

Ordinance No. 656

Adopting the Clallam County Shoreline Master Program
for Application to Shorelines of the State within the City of Forks
as Both the Comprehensive Update and Periodic Review Required by RCW 90.58.080

WHEREAS, the Washington Shoreline Management Act (RCW 90.58; SMA) 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 use and development occurring along shorelines of the state, including those of state-wide significance; and

WHEREAS, the SMA and its implementing rules (WAC 173-26) require the City of Forks to prepare and administer a Shoreline Master Program (SMP); and

WHEREAS, the City of Forks has approximately two miles of shoreline jurisdiction along portions of the Bogachiel River, Calawah River, Elk Creek, and Mill Creek within the City's limits;

WHEREAS, the City has traditionally deferred the management of these limited Shorelines of the State within the City to Clallam County's SMP;

WHEREAS, both RCW 90.58.080(2) and (4) require the City of Forks to comprehensively update and periodically review the master program; and

WHEREAS, the City Council adopted City Resolution No. 389 in August 2010 to collaborate with and participate in the Clallam County SMP Update process, including the Public Participation Strategy, and ultimately to adopt the County's SMP as the City's SMP; and

WHEREAS, the City Council adopted City Resolution No. 497 in May 2021 reaffirming intent to adopt the comprehensively updated Clallam County Shoreline Master Program (SMP); and

WHEREAS, Clallam County has adopted by County Ordinance 972 their comprehensively updated Shoreline Master Program (SMP), including all changes proposed by the Department of Ecology's March 2021 Conditional Approval; and

WHEREAS, the Department of Ecology issued final approval of the Clallam SMP on August 18, 2021; and

WHEREAS, The City may now take action on the long-standing intent to adopt the Clallam SMP as the City's master program; and

WHEREAS, the City will enter an interlocal agreement, or similar legal agreement, with Clallam County for SMP implementation, including review of proposed shoreline projects, exemptions, shoreline substantial development, shoreline conditional use, and shoreline variance permits;

BASED THEREON, THE CITY COUNCIL OF THE CITY OF FORKS DO ORDAIN AS FOLLOWS:

Section 1. Local Process.

- A. *Low Permit Rate* - Recognizing that during a 15-year period prior to this SMP Update, only three potential shoreline development projects had occurred, with only two that required permits and were proposed by the City of Forks rather than private property owners. The Council's belief was that ensuring consistency of shoreline management, project review and permitting for Shorelines of the State within the City, in the Forks Urban Growth Area (FUGA), and those under County SMP jurisdiction made a practical sense for applicants and practitioners alike.
- B. *Public Participation* - As an active participant in the County's SMP Update effort, and as additional actions taken specific to City of Forks, the following efforts were made to inform, involve, and encourage participation of all interested persons and private entities, affected tribes, and federal, state or local government agencies who have interest and responsibilities relating to shorelines of the state and the local master program, in accordance with RCW 90.58.130, WAC 173-26-100 and -201:
 - 1) **2010:** City Council adopted Resolution No. 389 to utilize the Clallam Public Participation Strategy for stakeholder involvement in the City's SMP Update;
 - 2) **2010:** The City co-hosted a *WRIA 20 Visioning Forum* on October 26, 2010 with the University of Washington's Olympic Natural Resources Center (ONRC) and the County as a first step in project scoping for both SMP Updates. The event included an introductory overview presentation, topic-focused listening stations (e.g. shoreline use, protection, restoration, public access), and six (6) maps of local shoreline areas for the nearly two dozen attendees to mark-up with questions/concerns;
 - 3) **2011:** The City and ONRC helped conduct a *WRIA 20 Stakeholder Survey* and series of some nine (9) individual *Stakeholder Interviews* for input from a variety of interests, including recreation, forest practices, and conservation, for the purpose of identifying current status/use of the property; understanding changes that may have occurred since the 1976 SMP; and understanding public and landowner visions for future use and/or development of shoreline property;
 - 4) **2011:** ONRC prepared a *WRIA 20 Visioning Report* to document and summarize the process and findings of the forum and interviews to help inform the preparation of SMP goals, policies, regulations and performance standards;
 - 5) **2011 - 2012:** City Planning Commission meet in April 2012 to develop a FUGA shorelines proposal for consideration by the County Planning Commission regarding shoreline environment designations within the City and within the FUGA for areas that could be annexed into the City;
 - 6) **2011 - 2013:** City staff participated in the County's SMP Update Committee that met thirteen (13) times to provide input on iterative draft versions of the SMP and other supporting technical documents (i.e. consistency review report,

