35'	35'
• <i>Density</i>	N/A	N/A	In accordance with the underlying zoning				
Floating homes (new)	X	N/A	N/A	N/A	N/A	N/A	N/A
• <i>Structure Height</i>	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Floating homes (existing)	P	N/A	N/A	N/A	N/A	N/A	N/A
• <i>Structure Height</i>	Existing	N/A	N/A	N/A	N/A	N/A	N/A
Multifamily	X	X	X	P	P	X	X
• <i>Structure Setback</i>	N/A	N/A	N/A	35'	35'	N/A	N/A
• <i>Structure Height</i>	N/A	N/A	N/A	35'	35'	N/A	N/A
• <i>Density</i>	N/A	N/A	N/A	In accordance with the underlying zoning		N/A	N/A
Signs							
Agricultural	X	X	P	X	P	P	P
Fascia or Wall Signs	X	X	X	P	P	P	P
Free Standing Informational	P	P	P	P	P	P	P
High School Electronic Message	X	X	P	P	P	P	P
Monument	X	P	P	P	P	P	P
Navigation	P	P	P	P	P	P	P
Transportation Uses							
Highways, Arterials, Railroads (parallel to OHWM)	C	X	P	P	P	P	P
• <i>Right-of-Way Setback</i>	0'	N/A	200'	100'	100'	200'	200'
Secondary/Public Access Roads (parallel to OHWM)	X	X	P	P	P	P	P
• <i>Right-of-Way Setback</i>	N/A	N/A	100'	50'	50'	100'	100'
Roads perpendicular to the OHWM	X	X	P	P	P	P	P
• <i>Setback</i>	N/A	N/A	Limited to the setback for the use the road is serving ⁶				
Bridges (perpendicular to shoreline)	C	C	C	P	P	C	C
• <i>Structure Setback</i>	0'	0'	0'	0'	0'	0'	0'
Utility Uses							

Table 40.460.620-1. Shoreline Use, Modification, and Development Standards

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Shoreline Designation	Aquatic	Natural	Urban Conservancy	Medium Intensity	High Intensity	RC Residential	RC Resource Lands
Above-ground Utilities (parallel to shoreline)	C	C	P	P	P	P	P
• <i>Right-of-Way Setback</i>	0'	200'	100'	50'	50'	100'	100'
• <i>Structure Height</i>	15'	15'	35'	35'	UNL	15'	15'
• <i>Distribution Pole Height</i>	0'	45'	45'	45'	UNL	45'	45'
Electrical Transmission Lines	C	C	C	C	C	C	C
• <i>Tower Height</i>	UNL	UNL	UNL	UNL	UNL	UNL	UNL
Underground Utilities (parallel to shoreline)	C	C	P	P	P	P	P
• <i>Right-of-Way Setback</i>	0'	200'	100'	50'	50'	50'	50'
Underground Utilities (perpendicular to shoreline)	C	C	C	C	C	C	C
• <i>Right-of-Way Setback</i>	0'	0'	0'	0'	0'	0'	0'
Unclassified Uses							
Unclassified Uses	C	C	C	C	C	C	C
• <i>Structure or Activity Setback</i>	0'	200'	100'	100'	100'	100'	100'
• <i>Structure Height</i>	15'	15'	35'	35'	35'	35'	35'
Shoreline Modification							
Dredging and Dredge Material Disposal							
Non-maintenance Dredging	C	N/A	N/A	N/A	N/A	N/A	N/A
Maintenance Dredging	P	N/A	N/A	N/A	N/A	N/A	N/A
Dredge Material Disposal	C	X	X	C	C ⁷	C	C
Dredging & Disposal as part of Ecological Restoration/ Enhancement	P	C	P	P	P	P	P
Fill							
Speculative	X	X	X	X	X	X	X
Other	C ⁸	P ⁹	P	P	P	P	P
Flood Control Works and In-stream Structures							
Dams, Dikes, & Levees	C	X	C	C	P	C	C
In-stream structures	C	N/A	N/A	N/A	N/A	N/A	N/A
Shoreline Restoration							
Ecological Restoration / Enhancement / Mitigation	P	P	P	P	P	P	P
Shoreline Stabilization							
Bioengineered	P	P	P	P	P	P	P
Structural (i.e., bulkheads and revetments)	C	X	C	C	C	C	C
Breakwaters, Jetties, Rock Weirs, and Groins	C	X	C	C	C	C	C

¹ Private docks permitted as joint-use only (see Section 40.460.630(C)(4)(j)).

