



MASON COUNTY'S SHORELINE MASTER PROGRAM UPDATE

I. PURPOSE

A **Public Hearing** has been scheduled for **October 25th, 2016 at 6:30 P.M.** in the Commissioners Chambers at 411 N 5th in Shelton to consider adopting amendments made to Mason County's Shoreline Master Program, the Resource Ordinance, and Title 15. For assistance with any of the information contained in this Report or the documents it references, please contact Rebecca Hersha at (360) 427-9670, ext 287 or by e-mail at RebeccaH@co.mason.wa.us.

Under the Shoreline Management Act (SMA), all Washington counties and cities that have shorelines of the state within their boundaries are required to have an SMP that is in accordance with shoreline guidelines issued by the Washington State Department of Ecology (Ecology). Mason County's SMP was first adopted in 1975, and last updated in 1988, with minor amendments made in 2002 and 2006. Ecology issued new guidelines (WAC 173-26) in 2003 (and amended in 2007 and 2011) to assist local governments in meeting the state requirement to conduct a comprehensive review and amendment of their SMP's.

II. MASON COUNTY'S SMP UPDATE PROCESS

Mason County's current update effort began in 2010 after receiving a three year grant, which expired in July 2013, from Ecology. The County conducted a multifaceted public involvement approach in the development of the Draft Shoreline Management Program, including formation in 2011 of a **Citizen Advisory Committee** (CAC), which held 27 meetings, and a **Joint Technical Advisory Committee** (JTAC), which held 14 meetings. The Advisory Committees worked with staff to draft general land use policies consistent with the intent of the SMA and its new guidelines. The County conducted a shoreline property owner public interest survey, held two public open houses and presented at several local interest groups' meetings.

The Mason County **Planning Advisory Commission's** (PAC) review of the first draft began in January 2013. After 47 public meetings, the PAC held 3 public hearings in June 2016 on the revised draft documents. The **Board of County Commissioners** (BOCC) now will hold a public hearing to consider the revised documents. After the County has adopted the revised codes, **Ecology** will provide another public comment period, and have final approval authority of the amended SMP.

III. OVERVIEW OF THE DRAFT DOCUMENTS

This update to the SMP was an extensive overhaul of the program requiring the County to re-evaluate all shoreline policies, designations and regulations and was based upon scientific and technical information to assure no net loss of shoreline ecological functions while providing for appropriate uses within shoreline areas.

In addition to revising the SMP regulations and policies, this update includes revising other codes as necessary to ensure consistency with the revised SMP. Mason County's proposed SMP Update package consists of the following: Shoreline Master Program, Shoreline Inventory & Characterization, Shoreline Restoration Plan, Cumulative Impacts Analysis, Channel Migration Zone Mapping, Resource Ordinance, and Development Code.

A. Shoreline Master Program – Title 17.50 MCC

(PAC Draft for Recommendation to the Board - October 2016)

Utilizing information from the above reports, input from advisory groups and the general public, Mason County revised the shoreline jurisdiction, the shoreline environmental designations (SED's) map, the project classification table, and the shoreline policies & regulations.

1. **Jurisdiction** – Mason County has approximately 215 miles of marine shoreline, 330 miles of shoreline streams, and 45 lakes (see 17.50.060 - **page 23** and the jurisdictional map).
2. **Shoreline Environmental Designations (SED's)** – SED's are intended to encourage uses that will protect or enhance the current or desired character of a shoreline. The SMA requires that the classification system be based on:
 - a. the existing use pattern,
 - b. the biological and physical character of the shoreline, and
 - c. the goals and aspirations of the community as expressed through comprehensive plans as well as the criteria in this section.

The SED's and the associated map were revised, resulting in six (five if excluding the aquatic designation) "environment designations" along all shorelines within the County's jurisdiction. These SED's are similar to a zoning overlay that prescribes the level of review that shoreline uses and modifications require. Environment designations were determined through the use of "designation criteria" that are contained in the SMP (Title 17.50.080 MCC – **page 32**).

