ORDINANCE No. 2011-11-14

An ordinance relating to land use; adopting a new Clark County Shoreline Master Program as required by RCW 90.58; adopting amendments to the Clark County Comprehensive Growth Management Plan and Title 40 Unified Development Code; repealing the current Clark County Shoreline Master Program; and providing for an effective date.

WHEREAS, the State of Washington Shoreline Management Act of 1971 (RCW 90.58 [Act]) requires counties and cities to prepare shoreline master programs (SMPs) to prevent the uncoordinated and piecemeal development on shorelines of the state consistent with the Act; and

WHEREAS, pursuant to the SMA, at RCW 90.58.050, Clark County and the State Department of Ecology share joint authority and responsibility for the administration of the Clark County SMP. Because the Clark County SMP is approved and adopted by the Department of Ecology, it has the authority of state law; and

WHEREAS, the current Clark County SMP (CCC Chapter 40.460 and Appendix B) was adopted on December 18, 1974 and approved by the Department of Ecology, and has not been revised since its initial adoption; and

WHEREAS, the SMP Guidelines (WAC 173-26) are the standards and guidance that were adopted in 2003 by the Department of Ecology that local governments must follow in drafting their local shoreline management programs; and

WHEREAS, pursuant to RCW 90.58.080, Clark County is required to review and update its existing SMP to ensure conformance with the required elements of the 2003 Shoreline Guidelines; and

WHEREAS, Clark County joined together with the cities located within the county to form the Clark County Coalition through an inter-local agreement for the purposes of developing SMPs that were consistent in their goals and policies; and

WHEREAS, the Department of Ecology provided funding for updating the SMPs in the form of a grant managed by the City of Vancouver; and

WHEREAS, pursuant to WAC 173-26-201(2)(a), the Clark County Coalition identified and assembled the most current, accurate, and complete scientific and technical information applicable to the shoreline issues of concern in Clark County, with the result being the Shoreline Inventory and Characterization Report, Volumes 1 and 2, attached as Exhibit 4; and

WHEREAS, a Shoreline Stakeholders Advisory Committee (SSAC) was formed for the specific purpose of assisting Clark County in reviewing and updating the Clark County Shoreline Management Program (SMP) by focusing discussions on key policy issues that are important to the many diverse interests and perspectives of stakeholder groups in the county; and
WHEREAS, an official Technical Advisory Committee (TAC) consisting of
government and agency representatives was formed for the specific purpose of
identifying and verifying sources of best available science, and identifying key technical
issues that are important to the many agencies and governments in Clark County; and

WHEREAS, an Independent Science Review Panel (ISRP) was formed to assist
the Clark County Coalition and the TAC with the use of best available science in policy
and regulation development; and

WHEREAS, the SSAC conducted twenty-five open public meetings between
October 2009 and June 2011 to review and comment on all of the draft SMP code
amendments, the draft Shoreline Area Designation map amendments, as well as draft
SMP background documentation; and

WHEREAS, the TAC conducted sixteen open public meetings between October
2009 and June 2011 to review and comment on the draft SMP code and map
amendments, as well as the information presented in the draft SMP Update Background
Information: Volume 1 – Shoreline Inventory and Characterization Report, the
Restoration Plan, and the Cumulative Effects Analysis; and

WHEREAS, the Clark County Coalition mailed information via the US Postal
Service to every record owner of real property within proposed shoreline jurisdiction in
September 2009; February and June, 2010; and February, June, and August 2011;
advising them about the SMP update, and about open houses and opportunities to
comment; and

WHEREAS, Clark County and its cities hosted SMP public workshops in October
2009 and March 2010 to inform interested citizens of the intent, scope, and status of the
SMP update process, to develop a vision for shoreline use, and to obtain preliminary
public comments and questions; and

WHEREAS, a Clark County Coalition draft SMP was released for public review
and comment on March 1, 2011 and the public was invited to submit comments and/or
recommend changes within an official 30-day comment period; and

WHEREAS public workshops were held on March 15, 16, and 17, 2011 in the
cities of Battle Ground, Vancouver, and Camas, respectively to introduce and discuss
important changes and additions in the March 1, 2011 draft SMP; and

WHEREAS, Clark County staff held meetings with and/or gave presentations to
several stakeholder groups throughout the SMP update processes, including the,
Building Industry Association of Southwest Washington, Clark County Realtors, the
Responsible Growth Forum, and the Development and Engineering Advisory Board. In
addition, the SMP update was the focus of a booth at the Clark County Fair in 2009,
2010, and 2011; and

WHEREAS, the Clark County Coalition responded to more than 500 comments
on the March 2011 draft SMP; and

