



# SHORELINE MASTER PROGRAM PERIODIC REVIEW PROPOSED CHANGES



DRAFT #1

NOVEMBER 2019

# Shoreline Master Program Periodic Review

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## *Summary of Draft Proposed Changes*

This document is a summary of Clark County’s initial draft of proposed changes to its Shoreline Master Program (SMP).

This document includes a brief explanation of each of the proposed changes. Draft maps are included in the Appendix.

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# Comprehensive Plan

## 1. Introductory/background text

The proposed changes to the introductory/background text of the Shoreline Management chapter of the Comprehensive Plan would revise the introductory text and correct a scrivener's error.

Proposed Text Change in Ch. 13 of Comprehensive Plan
<p>Clark County's first shoreline master program was adopted in 1974. <del>In 1995, the goals and policies of the SMA were added as one of the goals of the Growth Management Act (RCW 36.70A.480) and were required to become a component of the county comprehensive plan. The Program had not been updated since then. Using a grant from the Department of Ecology, the county partnered with its seven cities (the Clark County Shoreline Coalition) to develop a uniform set of goals, policies and shoreline designations for shorelines across the county.</del></p> <p>***</p> <p><b>Shorelines of Shorelines of Statewide Significance</b></p>

## 2. Addition of Shoreline map

The shoreline map is not currently included in the Comprehensive Plan. *Appendix B – Figures* is the name of the appendix which includes maps adopted as part of the Comprehensive Plan.

For completeness and improved access to finding the shoreline map, it is being proposed that the shoreline map is added to the Comprehensive Plan map set.

# Development Code

## 3. Critical areas

The Shoreline Master Program regulates critical areas within shoreline jurisdiction. The Shoreline Management Act requires that the SMP protect critical areas within shoreline at least as well as they are protected outside of shoreline jurisdiction. The county's SMP is structured so that it incorporates the county critical areas code through reference. In order for the current critical areas code to be incorporated into the SMP, amendments are needed to reference the current ordinance.

Critical areas ordinances were compared to the ordinances listed in the current SMP. Ordinances that are proposed to be added to the SMP are those that were either previously missing, or have recently been adopted and need to be incorporated. The most recent ordinance date has also been added if missing.

Proposed Code Change to CCC 40.460.530(B) and (C)
<p>B. Applicable Critical Areas. For purposes of this Program, the following critical areas will be protected under this Program. An amendment to these regulations will apply in shoreline jurisdiction only if it is adopted as an SMP amendment or update.</p>

1. Critical aquifer recharge areas, defined in Chapter 40.410 as adopted by Ordinance 2004-06-11; Ordinance 2005-04-15, dated April 26, 2005; Ordinance 2009-03-02; and Ordinance 2018-01-03; and Ordinance 2018-01-09, dated January 9, 2018;
  2. Flood hazard areas, defined in Chapter 40.420 as adopted by Ordinance 2005-04-15; Ordinance 2009-03-02; Ordinance 2012-07-15, dated July 24, 2012; and Ordinance 2018-01-03; and Ordinance 2019-05-07, dated May 21, 2019;
  3. Geologic hazard areas, defined in Chapter 40.430 as adopted by Ordinance 2005-04-15, dated April 26, 2005; Ordinance 2006-09-13; Ordinance 2009-01-01; Ordinance 2012-02-03; and Ordinance 2012-07-16; Ordinance 2015-11-24; Ordinance 2018-01-09; and Ordinance 2019-05-07, dated May 21, 2019;
  4. Habitat conservation areas, defined in Chapter 40.440 as adopted by Ordinance 2005-04-15; Ordinance 2005-05-20; Ordinance 2006-06-09; Ordinance 2006-07-09; Ordinance 2006-08-03; Ordinance 2008-06-02; Ordinance 2008-07-05; Ordinance 2009-12-01; Ordinance 2012-07-16; and Ordinance 2014-12-05; Ordinance 2018-10-02; and Ordinance 2019-05-07, dated May 21, 2019; and
  5. Wetlands, defined in Chapter 40.450 as adopted by Ordinance 2004-06-11; Ordinance 2005-04-12; Ordinance 2006-05-27, dated May 26, 2006; Ordinance 2007-06-05; Ordinance 2007-11-13; Ordinance 2008-06-02; Ordinance 2009-01-01; Ordinance 2009-12-01; Ordinance 2012-07-03; Ordinance 2012-07-16; and Ordinance 2014-12-05; Ordinance 2015-11-24; Ordinance 2019-03-05; and Ordinance 2019-05-07, dated May 21, 2019.
- (Amended: Ord. 2015-12-12; Ord. 2018-11-06)
- C. Critical Aquifer Recharge Areas.
1. General Provisions. Chapter 40.410, Critical Aquifer Recharge Areas, Ordinance 2004-06-11; Ordinance 2005-04-15, dated April 26, 2005; Ordinance 2009-03-02; and Ordinance 2018-01-03; and Ordinance 2018-01-09, dated January 9, 2018, is hereby adopted in whole as part of this Program.
- (Amended: Ord. 2015-12-12; Ord. 2018-11-06)

#### 4. Floating homes and on-water residences

Clark County Code is unclear about some aspects of floating homes and on-water residences, such as whether or not these residences are allowed to move locations.

