

Chapter 15.92 - SHORELINE MANAGEMENT

Sections:

15.92.010 - Definitions.

Definitions contained in the Washington State Shoreline Management Act (RCW 90.58) shall apply to all terms and concepts used in this chapter; provided that, definitions contained in this chapter shall be applicable where not in conflict with the Washington State Shoreline Management Act.

Development means a use consisting of the construction or exterior alteration of structures; dredging, drilling, dumping, filling, removal of 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. "Development" does not include dismantling or removing structures if there is no other associated development or re-development.

Carnation means any lands or waters contained within the incorporated boundaries of the City.

Master Program shall mean the comprehensive shoreline plan for Carnation 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 (RCW 90.58.) and Chapter 14.06 of the Carnation Municipal Code.

Ordinary High Water Mark shall be the line of mean high water.

Person means an individual, partnership, corporation, association, organization, cooperative, public or municipal corporation or agency of the state or local governmental unit however designated.

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;
- (3) Shorelines on lakes less than twenty acres in size and Wetlands associated with such small lakes.

Shorelines of the City means the shorelines of the Snoqualmie and Tolt Rivers.

Shorelines of the State are the total of all "shorelines and shorelines of state-wide significance" within the state, including the Snoqualmie River.

Substantial Development shall mean any development of which the total cost or fair market value exceeds ~~two thousand five hundred~~ seven thousand and forty seven dollars, or any development which materially interferes with the normal public use of the water or shorelines of the state; except that the types of development defined in Section 15.92.030 (Development Exempted from the Shoreline Development Permit Requirement) shall not be considered substantial developments for the purpose of this chapter.

15.92.020 - Administration.

- A. Map. Shorelines of the state located within Carnation shall be designated on an official map to be kept in City Hall.
- B. Administration. The City Planner is vested with the duty of administering the rules and regulations relating to shoreline management and may prepare and require the use of such forms as are essential to such administration.

- C. Compliance with Other Laws. Nothing in this title shall be construed as excusing a developer from compliance with any other local, state, or federal statute, ordinance or regulation applicable to a proposed development.
- D. Enforcement. The Carnation City Attorney shall bring such criminal injunctive, declaratory, or other actions as are necessary to insure that no uses are made of the shorelines of the City located within the City in conflict with provisions, policy, or intent of this Chapter or the Shoreline Management Act of 1971.
- E. Penalty. In addition to whatever civil liabilities may be incurred, any person found to have willfully engaged in activities on the shorelines of the state in violation of the provisions of this chapter or of the master program, rules or regulations adopted, shall be guilty of a misdemeanor, and shall be punished by a fine of not less than one thousand dollars or by imprisonment for not more than ninety days, or by both such fine and imprisonment; provided, that the third and all subsequent violations in any five year period shall be a gross misdemeanor punishable by a fine of up to five thousand dollars or imprisonment of up to one year, or by both such a fine and imprisonment.
- F. Application. In the event that any requirement or provision of this Chapter shall conflict with CMC Chapter 14.06, the requirements of this Chapter shall govern.

15.92.030 - Development exempted from the shoreline development permit requirement.

The following types of development shall not be considered substantial developments for the purpose of this chapter and shall not be required to obtain a shoreline development permit:

1. Normal maintenance or repair of existing structure or developments, including damage by accident, fire, or elements. "Normal maintenance" includes those usual acts to prevent a decline, lapse, or cessation from a lawfully established condition. "Normal repair" means to restore a development to a state comparable to its original condition with a reasonable period after decay or partial destruction except where repair involves total replacement which is not common practice or causes substantial adverse effects to the shoreline resource or environment;
2. Construction of the normal protective bulkhead common to single family residences. A "normal protective" bulkhead is constructed at or near the ordinary high water mark to protect a single family residence and is for protecting land from erosion, for the purpose of creating land. Where an existing bulkhead is being replaced, it shall be constructed no further waterward of the existing bulkhead than is necessary for construction of new footings.
3. Emergency construction necessary to protect property from damage by the elements. An "emergency" is an unanticipated and imminent threat to public health, safety, or the environment which requires immediate action within a time too short to allow full compliance with the act or this master program;
4. Construction and practices normal or necessary for farming, irrigation, and ranching activities, including agricultural service roads and utilities, and the construction and maintenance of irrigation structures including but not limited to head gates, pumping facilities, and irrigation channels: Provided that a feedlot of any size, all processing plants, other activities of a commercial nature, alteration of the contour of the area by leveling or filling other than that which results from normal cultivation, shall not be considered normal or necessary farming or ranching activities. A feedlot shall be an enclosure or facility used or capable of being used for feeding livestock hay, grain, silage, or other livestock feed, but shall not include land for growing crops or vegetation for livestock feeding and/or grazing, nor shall it include normal livestock wintering operations;
5. Construction 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 meets all requirements of the state agency or local government having jurisdiction thereof.