3. **Project Classification Table** – The Project Classification Table in the SMP (17.50.090 – **page 37**) designates which shoreline permits are needed for proposed development types, depending on the SED. For example, the excerpt below shows that a Conditional Use Permit is required for a water dependent use in Residential, Rural, and Conservancy SED's but that it is prohibited in Natural.

Table 1

	Comm.	Resid.	Rural	Cons.	Natural	Aquatic
Commercial						
Water dependent uses	P	C	C	C	X	*
Water related & water enjoyment	P	C	C	C	X	See regs.
Non - water oriented						
Without waterfront ¹	P	X	X	X	X	n/a
With waterfront	C ² /X	X	X	X	X	X
Part of a mixed use project ³	C	C	C	C	X	X
Key: P = Permitted C = Conditional Use X = Prohibited * = See upland designation. ¹ = If the site is physically separated from the shoreline by another property or public right of way. ² = If navigability is severely limited at the proposed site; and the commercial use provides a significant public benefit such as providing public access and ecological restoration. ³ = If part of a mixed use project that provides a significant public benefit such as public access or ecological restoration. See regulation.						

4. **Policies & Regulations** - There are 'general' policies and regulations, 'use' policies and regulations, and 'modification' policies and regulations. **Policies** are general in nature and outline the general goals of the SMP. It is the **regulations** that specify the required dimensional standards; the permits and reports that are required; when developments and uses are prohibited, and when developments and uses are allowed. Each use and modification chapter in the draft SMP is tied to a section of the Project Classification Table, which details which permits are required.

NOTABLE CHANGES TO THE EXISTING POLICIES AND REGULATIONS:

a. Focus on Public Access

The only requirement for public access in the current SMP is in the Marina chapter (**MCC 17.50.235 – page 78** in the Oct. 2016 draft), whereas the draft SMP has a Public Access chapter in the General Regulations (**MCC 17.50.140 – page 57**) that requires physical public access for non-residential and not water-dependent or water-related proposals that require a Substantial Development Permit or a Conditional Use Permit. It is also required for private water-dependent or water-related uses or developments when the project increases or creates demand for public access, impacts or interferes with existing access by blocking access or discouraging use of existing access, or impacts or interferes with public use of waters subject to the Public Trust Doctrine.

The draft Public Access regulations do have exceptions that allow for off-site physical public access or even no physical access, but when physical public access is deemed to be infeasible, the proponent needs to provide *visual* access to the shore where site conditions make visual access possible.

b. Focus on Protecting Archaeology and Historic Sites

The existing SMP dedicates a small subsection to Archaeological Areas and Historic Sites, however it is primarily informational and is limited to the accidental excavation of such sites. It contains no provisions on how to identify potential sites in order to prevent disturbing cultural resources.

The draft SMP contains a detailed chapter on Archaeological Areas and Historic Sites (**MCC 17.50.105 – page 43**) that provides policies and regulations that dictate when and where the County will require "Site Assessments" when reviewing development proposals and the steps that developers must take if they inadvertently discover items of possible historic, archaeological or cultural interest.

c. Buffers and Setbacks

The current minimum buffer and setbacks being implemented on shorelines are those in the Fish and Wildlife Habitat Conservation Areas Chapter (**MCC 8.52.170**) of the Resource Ordinance which requires a 100 foot buffer and setback around lakes and saltwater shorelines and a 150 feet buffer plus 15 feet setback on shoreline rivers. However, there is a provision used often for residential development on lakes and saltwater whereby the setback is reduced or enlarged to be in line with the neighboring development. This imaginary line is termed the **common line** and cannot result in a structural setback less than 35 feet and a buffer of less than 20 feet.

On saltwater, the revised SMP has reduced the standard shoreline buffer and setback from 100 feet to 50 feet and 60 feet, respectively, on shorelines with Commercial designations. The standard shoreline buffer and setback for Conservancy and Natural designations has increased

to 150 feet and 165 feet, respectively. The common line provision described above (on lakes and saltwater) has been retained in the regulations (MCC 8.52.170.E.3.b – **page 77**) in the Oct. 2016 draft), allowing development to be closer (or sometimes farther) to the water than the standard setback in Table 2, however the concept has been changed so that the standard fish and wildlife *buffer* in Table 2 remains unchanged. The existing requirement (when reducing a setback to the common line) to enhance the buffer by planting native vegetation is now explained in detail in a draft “Appendix B:Common Line Mitigation Manual.”