A clarification is proposed to confirm that legally established on-water residences are a conforming use, consistent with state law. Code language is also being proposed to clarify how to address floating homes and on-water residences that may be relocated.

Proposed Code Change to CCC 40.460.250(B)(7) and 40.460.630(K)(11) and (12)
<p>7. Legally established floating homes and <u>on-water</u> residences are considered conforming uses, subject to the requirements in Section 40.460.630(K)(13).</p> <p>***</p> <p>11. New floating homes and <u>new floating on-water residences</u> are prohibited. <u>Floating homes and on-water residences moved from outside the State of Washington are also prohibited.</u></p> <p>12. Floating homes legally established <u>in the State of Washington</u> as of January 1, 2011, are considered conforming uses pursuant with RCW 90.58.270 and WAC 173-26-241(3)(j).</p> <p>a. <u>Floating homes shall be moored at sites established as floating home moorages consistent with Section 40.460.630(C).</u></p>

- b. A one (1) time expansion of a floating home is allowed, as follows:
    - a.(1) The expansion maintains the size of the footprint of the existing residence;
    - b.(2) The expansion does not exceed the allowed height limit; and
    - c.(3) The applicant demonstrates through a letter of exemption that the expansion will result in no net loss of shoreline ecological functions.
  - c. Floating homes may relocate within a moorage or between moorage sites, consistent with the standards of Section 40.460.630(C) and 40.460.630(K).
13. Floating on-water residences legally established in the State of Washington prior to July 1, 2014, are considered conforming uses pursuant with RCW 90.58.270 and WAC 173-26-241(3)(i).
- a. New floating on-water residences shall be moored at sites established as floating on-water moorages consistent with Section 40.460.630(C).
  - b. A one (1) time expansion of an on-water residence is allowed, as follows:
    - a.(1) The expansion maintains the size of the footprint of the existing residence;
    - b.(2) The expansion does not exceed the allowed height limit; and
    - c.(3) The applicant demonstrates through a letter of exemption that the expansion will result in no net loss of shoreline ecological functions.
  - c. On-water residences may relocate within a moorage or between moorage sites, consistent with the standards of Section 40.460.630(C) and 40.460.630(K).

## 5. Freshwater docks

The Shoreline Management Act includes a dollar threshold for freshwater docks. If the construction of such a dock does not exceed the cost threshold, then it may be considered exempt from needing a Shoreline Substantial Development Permit. In 2014, the Legislature raised these cost thresholds, and required the Office of Financial Management (OFM) to adjust the cost threshold for inflation every five years, starting in 2018. OFM adopted the first adjustment to these thresholds effective November 4, 2018.

The proposed amendment incorporates the updated dollar threshold amount and adds references to the OFM for the current value.

Proposed Code Change to CCC 40.460.230(B)(8)

8. Construction of a dock, including a community dock, designed for pleasure craft only, for the private noncommercial use of the owner, lessee, or contract purchaser of a single-family or multiple-family residence. This exception applies if either:

- (a) ~~The dock is a new dock, and the fair market value of the dock does not exceed ~~eleven~~ thousand two hundred dollars (\$~~110,200~~) or as adjusted by the State Office of Financial Management;~~ or
- (b) ~~The dock is a replacement dock that is constructed to replace an existing dock and is of equal or lesser square footage than the replaced dock, and the replacement dock has a fair market value that does not exceed twenty-two thousand five hundred (~~\$220,500~~) dollars or as adjusted by the State Office of Financial Management.~~

However, if subsequent construction occurs within five (5) years of completion of the prior construction that was exempt pursuant to this provision, and the combined fair market value of the subsequent and prior construction exceeds the applicable amount specified in either subsection (B)(8)(a) or (b) of this section, the subsequent construction shall be considered a substantial development.

## 6. Public boat ramps

The Recreational Uses code section as currently written does not allow most structures in a floodway, but some structures such as boat ramps need to be located within a floodway.

The proposed amendment would add clarifying language in the recreational uses section to allow boat ramps within a floodway.

