

RESOLUTION NO. 88

AN ORDINANCE RELATING TO THE DEVELOPMENT OF A MASTER PROGRAM FOR SHORELINE MANAGEMENT AND THE ISSUANCE OF PERMITS FOR SUBSTANTIAL DEVELOPMENTS UNDER THE SHORELINE MANAGEMENT ACT OF 1971, PRESCRIBING PENALTIES AND DECLARING AN EMERGENCY

WHEREAS, Protection of private property rights consistent with the public interest associated with the shorelines of the state requires that local, state, and federal governments join in a concerted effort to utilize, protect, restore, and preserve the shorelines as among the state's most valuable and fragile natural resources; and to prevent the inherent harm in an uncoordinated and piecemeal development of the State's shorelines; and

WHEREAS, By enacting Chapter 286, Laws of 1971, First Ex. Sess., the Legislature has prescribed a method for accomplishing the aforesaid purposes, and has vested counties with the responsibility for the preparation of programs controlling the development of shorelines within their jurisdiction; and

WHEREAS, This Board deems the procedure, standards, controls, and penalties set forth in this ordinance to be essential to the protection of the public health, safety, and general welfare of the citizens of Walla Walla County

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF WALLA WALLA COUNTY, WASHINGTON.

SECTION 1. DEFINITIONS

As used in this ordinance, unless the context otherwise requires, the following definitions and concepts apply;

- A. "Board" is the legislative authority of Walla Walla County;
- B. "Planning Agency" means Walla Walla County Planning Commission functioning as any other department in any county government;
- C. "Person" means an individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, or agency of the State or Local governmental unit however designated;
- D. "Extreme low tide" means the lowest lines on the land reached by a receding tide;
- E. "Ordinary high water mark" on all lakes, streams, and tidal water is that mark that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long

continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition exists on the effective date of this chapter or as it may naturally change thereafter; Provided, that in any area where the ordinary high water mark cannot be found, the ordinary high water mark adjoining saltwater shall be the line of mean higher high tide and the ordinary high water mark adjoining fresh water shall be the line of mean high water;

- F. "Shorelines of the State" are the total of all "shorelines" and "shorelines of state-wide significance" within the state;
- G. "Shorelines" means all of the water areas of the state, including reservoirs, and their associated wetlands, together with the lands underlying them; except
 - (1) Shorelines of State-wide Significance;
 - (2) Shorelines on segments of streams upstream of a point where the mean annual flow is twenty cubic feet per second or less and the wetlands associated with such upstream segments; and
 - (3) Shorelines on lakes less than twenty acres in size and wetlands associated with such small lakes;
- H. "Shorelines of State-wide Significance" means the following shorelines;
 - (1) Those natural rivers or segments thereof east of the crest of the Cascade Range downstream of a point where the annual flow is measured at two hundred cubic feet per second or more, or those portions of rivers east of the crest of the Cascade Range downstream from the first three hundred square miles of drainage area, whichever is longer;
 - (2) Those wetlands associated with (1), of this Sub-section H.
- I. "Wetlands" or "wetland areas" means those lands extending landward for two hundred feet in all directions as measured on a horizontal plane from the ordinary high water mark; and all marshes, bogs, swamps, floodways, river deltas, and flood plains associated with the streams, lakes and tidal waters which are subject to the provisions of this act; the same to be designated as to location by the Department of Ecology;
- J. "Master Program" shall mean the comprehensive shoreline plan for Walla Walla County and the use regulations together with maps, diagrams, charts or other descriptive material and text, developed in accordance with the policies enunciated in Section 2 of the Shoreline Management Act of 1971;

- K. "Development" means a use consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel or minerals; bulkheading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters overlying lands subject to this chapter at any state of water level;
- L. "Substantial Development" shall mean any development of which the total cost or fair market value exceeds one thousand dollars, or any development which materially interferes with the normal public use of the water or shorelines of the state; except that the following shall not be considered substantial developments for the purpose of this ordinance:
- (1) Normal maintenance or repair existing structures or developments, including damage by accident, fire or elements;
 - (2) Construction of the normal protective bulkhead common to single family residences;
 - (3) Emergency construction necessary to protect property from damage by the elements;
 - (4) Construction of a barn or similar agricultural structure on wetlands;
 - (5) Construction or modification of navigational aids such as channel markers and anchor buoys;
 - (6) Construction on wetlands by an owner, lessee or contract purchaser of a single family residence for his own use or for the use of his family which residence does not exceed a height of thirty-five feet above average grade level and which meets all requirements of the state agency or local government having jurisdiction thereof, other than requirements imposed pursuant to this ordinance.