WHEREAS, the Department of Commerce 60-day review period was from
March 4 to May 3, 2011; and
WHEREAS, the June 2011 draft Clark County SMP was released on July 6, 2011; and
WHEREAS, the Clark County SEPA Official issued a determination of non-significance under the State Environmental Policy Act on the proposed Clark County Shoreline Management Program update on August 3, 2011; and
WHEREAS, public workshops were held on August 23 and 24, 2011 in the cities of Battle Ground and Vancouver, respectively to discuss important changes and additions in the June 2011 draft SMP;
WHEREAS, Clark County staff responded to more than 200 comments on the June 2011 draft SMP, including comments from the Departments of Ecology, Transportation, and Fish and Wildlife, and subsequently prepared a September 2011 draft Clark County SMP; and
WHEREAS, a duly-advertised public hearing was held before the Clark County Planning Commission on September 15, 2011 at which testimony was received and considered, and the Clark County Planning Commission recommended that the Board of Clark County Commissioners approve the draft SMP; and
WHEREAS, duly-advertised public hearings were held before the Board of Clark County Commissioners on November 1, 2011 in the City of Battle Ground and on November 22, 2011 in the City of Vancouver; now, therefore,

BE IT ORDERED AND RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF CLARK COUNTY, STATE OF WASHINGTON, as follows:

Section 1. Findings. The Board of County Commissioners makes the following findings:

1. The Clark County Comprehensive Plan projects an increase of approximately 190,000 people, or 44% growth, in Clark County by the year 2024. As Clark County’s population increases, associated development activities will continue to create greater challenges for the preservation and protection of Clark County’s shoreline resources. Without appropriate planning and management, land use activities can create potential impacts that may threaten both shoreline resources and the public welfare.

2. The goals, objectives, shoreline area designations, policies, regulations, and procedures set forth in this Shoreline Management Program are essential to the protection of the public health, safety and general welfare of the people of Clark County.

4. The development of the Clark County SMP included early and continuous public involvement consistent with RCW 36.70A.035 and RCW 90.58.130.

5. Shoreline jurisdiction is consistent with the Act, and will be: 1) 200 feet from the ordinary high water mark of streams flowing more than 20 cubic feet per second; 2) 200 feet from the ordinary high water mark of lakes of more than 20 acres; 3) floodplains; and 4) associated wetlands. Associated wetland buffers are not part of shoreline jurisdiction.

6. The proposed amendments to the Official Shoreline Map have been applied to the shoreline following review and consideration of multiple factors, including information presented in the Shoreline Inventory and Characterization Report, existing and planned development patterns, policies of the Act, and public ownership, and are generally consistent with the State Shoreline Guidelines, the official Clark County Zoning map, and the Clark County Comprehensive Plan Map.

7. The proposed goals and policies in the Clark County SMP upon approval by Ecology shall be considered an element of the Clark County Comprehensive Growth Management Plan, pursuant to RCW 36.70A.480(1).

8. All other portions of the Clark County SMP, other than its goals and policies, upon approval by Ecology shall be considered an element of the County’s development regulations, pursuant to RCW 36.70A.480(1), and shall be implemented at CCC Chapter 40.460.

9. The Management Strategy (Exhibit 2), Public Participation Plan (Exhibit 3), Shoreline Inventory and Characterization Report (Exhibit 4), Shoreline Restoration Plan (Exhibit 5), No Net Loss report and Cumulative Impact Analysis (County-wide and Clark County-specific summary) (Exhibit 6), and Shoreline Designation Rationale (Exhibit 7) are technical supplements and supporting documents upon which the Clark County SMP adopted herein is based.

10. The adoption and implementation of the Clark County SMP are expected to result in no net loss of shoreline ecological function over time.

Section 2. Repealer. The current Clark County shoreline master program, codified at CCC Title 40 Appendix B is hereby repealed, to take effect upon approval of Clark County’s new SMP by the Department of Ecology.

Section 3. New. The new Clark County shoreline master program is hereby adopted and will become CCC Title 40 Appendix B, to take effect upon approval of by the Department of Ecology. Subsequent ordinances will assign the appropriate SMP sections to the Comprehensive Growth Management Plan and CCC Chapter 40.460 as required in RCW 36.70A.480.

Section 4. 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 Clark County Code, this ordinance is deemed to control.

Section 5. Effective Date. This ordinance shall take effect and be in full force no sooner than fourteen (14) days from the date of the Department of Ecology's written notice of final action in accordance with law.

Section 6. Instructions to the Clerk. The Clerk of the Board shall:

(1) Transmit a copy of this ordinance to the state within ten days of its adoption pursuant to RCW 36.70A.106;

(2) Record a copy of this ordinance with the Clark County Auditor; and

(3) Cause notice of adoption of this ordinance to be published forthwith pursuant to RCW 36.70A.290.

ADOPTED this 22nd day of November, 2011

Attest:               BOARD OF COUNTY COMMISSIONERS
                      FOR CLARK COUNTY, WASHINGTON

Clerk to the Board  By Tom Mielke, Chair

Approved as to Form Only
ANThONY F. GOLIK
Prosecuting Attorney
By __________________________
Christine Cook
Deputy Prosecuting Attorney
By __________________________
Steve Stuart, Commissioner
By __________________________
Marc Boldt, Commissioner

EXHIBITS
Exhibit 1: Clark County Shoreline Master Program
Exhibit 2: Management Strategy
Exhibit 3: Public Participation Plan
Exhibit 4: Shoreline Inventory and Characterization Report
Exhibit 5: Shoreline Restoration Plan
Exhibit 6: No Net Loss Report and Cumulative Impact Analysis (County-wide and Clark County-specific summary)
Exhibit 7: Shoreline Designation Rationale