### Proposed Code Change to CCC 40.460.630(J)(5)

5. All permanent, substantial, recreational structures and facilities shall be located outside officially mapped floodways. The Shoreline Administrator may grant administrative exceptions for nonintensive minor accessory uses (including, but not limited to, picnic tables, playground equipment) and water dependent structures that are necessarily located within a floodway, such as a boat ramp.

## 7. Shift in Ordinary High Water Mark due to restoration

In 2009, the Legislature created new “relief” procedures for instances in which a shoreline restoration project within an urban growth area creates a shift in the Ordinary High Water Mark. Clark County updated its SMP code to include this relief, however, staff implementing the SMP have raised questions about how to implement the relief procedures and that it would be helpful if the code were more clear on this topic.

This proposed amendment would revise existing code language to better reference the state statute which explains the criteria and procedures that need to be followed for this circumstance in more detail than Clark County Code.

### Proposed Code Change to CCC 40.460.220(A)(3) and 40.460.510(K)

3. ~~Within an urban growth area a shoreline substantial development permit is not required on land that is brought under shoreline jurisdiction due to a shoreline restoration project creating a landward shift in the OHWM. Clark County may grant relief from shoreline master program development standards and use regulations resulting from shoreline restoration projects within urban growth areas consistent with the criteria and procedures in WAC 173-27-215.~~

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K. Within urban growth areas, Ecology Clark County may grant relief from use and development regulations of this Program, consistent with the criteria and procedures in WAC 173-27-215, when the following apply:

1. A shoreline restoration project identified in the SMP Restoration Plan causes or would cause a landward shift in the OHWM creating a hardship meeting specific criteria in RCW 90.58.580;
2. The proposed relief meets specific criteria in RCW 90.58.580; and
3. The application for relief is submitted to Ecology in writing requesting approval or disapproval as part of a normal review of a shoreline substantial development permit, conditional use permit, or variance. If the proposal is not connected to a shoreline permit review, the county may provide a copy of a complete application to Ecology along with the applicant's request for relief.

(Added: Ord. 2012-07-16)

## Maps

### 8. Carty Lake

The Shoreline Management Act guidelines require that SMPs include a list and a map of streams and lakes that are in shoreline jurisdiction. Carty Lake was mistakenly left out of the Clark County SMP during the 2012 SMP update. It was later added to the list of lakes in the SMP in Clark County Code 40.460.210(B), however, it has not yet been added to the shoreline map.

The proposed amendment to add Carty Lake to the shoreline map would keep the map current and improve consistency between the shoreline map and Clark County Code.

### 9. Revised flood maps – Washougal, Little Washougal, Columbia

Within the unincorporated county, new Federal Emergency Management Agency (FEMA) Insurance Rate Maps went into effect in January, 2018 for the Washougal River, Little Washougal River and tributary, and the Columbia River from the City of Washougal east to Skamania County.

Since the 100-year floodplain is one of the criteria for determining shoreline jurisdiction, this map amendment would update the shoreline boundary in areas where the 100-year floodplain has changed and resulted in a shift in the shoreline jurisdiction.

### 10. Revised floodplain near Lacamas Lake

In the process of reviewing the shoreline jurisdiction for the above map changes, staff noticed a portion of the 100-year floodplain that was missing from the shoreline jurisdiction near Lacamas Lake.

Since the 100-year floodplain is one of the criteria for determining shoreline jurisdiction, this map amendment would update the shoreline boundary along a portion of Lacamas Lake.

### 11. Wetlands near Shanghai Creek

Associated wetlands are one of the criteria for determining shoreline jurisdiction. There is an area of wetlands near Shanghai Creek, which county and Ecology staff have confirmed are not actually considered associated wetlands. This was based on multiple site visits to the area for various development projects. Since on the ground shoreline boundary mapping overrides what is on the shoreline map, there have been a handful of projects in this area that did not receive any kind of shoreline permit or exemption because it was determined those projects were not actually within shoreline jurisdiction.

Based on this information, and in order to keep the shoreline map as current as possible, this amendment would remove the portion of wetlands near Shanghai Creek that are not considered associated wetlands and are not considered within shoreline jurisdiction.

If removed from the shoreline map, these wetlands would be protected by the county wetland protection code instead of the shoreline master program.