SECTION 2. INVENTORY

The Planning Agency shall complete by November 30, 1972, a comprehensive inventory of the shorelines of the state located within Walla Walla County. Such inventory shall include but not be limited to the general ownership patterns of the lands located therein in terms of public and private ownership, a survey of the general natural characteristics thereof, present uses conducted therein and initial projected uses thereof.

SECTION 3. MASTER PROGRAM

The Planning Agency shall develop, within eighteen months after the adoption of guidelines as provided in Section 6 of the Shorelines Management Act of 1971, a master program for regulation of uses of the shorelines of the state

consistent with the guidelines adopted. Master programs or segments thereof shall be submitted to the Department of Ecology and shall become effective when adopted or approved by the Department of Ecology as appropriate. All guidelines, regulations, designations, or master programs adopted or approved under the Shoreline Management Act of 1971 and this ordinance shall be available for public inspection at the office of the Planning Agency and the office of the County Auditor.

SECTION 4. POLICY

- A. From the effective date of this ordinance until such time as an applicable master program has become effective, a permit shall be granted only when the proposed development is consistent with;
- (1) The policy of Section 2 of the Shoreline Management Act of 1971;
 - (2) After their adoption, the guidelines and regulations of the Department of Ecology; and
 - (3) So far as can be ascertained, the master program being developed for Walla Walla County.
- B. After adoption or approval, as appropriate, by the Department of Ecology of an applicable master program, a permit shall be granted only when the proposed development is consistent with;
- (1) The applicable master program; and
 - (2) The policy of Section 2 of the Shoreline Management Act of 1971.

- copy*
- C. A permit shall be denied if the proposed development is not consistent with the above enumerated policies.

SECTION 5. ADMINISTRATION

The Planning Agency is vested with the duty of administering the rules and regulations relating to the Shoreline Development Permits and may prepare and require the use of such forms as are essential to its administration.

SECTION 6. MAP

Shorelines of the state located within Walla Walla County may be designated on an official shoreline map to be kept in the office of the Planning Agency.

SECTION 7. APPLICATION

Any person desiring to begin substantial development of all or any part of the shorelines of the state located within Walla Walla County shall apply to the Planning Agency, using forms supplied by the Planning Agency for a Shoreline Development Permit.

SECTION 8. NOTICE REQUIRED

Upon receipt of a proper application for a shoreline development permit, the Planning Agency shall instruct the applicant to publish notices thereof at least once a week on the same day of the week for two consecutive weeks in a newspaper of general circulation within Walla Walla County. Any interested person shall be allowed to submit his views upon the application, or notify the Planning Agency of his desire to receive a copy of the action taken upon the application, in writing to the Planning Agency within thirty days of the last publication of such notice. All persons who so submit their views and all others who so notify the Planning Agency within thirty days of the last date of publication of the notice shall be entitled to receive a copy of the action taken upon the application.

SECTION 9. SHORELINE TECHNICAL COMMITTEE

The Planning Agency may appoint a shoreline technical committee to advise and consult with the Planning Agency in effectuating the purposes of this ordinance.

SECTION 10. DUTIES OF PLANNING AGENCY

The Planning Agency shall formulate recommendations, based on policies enumerated in Section 4 of this ordinance, that Shoreline Development Permits be granted or denied and shall transmit its recommendations in writing to the Board within a reasonable time after the end of the thirty (30) day notice period. The Planning Agency shall consider the proposed substantial development based on information from: the application; written comments from interested parties; the advice of members of the Shoreline Technical Committee; independent study of the Planning Agency and its staff; and views expressed during any public hearing which may be held by the Planning Agency. The Planning Agency may request that an applicant furnish information concerning a proposed substantial development in addition to information required in an application.

SECTION 11. DUTIES OF BOARD

At a regularly scheduled meeting, the Board shall grant or deny permits in accordance with the recommendations of the Planning Agency; provided that if the Board does not wish to follow the recommendations of the Planning Agency, it shall refer the matter to the Planning Agency for public hearing and reconsideration. Upon receipt of the further recommendation of the Planning Agency, the Board shall then adopt said recommendation or consider the matter at its own public hearing. The Board may rescind any permit upon the finding that a permittee has not complied with the conditions of the permit. All permits entailing a variance or conditional use under the approved master program shall be submitted to the Department of Ecology for its approval or disapproval.