The buffers and setbacks are included in the following table from the draft SMP (MCC 17.50.110 – **page 51**):

Table 2

	Commercial	Residential	Rural	Conservancy	Natural	Aquatic
1. Minimum Fish & Wildlife Habitat Conservation Area buffer (in feet)						
Streams	150'	150'	150'	150'	150'	NA
Saltwater ¹	50'	100'	100'	150'	150'	NA
Lakes	100'	100'	100'	100'	100'	NA
2. Minimum Structural Setback from FWHCA (equals buffer plus 15 feet)						
Streams ²	165'	165'	165'	165'	165'	NA
Saltwater ^{1,3}	65'	115'	115'	165'	165'	NA
Lakes ³	115'	115'	115'	115'	115'	NA
3. Maximum Height limit (in ft) ⁴	35'	35'	35'	35'	35'	NA
4. Maximum impervious surface coverage (percent of lot) ⁵	See Current Adopted Stormwater Manual for standards			10%	10%	NA
5. Minimum lot width (in ft)	50'	50'	100' ⁶	200' ⁶	200'	NA
¹ Buffer widths for marine bluffs shall be no less than a distance equal to or greater than a distance from the ordinary high water mark landward at a slope of 2:1 (horizontal to vertical) that intersects with the existing topography of the site. ² Or the channel migration zone, whichever is larger. ³ Common line provisions may apply to residential development per MCC 8.52.170. ⁴ Unless a lesser height is required by zoning. ⁵ Total lot area excludes area encompassed by streams, wetlands, landslide hazards, floodways, lakes, and saltwater. ⁶ For lots created by performance subdivisions in Rural and Conservancy SED's, the minimum lot width is determined by the zoning (Development Regulations).						

d. Lot Widths

Lot widths only apply when someone applies to the County to subdivide land. The minimum lot widths (see #5 in the table above) in the draft SMP match the existing minimum lot widths, however since some properties are now within a different SED, the minimum lot widths (for subdivision applications) for these properties have changed. A provision was added to the draft that allows for lots created by performance subdivisions in Rural and Conservancy designations to rely on lot widths authorized by the underlying zoning code rather than the prescribed width limits established for environment designations. This offers additional flexibility that is often necessary for creative subdivision design and provides an additional incentive to the density bonus in the performance subdivision code (16.21 MCC).

e. Commercial and Industrial Uses – Flexibility for Non-Water Dependent Uses

The draft SMP provides additional flexibility in the water-dependent use requirements. Under the new program (MCC 17.50.215/225 – page 72/75), a new non-water oriented commercial or industrial use may be established on the waterfront under one of the following circumstances:

- a. The site is physically separated from the shoreline by another property or public right-of-way; or
- b. Navigability is severely limited at the proposed site and the commercial use provides a significant public benefit with respect to the Shoreline Management Act's objectives such as providing public access or ecological restoration; or
- c. The use is part of a mixed use project that includes, and is subordinate to, water-dependent uses, and it provides a significant public benefit with respect to the Shoreline Management Act's objectives such as providing public access or ecological restoration.

Also, the draft SMP states that a non-water oriented use can be replaced with another non-water oriented use without a Conditional Use Permit.

f. Docks

Dock Lengths – Saltwater: Residential docks (single owner) currently are limited to 100' long in saltwater (MCC 17.50.320 - **page 114**). The draft increases that maximum length to 120 feet and a maximum depth of 7 feet at Mean Lower Low Water. In addition, the Administrator may now approve a longer dock, up to a maximum of 150 feet, to avoid forage fish habitat.

Table 3

Saltwater Docks	Existing SMP	2016 Draft SMP
Width of pier	Max 8'	Max 6'
Width of ramp	Max 8'	Max 5'
Width of attached floats	Max 8'	Max 8'
Length of dock	Max 100' single use (115' joint use). Max depth of 7' at MLLW.	Max 120' single use (125' joint use). