ORDINANCE NO. 1436
CITY OF LEAVENWORTH, WASHINGTON

AN ORDINANCE OF THE CITY OF LEAVENWORTH, WASHINGTON ADOPTING THE 2012 CITY OF LEAVENWORTH SHORELINE MASTER PROGRAM; AND DIRECTING THAT THE APPLICABLE SHORELINE MASTER PROGRAM UPDATE MATERIALS BE PROVIDED TO THE WASHINGTON STATE DEPARTMENT OF ECOLOGY FOR ITS REVIEW.

WHEREAS, the Washington Shoreline Management Act (Chapter 90.58 RCW, (“SMA” or the “Shoreline Management Act”) recognizes that shorelines are among the most valuable and fragile resources of the State, and that State and local government must establish a coordinated planning program to address the types and effects of development occurring along shorelines of state-wide significance; and

WHEREAS, the City of Leavenworth (“City”) is required to update its Shoreline Master Program (“SMP”) adopted April 22, 1975, pursuant to the Shoreline Management Act and Chapter 173-26 WAC; and

WHEREAS, the City is updating its Shoreline Master Program under a grant (No. G0800231 and G1200425) from the Washington State Department of Ecology (“Ecology”) to complete a comprehensive shoreline master program update; and

WHEREAS, Chelan County and its Cities developed and adopted Shoreline Master Programs in 1975 for the purpose of “focusing comprehensive, coordinated planning attention at the critical land-water interface”. The current SMP (1975 SMP) was developed more than 30 years ago and since then much has changed along the shorelines. In addition, knowledge of best development and conservation practices has evolved. There have also been changes in State laws and rules; and

WHEREAS, the Department of Ecology is authorized under the Shoreline Management Act to approve, deny or propose modifications to the City’s SMP; and

WHEREAS, The City of Leavenworth contains two shorelines: the Wenatchee River, a Shoreline of Statewide Significance, and Chumstick Creek; and

WHEREAS, the City has engaged in extensive public participation with respect to the Shoreline Master Program Update preceding the Local Adoption Process, including but not limited to the following: nine Vision Workshops in fall 2008 to capture citizen questions, concerns, goals and aspirations regarding County and City shorelines. The Vision Workshop results have factored into the development of this SMP as well (see brief summary in Appendix D). In addition, the Planning Commission held study session, an “Open House” with the final draft of the Leavenworth Shoreline Master Program on October 17, 2012, and public hearings; and


WHEREAS, the City of Leavenworth submitted the draft Shoreline Master Program to State agencies for review pursuant to the requirements of RCW 36.70A.106 on November 1, 2012. Specifically, the Shoreline Master Program to the Washington State Department of Commerce and Department of Ecology on November 1, 2012 for its 60-day review and received documentation of
completion of the procedural requirement on November 5, 2012; and

WHEREAS, the agency review began on November 1, 2012 and ended January 2, 2012; and

WHEREAS, on October 25, 2012 (November 1, 2012 -Echo), a “Notice of Public Hearing” for the hearing on the Shoreline Master Program was published in the Leavenworth Echo and posted in three locations in City Hall; and

WHEREAS, pursuant to RCW 43.21C and WAC 197-11, the City issued a “Determination of Non-significance” (DNS) on November 1, 2012; and

WHEREAS, a staff report was prepared and given to the Planning Commission on November 26, 2012; and

WHEREAS, on December 5, 2012, the Planning Commission held a public hearing to receive public testimony on the Shoreline Master Program; and

WHEREAS, on December 5, 2012, the Planning Commission voted unanimously to recommend adoption of the Shoreline Master Program to the City Council; and

WHEREAS, on January 8, 2013, the City Council held a study session to review the recommendations from the Planning Commission, and provided additional amendments to the Shoreline Master Program which have been incorporated into Attachment A; and