SECTION 12. NOTIFICATION

The Board shall notify the following persons in writing of its final approval or denial of a Shoreline Development Permit as required by state law and rules and regulations adopted thereunder:

- A. The applicant;
- B. The Department of Ecology;
- C. The Attorney General;
- D. Any person who submitted written comments on the application;
- E. Any person who has written the Planning Agency requesting notification.

SECTION 13. APPLICABILITY

No persons shall begin substantial development of all or any part of the shorelines of the state located within Walla Walla county, until forty-five (45) days after being granted a Shoreline Development Permit according to the provisions of this ordinance or until all review proceedings initiated within such forty-five (45) day period are terminated. Nothing in this permit shall be construed as excusing the applicant from compliance with any other local, state or federal statutes, ordinances or regulations applicable to the proposed substantial development.

SECTION 14. APPEALS

Any person aggrieved by the granting, denying, or rescinding of a Shoreline Development Permit may seek review by filing a request for review with the Shoreline Hearings Board, the Department of Ecology, and the Attorney General within thirty (30) days of receipt of the final order. Walla Walla County may appeal to the Shorelines Hearings Board for rules, regulations, guidelines, designations or master programs for shorelines of the state adopted or approved by the Department of Ecology within thirty (30) days of the date of the adoption or approval.

SECTION 15. PENALTIES

The Walla Walla County Prosecutor shall bring such injunctive, declaratory, or other actions as are necessary to insure that no uses are made of the shorelines of the state located within Walla Walla County in conflict with the provisions and programs of this ordinance or the Shoreline Management Act of 1971; and to otherwise enforce the provisions of this ordinance in accordance with Sections 21, 22 and 23 of the Shoreline Management Act of 1971.

SECTION 16. SEVERABILITY

If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of this ordinance or the application of the provision to other persons or circumstances shall not be affected.

SECTION 17. DECLARING AN EMERGENCY

This Ordinance is necessary for the immediate preservation of the public peace, health and safety, the support of County government and its existing public institutions, and shall take effect immediately.

PASSED by the Board of County Commissioners of the County of Walla Walla, Washington this 3 day of January, 1972

WALLA WALLA COUNTY
BOARD OF COMMISSIONERS

James A. Stenroos
Chairman

Eugene V. Kelly

Harold Danner

ATTEST:

[Signature]
Clerk of the Board

APPROVED AS TO FORM:

Prosecuting Attorney, Walla Walla County

RECOMMENDED BY:

Chairman, County Planning Commission

RESOLUTION NO. 1

An Ordinance amending Shoreline Management Ordinance No. 88, to provide for a filing fee and amendment of the ordinance,

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF WALLA WALLA COUNTY, WASHINGTON:

Section 1.

Section 7, Ordinance No. 88, is hereby amended as follows:

Any person desiring to begin substantial development of all or any part of the shorelines of the state located within Walla Walla County shall apply to the Planning Agency, using forms supplied by the Planning Agency for a Shoreline Development Permit, and shall pay a filing fee of \$25.00, provided, however, that no fee shall be required of the County of Walla Walla. No permit shall be issued nor shall any action be taken on the application for a permit unless and until such fee has been paid in full.

Section 2.

A new section is added to Ordinance No. 88 as follows:

Section 18. Amendments.

The master program, regulations restrictions and provisions set forth in this ordinance may, from time to time, be amended, supplemented, changed or repealed, provided, however, that no such action may be taken until after a public hearing thereon, at which parties in interest and citizens shall have an opportunity to be heard.

Upon receipt of a request or petition for an amendment, supplement, or change in this Ordinance the Planning Commission shall set a date for a public hearing and give public notice of the time and place of such hearing at least 10 days before the time of such hearing. The findings and determination of the Planning Commission resulting from this public hearing shall be made in writing and a copy

transmitted to the applicant or petitioner and also to the Board of County Commissioners within 15 days after such hearing.

When the Planning Commission approves such request or petition for an amendment, supplement or change it shall forward its findings and recommendations to the Board of County Commissioners for action. When, after consideration of the Planning Commission's report and public hearing, the Board of County Commissioners finds such amendment, supplement, or change is of public necessity, benefits the general welfare of the County, or constitutes good planning and zoning practice and after public hearing, it shall then so amend this Ordinance.

DONE this 1st day of May, 1973.

Eugene V. Kelly Chairman
James A. Stenisher Commissioner
Allen D. Struthers Commissioner

Constituting the Board of County Commissioners of Walla Walla County, Washington



ATTEST:

Theodore S. Bjerke
County Auditor and Ex Officio
Clerk of the Board

FILED FOR RECORD May 1, 1973 AT 11:14 M
BY Bd of County Commissioners
THEODORE S. BJERKE, Walla Walla County Auditor