6. Construction of a dock, designed for pleasure craft only, for the private noncommercial use of the owner, lessee, or contract purchaser of a single family residence, ~~the cost of which does not exceed two thousand five hundred dollars~~; This exception applies if the fair market value of the dock does not exceed: (A) twenty two thousand five hundred dollars for docks that are constructed to replace existing docks, are of equal or lesser square footage than the existing dock being replaced; or (B) eleven thousand two hundred dollars for all other docks constructed in fresh water. However, if subsequent construction occurs within five years of completion of the prior construction, and the combined fair market value of the subsequent construction and prior construction exceeds the amount specified above, the subsequent construction shall be considered a substantial development for the purpose of this chapter.
7. Operation, maintenance, or construction of canals, waterways, drains, reservoirs, or other facilities that now exist or are hereafter created or developed as a part of an irrigation system for the primary purpose of making use of system waters, including return flow and artificially stored ground water for the irrigation of lands;
8. The marking of property lines or corners on state owned lands, when such marking does not significantly interfere with the normal public use of the surface water;
9. Operation and maintenance of any system of dikes, ditches, drains, or other facilities existing on September 8, 1975, which were created, developed, or utilized primarily as part of an agricultural drainage or biking system.
10. The holder of a certification from the governor pursuant to chapter 80.50 RCW shall not be required to obtain a permit.
11. No permit shall be required for any development on shorelines of the state included within a preliminary or final plat approved by the applicable state agency or city government prior to April 1, 1971, if:
 - a. The final plat was approved after April 13, 1961, or the preliminary plat was approved after April 30, 1969, or
 - b. Sales of lots to purchasers with reference to the plat, or substantial development incident to platting or required by the plat, occurred prior to April 1, 1971, and
 - c. The development to be made without a permit meets all requirements of the applicable state agency or city government, other than requirements imposed pursuant to the Shoreline Management Act of 1971, and
 - d. The development does not involve construction of buildings, or involve construction or buildings to serve only as community, social or recreational facilities for the use of owners of platted lots and the buildings do not exceed a height of thirty-five feet above average grade level, and
 - e. The development is completed within two years after the effective date of the Shoreline Management Act of 1971.
12. The external or internal retrofitting of an existing structure with the exclusive purpose of compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.) or to otherwise provide physical access to the structure by individuals with disabilities.
13. Consistent with WAC 173-27-040, a public or private project designed to improve fish or wildlife habitat or fish passage that conforms to the provisions of RCW 77.55.181.

15.92.040 - Requirements for exempted developments.

Any development or substantial development exempted from obtaining a shoreline development permit by Section 15.92.030 (Development Exempted from the Shoreline Development Permit Requirement) shall be consistent with the policy and intent of the Shoreline Management Act (RCW 90.58), Chapter 14.06, and the requirements of this Chapter.

15.92.050 - Supplemental application requirements for a shoreline development permit.

In addition to any required zoning, special use or building application requirements of the City, any person applying for a shoreline development permit shall submit with their permit application the following information:

1. The name and address of the applicant;
2. The location and legal description of the proposed substantial development;
3. The present use of the property.
4. The general description of the property and the improvements;
5. A description of the proposed substantial development and the intended use of the property. The following information will be provided on a site plan map:
 - a. Land contours, using five foot contour intervals, if project includes grading, filling or other alteration of contours, then either:
 - i. show both existing and proposed contours on a single map, clearly indicating which is which, and include items 2-10 following, or
 - ii. provide two maps, one showing existing contours, including items 2-5 below, and the other showing proposed contours, including items 6-10 below.
 - b. Size and location of exiting improvements which will be retained;
 - c. Existing utilities;
 - d. Ordinary highwater mark;
 - e. Shoreline type: sand, mud, gravel, etc.;
 - f. Size and location of proposed structures;
 - g. Maximum height of proposed structures;
 - h. Width of setback, side yards;
 - i. Proposed fill areas; state type, amount and treatment of fill;
 - j. Proposed utilities;
6. Vicinity plan, indicating relation of site to adjacent lands. Show adjacent lands for at least 400 feet in all directions from the project site; and owner of record within 300 feet of project site;
7. Total value of all construction and finishing work for which the permit will be issued, including all permanent equipment to be installed on the premises;
8. Approximate dates of construction initiation, and completion;
9. Short statement explaining why this project needs a shoreline location and how the proposed development is consistent with the policies of the Shoreline Management Act of 1971.
10. Listing of any other permits for this project from state, federal or local government agencies for which the applicant has applied or will apply.
11. Any additional material or comments concerning the application which the applicant wishes to submit may be attached to the application on additional sheets.