WHEREAS, this SMP has been prepared to meet the requirements of the Shoreline Management Act of 1971 (RCW 90.58), the implementing State rules codified as Chapter 173-26 of the Washington Administrative Code (WAC) “State Master Program Approval/Amendment Procedures and Master Program Guidelines” that were revised in 2003, and other applicable local, state, and federal laws. Consistent with RCW 36.70A.480, the goals and policies of this SMP approved under chapter 90.58 RCW shall be considered an element of Chelan County’s and the Cities’ comprehensive plans. All regulatory elements of this SMP, including, but not limited to definitions and use regulations, shall be considered a part of Chelan County’s and the Cities’ development regulations. The County shall apply City regulations in unincorporated urban growth areas as described in the SMP. All local development regulations including, but not limited to, zoning and subdivision rules shall apply in addition to this SMP. This SMP includes critical areas regulations applicable only in the shoreline jurisdiction, and shall control within shoreline jurisdiction over other critical area regulations adopted pursuant to the Growth Management Act. Amendments to the Critical Areas regulations are separate and distinct from the SMP, and do not require amendment to the SMP; and

WHEREAS, the SMP is consistent with the City of Leavenworth’s Comprehensive Plan. Specifically, within the Land Use Element Goal 1: Encourage land use practices that protect the integrity of the natural environment to ensure that the community has an adequate source of clean water and air and to otherwise maintain a healthy human environment. Policy 1: Utilize SEPA, the Shoreline Master Program, Flood Hazard Reduction, and Critical Areas policies and regulations to ensure protection of the natural environment and critical resources. Goal 4: Identify and protect critical areas and provide for reasonable use of private property while mitigating adverse environmental impacts. Policy 9: The goals and policies of the Leavenworth Shoreline Master Program, as amended, are considered an element of the City of Leavenworth Comprehensive Plan, and are included by reference as if fully set forth herein. The updated SMP has been prepared to comply with requirements in State law, including RCW 90.58 and WAC 173-26, for the protection of environmentally sensitive areas associated with shorelines of the State. There are policies and regulations throughout the document that are designed to protect and preserve
shoreline habitat and functioning conditions. The SMP includes updated regulations for the protection of critical areas in shoreline jurisdiction including wetlands and floodplains/floodway, that meet the SMA and Washington State Growth Management Act (RCW 36.70A) requirements. Policies and regulations in the SMP will enhance public access to the shorelines and encourage continued protection of sensitive shoreline habitat, including those habitats occupied by state or federally listed fish and wildlife; and

WHEREAS, the SMP is consistent with population, employment, land use, housing, transportation, capital facilities, economic conditions, etc., contained in the comprehensive plan; and

WHEREAS, this SMP has been developed in accordance with the Growth Management Act and does not conflict with the City's Comprehensive Plan. The amendment process followed for this adoption process is compliant with specific Leavenworth Municipal Code and State regulatory requirements for notification and circulation; and

WHEREAS, this SMP will not modify the supply of land. The SMP does not modify the urban growth boundary in any way. As such, no adverse effect to land supply is expected; and

WHEREAS, this SMP does not negatively impact public facilities, utilities and infrastructure, including transportation systems, and any adopted levels of service. The SMP would not be likely to increase demands on transportation or public services and utilities beyond that already planned for and evaluated in the City's Comprehensive Plan; and

WHEREAS, this SMP does not adversely affect lands designated resource lands of long term commercial significance or critical areas; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LEAVENWORTH, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. The Leavenworth Shoreline Management Master Program dated April 22, 1975 is hereby repealed and replaced in its entirety, and the City of Leavenworth 2012 Shoreline Master Program and associated documents, as set forth in Attachment "A" are hereby adopted and are incorporated herein by this reference.

Section 2. The City Development Services Manager or designee shall make final revisions to the documents as adopted at the January 22 public hearing and any necessary format, numbering, or reference changes necessary to finalize adopted documents.

Section 3. The City Development Services Manager or designee shall forward the adopted Shoreline Master Program documents to the Washington State Department of Ecology, pursuant to local approval submittal requirements in WAC 173-26-110, for formal review and approval.

Section 4. If any section, clause, phrase, or term of this ordinance is held for any reason to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance, and the remaining portions shall be in full force and effect.

Section 5. A summary of this ordinance consisting of its title shall be published in the official newspaper of the City. This ordinance shall take effect and be in full force following approval of the updated Shoreline Master Program by the Washington State Department of Ecology.
Passed by the City Council of the City of Leavenworth, Washington and approved by the Mayor at an open public hearing on the 22nd day of January, 2013

CITY OF LEAVENWORTH

By: [Signature]
Cheryl K. Farivar, Mayor

Attest:

[Signature]
Chantell Steiner
City Clerk/Finance Director

(Approved as to form)

Thom H. Graafstra, City Attorney