shoreline inventory and characterization reports, visioning reports, and shoreline restoration plan);

- 7) **2015** - City co-hosted a WRIA 20 focused County Planning Commission public hearing on February 12, 2015 for comments on a November 2014 Draft SMP;
 - 8) **2010 - 2017**: The City co-hosted some six (6) public forum open house events as part of the broader series conducted by the County, to inform the public of project status, gather input, and to present various draft documents during the multi-step Update process, with a focus on shorelines in the City limits and FUGA portions of WRIA 20;
 - 9) As part of the County SMP Update, interested parties to the City SMP Update had extensive opportunities to participate including some forty (40) County Planning Commission meetings (2011 - 2017) and more than twenty (20) Board of County Commissioner meetings (2017 - 2021);
 - 10) Affected tribes were on distribution lists, and involved in SMP committees and outreach groups. Tribal representatives were part of the County's No Net Loss Work Group, and natural resources/fisheries staff from the Quileute, Lower Elwha Klallam, Jamestown S'Klallam and Makah Tribes participated as representatives on the County's SMP Update Committee.
 - 11) All City and County public meetings and events, and occasional project status updates, were broadly disseminated via the City and/or County website, display/legal ads in the *Forks Forum* and other area newspapers, presentation to local civic organizations, messages to an extensive interested parties email list, and direct mail to shoreline property owners of record.
 - 12) Additional description of County SMP Update public participation efforts is documented in Clallam County Resolution No. 91-2018.
- C. *Comprehensive Update* - Consistent with the requirements of WAC 173-26-201, the City's collaboration with and participation in the County SMP Update, and additional separate actions specific to the City/FUGA, included the following concepts and steps for preparing a comprehensively updated SMP:
- 1) **Consistency Review** - Conducted an analysis and prepared the Clallam County SMP Update Consistency Review report (July 2011) to compare the County SMP in effect at that time to the new State requirements, identify conflicts, gaps, omissions and recommendations to ensure consistency;
 - 2) **Inventory & Characterization** - Conducted an inventory of current shoreline conditions, and analyzed shoreline issues of concern, including functions and ecosystem-wide processes, use analysis and priorities, shorelines of statewide significance, public access, intersect with other regulatory programs, water quality and quantity, and vegetation conservation; prepared the WRIA 20 Inventory & Characterization Report (May 2012; ICR) that includes shorelines of the state in the City and FUGA;
 - 3) **WRIA 20 ICR Supplement** - The City and ONRC conducted 2011 field work for a Riparian Photo-survey and prepared the City of Forks Visual Shoreline Catalogue (2012), also formatted as an online interactive map and a print version in 2016. The purpose was to create a permanent visual record of the existing conditions of

shorelines of the state when undertaken, with the presumption that there would not be significant changes between inventory and adoption. The Visual Shoreline Catalogue helps ensure that a visual record exists to compare against in future SMP amendments; for review of development proposals; and to allow property owners, regulators, and researchers to use as needs or opportunities arise in the future;

- 4) Restoration Plan – ONRC prepared a Draft WRIA 20 Shoreline Restoration Plan (May 2011) that was later incorporated into a Draft Countywide Shoreline Restoration Plan (August 2013), finalized in February 2016. The Plan builds from the areas of impaired shoreline ecological functions identified by the ICR to highlight restoration opportunities, potential partners, funding sources, and timeline targets.
- 5) Countywide Restoration Plan Supplement – The City had a separate Shoreline Restoration Plan (June 2021) prepared to supplement the final Countywide Restoration Plan as an addendum that provides greater details for shorelines in the City, FUGA, and other nearby areas of the County where restoration actions would benefit City shorelines.
- 6) Cumulative Impacts Analysis & No Net Loss Report – The County prepared a Final Cumulative Impacts Analysis and No Net Loss Report (June 2017; CIA-NNL) that provides an analysis of cumulative impacts of reasonably foreseeable future shoreline development and how no net loss of shoreline ecological functions will be achieved through the adoption and implementation of the SMP. Provisions of the SMP applicable to shorelines in the City and FUGA were included in this analysis, and the report concludes that as long as the SMP is fully and effectively implemented it will prevent cumulative impacts on habitat, hydrology and water quality functions. Further, it recognizes the City’s Riparian Photo-survey and Visual Shoreline Catalogue as a tool that can help qualitatively track changes in City shoreline conditions over time by repeating the Photo-survey in the future for comparison to baseline conditions;
- 7) Informed by the iterative versions of the ICR, Restoration Plan, and CIA-NNL Report, the County prepared iterative draft versions of an updated SMP, including goals, policies, shoreline environment designations, regulations and performance standards. Each draft SMP reflected basic concepts such as reliance on science and technical information, protection of shoreline ecological function, preferred uses, mitigation of environmental impacts, and voluntary shoreline restoration actions. Draft versions included Preliminary drafts (2010 – 2013), Revised draft (2014), Planning Commission Revised Draft (June 2017), and Planning Commission Recommended Draft (September 2017) prior to Board of County Commissioner (BoCC) consideration, local approval (2018), and final local adoption (2021).

D. *Periodic Review* – Consistent with WAC 173-26-090(3), the City’s adoption of the Clallam SMP ensures the City’s master program is in compliance with the requirements of the SMA and state rules currently in effect, ensures the SMP remains consistent with the City’s comprehensive plan and development regulations, and reflects any changed

circumstances, new information, or improved data. The City's Periodic Review procedures include the following:

- 1) **Public Participation** – The City's continuous involvement in the ongoing implementation of the County SMP Update Public Participation Strategy included website, public meetings/workshops, comment periods, public hearings and more. After the County's 2018 local approval of the SMP for Ecology submittal and State review, the City provided additional public involvement opportunities including City Planning Commission and City Council meetings, advertised and open to the public.
- 2) **Periodic Review Checklist** – The City documented its review and analysis of the presumed final version Clallam SMP that includes all of Ecology's March 2021 required & recommended changes, and prepared the required Periodic Review Checklist (June 2021). This review concluded that the final Clallam SMP was adequate and no action was needed for further amendment. This is in agreement with Ecology's Attachment A Findings and Conclusions for its March 2021 Conditional Approval of the Clallam SMP that specifically notes "*Ecology completed our review and consistency determination based upon all current statutory and rule requirements, which includes all those listed on the periodic review checklist updated through June 2020. We anticipate that the County may finalize their SMP periodic review with a "finding of adequacy" determination later this year.*"

Section 2. City Adoption of the Clallam County SMP

A. City Adoption Process.

- 1) **SEPA** – In compliance with the State Environmental Policy Act (RCW 43.21C; SEPA), the County completed an Environmental Checklist and Non-Project Supplement (August 2017), and issued a Determination of Non-significance (October 2017; DNS). The City issued a companion DNS (December 2017) as an addendum to, and in concurrence with, the County DNS;
- 2) **GMA** – In compliance with WAC 173-26-100(5) and the Growth Management Act (RCW 36.70A; GMA), the City filed a 60-Day Notice of Intent to Adopt with the Department of Commerce on December 13, 2017;
- 3) With BoCC local approval of the SMP imminent, City Council conducted a public hearing on April 23, 2018. Three individuals provided comment;
- 4) After Ecology's March 2021 Conditional Approval of the Clallam SMP, BoCC final adoption was imminent and City Council conducted another public hearing on June 28, 2021. One individual provided comment.
- 5) Notice of each Council hearing was published in the *Forks Forum* newspaper on April 5, 2018 and June 17 and 24, 2021. Interested parties and shoreline property owners were notified via mail.