² ~~See Section 40.460.630(D)(4). As part of mixed-use development only.~~

³ In Surface Mining Overlay areas only.

⁴ Low intensity only.

⁵ Water-related/enjoyment features such as viewpoints, gazebos, or fishing piers may have a zero (0) foot setback when connected to a public access trail.

⁶ New roads may connect to existing roads within shoreline jurisdiction as long as the connection is landward of the existing road and the ordinary high water mark.

⁷ Permitted outside of channel migration zones.

⁸ See Section 40.460.560(B)(10).

⁹ Permitted for restoration only; otherwise prohibited.

Note: Setbacks are landward from the OHWM in the NT, UC, MI, HI, RC-RD, and RC-RL shoreline designations; setbacks are waterward of the OHWM in the AQ shoreline designation.

Section 5. Amendatory. Section 3, Part B, Ordinance 2012-07-16, and codified

as CCC Section 40.460.630 are amended to read as follows:

40.460.630 USE-SPECIFIC DEVELOPMENT REGULATIONS

D. Commercial Uses.

1. Water-oriented commercial uses are preferred over non-water-oriented commercial uses.
2. An applicant for a new commercial use or development shall demonstrate that:
 - a. There will not be a net loss of shoreline ecological function by reason of the use or development; and
 - b. The use or development will have no significant adverse impacts to other shoreline resources or other shoreline uses.
3. Loading, service areas, and other accessory uses and structures shall be located landward of a commercial structure or underground whenever possible, but shall in no case be waterward of the structure. Loading and service areas shall be screened from view with native plants.
4. Where allowed, non-water-oriented commercial uses may be permitted; ~~only as part of a mixed-use development that:~~
 - a. as part of mixed-use developments where the primary use is residential and where there is a substantial public benefit with respect to the goals and policies of this Program such as providing public access or restoring degraded shorelines;
 - b. where navigability is severely limited at the proposed site and the commercial use provides a significant public benefit with respect to the Act's objectives such as providing public access and ecological restoration; or
 - c. if the site is physically separated from the shoreline by another property or public right of way.

- ~~a. Has a formally approved master plan that complies with this Program, including having demonstrated consistency with policies of Section 40.460.300 if its proposed location is on a shoreline of statewide significance;~~
 - ~~b. Includes water-oriented uses; and~~
 - ~~c. Provides a significant public benefit such as public access and/or ecological restoration.~~
5. Non-water-oriented commercial uses may occupy:
- a. Up to a total of twenty-five percent (25%) of the total frontage length of all parcels in the master planned development (regardless of ownership); or
 - b. Up to a total of twenty-five percent (25%) of the total project area within shoreline jurisdiction of all parcels in the master planned development (regardless of ownership).

Section 6. Effective date. This ordinance shall take effect two weeks after

Washington State DOE approval.

Section 7. Instructions to the clerk.

The Clerk to the Board shall:

- 1. Record a copy of this ordinance with the Clark County Auditor.
- 2. Transmit a copy of this ordinance to the State Departments of Ecology and Commerce within ten days of its adoption.
- 3. Cause notice of adoption of this ordinance to be published forthwith pursuant to RCW 36.70A.290.
- 4. Transmit a copy of this ordinance to Code Publishing, Inc. to update the electronic version of the Clark County Code.

ADOPTED this 19th day of August, 2014.

Attest:

Rebecca J. Jeter
Clerk to the Board

BOARD OF COUNTY COMMISSIONERS
CLARK COUNTY, WASHINGTON

By Tom Mielke
Tom Mielke, Chair

Approved as to Form Only:

ANTHONY F. GOLIK
Prosecuting Attorney

By _____
David Madore, Commissioner

By Christine Cook
Christine Cook
Sr. Deputy Prosecuting Attorney

By _____
Edward L. Barnes, Commissioner