## **Appendix – Draft Maps**

**Map A – Proposed Changes to Shoreline Map**

**Map B – Proposed New Shoreline Designation Map**

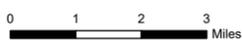


**Proposed Changes to Shoreline Map**

November 2019 Draft

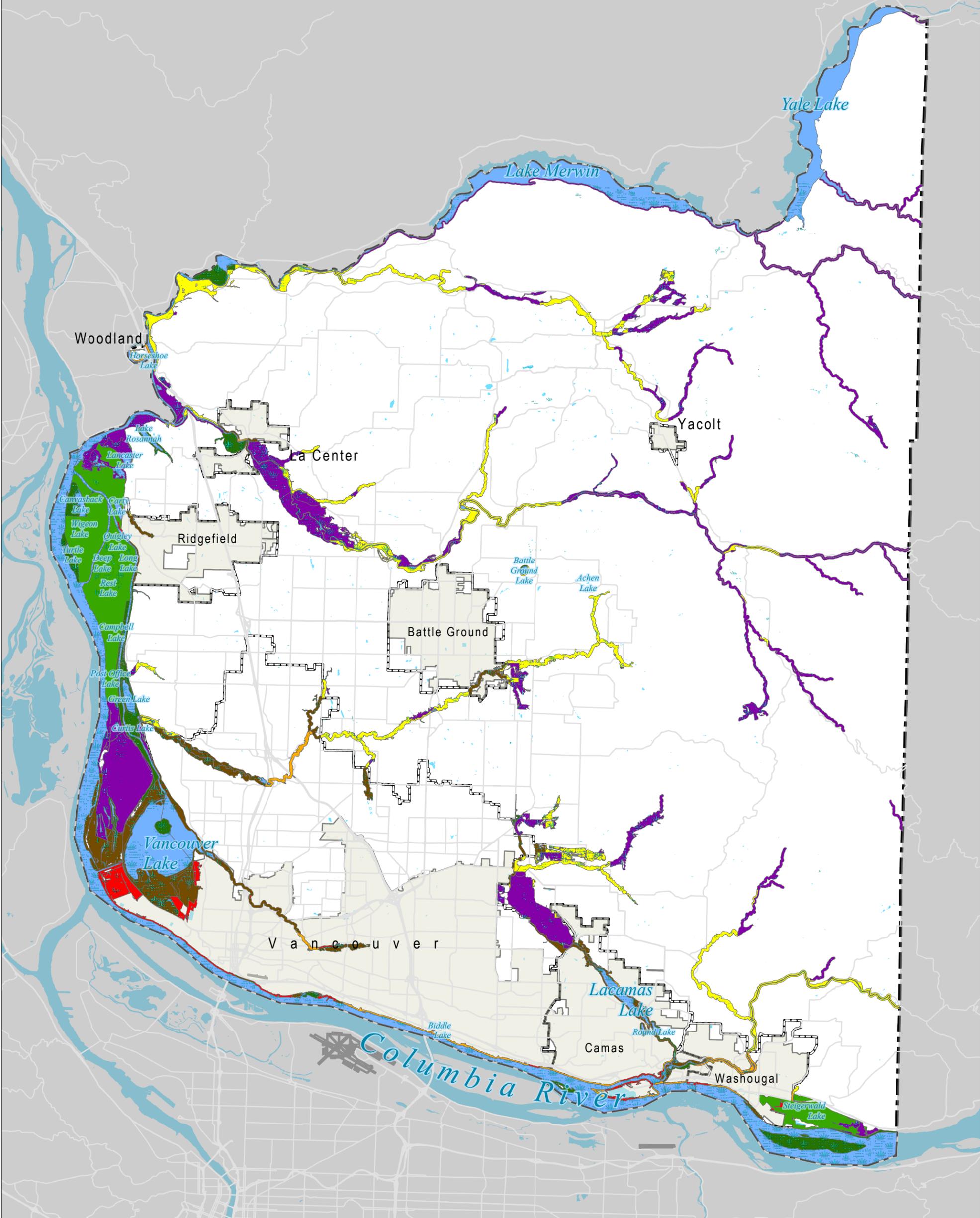


NOTE: Information shown on this map was collected from several sources. Clark County accepts no responsibility for any inaccuracies that may be present.



**KEY**

- Areas Added
- Areas with no Change
- Areas Removed
- USFWS National Wildlife Refuges\*\*
- County Boundary
- Incorporated Area
- Urban Growth Area

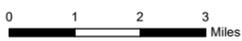


**Proposed New Shoreline Designation Map**

November 2019 Draft



*NOTE: Information shown on this map was collected from several sources. Clark County accepts no responsibility for any inaccuracies that may be present.*



**KEY**

- Associated Wetlands\*
- USFWS National Wildlife Refuges\*\*
- County Boundary
- Incorporated Area
- Urban Growth Area
- Aquatic
- High Intensity
- Medium Intensity
- Natural
- Rural Conservancy Residential
- Rural Conservancy Resource Land
- Urban Conservancy

\*Definitive presence will be determined on a project basis

\*\*Private development in National Wildlife Refuges are regulated under the Rural Conservancy Residential provisions of the SMP.