15.92.060 - Fees.

The fees for each proposed substantial development, conditional use, or variance permit shall be as contained in Chapter 5.32 of the Carnation Municipal Code.

15.92.070 - Special use permit required.

All Shoreline Substantial Development Permits shall require a Special Use Permit issued in accordance with the provisions of Chapter 15.16 (Land Use Approvals).

15.92.080 - Policies.

- A. A Shoreline Substantial Development Permit shall be granted only when the proposed development is consistent with the provisions of this Chapter and the Carnation Master Shoreline program outlined in Chapter 14.06. In the event of any conflict between these provisions and those of Chapter 14.06, the provisions of this Chapter shall govern.
- B. A permit should be granted only when the proposed development is consistent with the policies of the Shoreline Management Act (RCW 90.58.020).
- C. Surface drilling for oil and gas is prohibited in the waters of Carnation from the ordinary high water mark on all lands within one thousand feet landward from said mark.
- D. A permit shall be denied if the proposed development is not consistent with the above enumerated policies.
- E. The granting of any Shoreline Development Permit by the City shall be subject to the conditions imposed by the Shoreline Hearings Board.

15.92.090 - Duties of permit-issuing authority.

The Permit Issuing Authority shall consider the proposed substantial development based on information from: the application; written comments from interested persons; the advice of the various City departments; independent study; and any views expressed by the public. The Permit Issuing Authority may request an applicant furnish information concerning a proposed substantial development in addition to information required in an application. The Permit Issuing Authority shall formulate findings of fact and a decision, based on the policies enumerated in Section 15.92.080. The Permit Issuing Authority shall transmit its recommendations in writing, together with a statement setting forth the factors considered, and an analysis of the findings considered by him to be controlling, to the shoreline hearings board within fourteen days following the Permit Issuing Authority's decision.

15.92.100 - Notification of decision.

The Permit Issuing Authority shall notify the following persons in writing of its final approval or disapproval of a shoreline development permit:

- (1) The applicant.
- (2) The Department of Ecology
- (3) The Attorney General
- (4) Any person who has submitted written comments on the application
- (5) Any person who has written the Permit Issuing Authority requesting notification

15.92.110 - Effective date of permit.

No person shall begin substantial development of any part of the shorelines of the state located within the city of Carnation until thirty days after being granted a shoreline development permit pursuant to the provisions of this chapter or until all review proceedings initiated within such thirty-day period are terminated.

15.92.120 - Variances.

Variances to the requirements of this Chapter and any master program shall be processed in conformance with the requirements of Chapter 15.20. A variance shall not be granted if it would thwart the policy enumerated in this chapter or in the Shoreline Management Act (RCW 90.58.020).

15.92.130 - 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 days of receipt of the final order. The city may appeal to the shorelines hearing board any rules, regulations, guidelines, designations, or master programs for shorelines of the state adopted or approved by the Department of Ecology within thirty days of the date of adoption or approval.

15.92.140 - Rescission.

The Permit Issuing Authority shall retain continuing jurisdiction over permits which it issues. It may modify or rescind any shoreline development permit if it finds that a permittee has not complied with the conditions of a permit. The Permit Issuing Authority shall hold a public hearing and make findings of fact relating to a permit in question before it may take action to modify or rescind the permit.

15.92.150 - Permit expiration.

A shoreline development shall become void two years from the date of its issuance by the Permit Issuing Authority when substantial work on the authorized shoreline development has not been initiated within that time period.

15.92.160 - Reapplication.

After the final action regarding the denial of a shoreline development permit, a reapplication for such a permit involving substantially the same development on the same property shall not be accepted for consideration for a period of six months.