- B. Comprehensive Update, Periodic Review and Evaluation complete.** City Council hereby finds that the comprehensive update required by RCW 90.58.080(2), and the review and evaluation required by RCW 90.58.080(4) have occurred, as described in the recitals above. After considering all public comments and evidence, the Council

determined that the Clallam SMP proposed to serve as the City's SMP complies with all applicable laws and rules;

- C. *Adoption of Clallam SMP to Forks Municipal Code Title 14.25.* The City of Forks hereby adopts the 2021 Clallam County SMP, as final-approved by Department of Ecology on August 18, 2021, to be referenced at the new Chapter 25 of Title 14 of the Forks Municipal Code (FMC 14.25). The City finds the updated SMP consistent with the requirements of RCW 90.58 and WAC 173-26, as applicable;
- D. *Applicable within City limits.* As such, the Clallam SMP shall be applicable to all shorelines of the state found within the borders, now or as found in the future, of the City of Forks, including qualifying shorelines, shorelands (including associated wetlands, floodways, and the full extent of the 100-year floodplain), and shorelines of statewide significance along portions of the following water bodies:
 - 1) Calawah River;
 - 2) Elk Creek;
 - 3) Mill Creek; and
 - 4) Bogachiel River;
- E. *Applicable to all use and development activities.* In adopting the Clallam County SMP and making it applicable to all activities regulated by the Washington Shoreline Management Act within the City of Forks, the City also adopts all applicable rules, regulations, and processes as adopted by Clallam County needed to implement the SMP as adopted.
- F. *Applicable to critical areas.* The SMP critical area provisions will exclusively apply within the City's shoreline jurisdiction, while the City's Critical Areas code (FMC 14.20) and Wetlands code (FMC 14.13) will apply outside shoreline jurisdiction.
- G. *Companion technical documents.* In support of the City adopting the Clallam County SMP, the City also adopts the following related companion technical documents, not to be codified but as relevant background and applicable to implementation of SMP within the City of Forks:
 - 1) March 2011 Public Participation Strategy;
 - 2) July 2011 Consistency Review;
 - 3) May 2012 WRIA 20 Inventory and Characterization Report;
 - 4) 2012/2016 City of Forks Visual Shoreline Catalogue;
 - 5) February 2016 Countywide Shoreline Restoration Plan;
 - 6) June 2021 City of Forks Shoreline Restoration Plan;
 - 7) June 2017 Cumulative Impacts Analysis and No Net Loss Report; and
 - 8) October 2018 SMP Submittal Checklist

By not codifying these supporting documents, they can be revised as needed without triggering a formal SMP amendment process.

Section 3. Authorizations

- A. *Submission to Department of Ecology.* The City Attorney/Planner is directed to submit the SMP and associated documents to the Department of Ecology for State review and approval. Upon approval by the Department of Ecology no further action is necessary

for compliance with RCW 90.58.080(2) and (4) for the SMP comprehensive update and periodic review.

- B. *Interlocal agreement.* The Mayor is authorized to enter into an interlocal agreement, or similar legal agreement, with Clallam County to ensure that those City applicants could have their development permit reviewed, processed, and decided by the County Shorelines Committee, a citizens' body appointed by the Board of Clallam County Commissioners.
- C. *Applicant assistance.* The City Planner is authorized to assist in the coordination and facilitation of a City land owner's pursuit of a development permit associated with a project for which approval under the County SMP and associated rules and regulations would be required.

Section 4. Effective Date. The Clallam SMP adopted herein shall be effective in the City of Forks 14 days after Department of Ecology letter of final action, as provided by RCW 90.58.090(7).

Passed by the City Council on the 11th day of October, 2021,



Tim Fletcher, Mayor

Authenticated and Attested to:



Audrey Grafstrom, Clerk/Treasurer

Approved as to Form:



William R. Fleck, Attorney/Planner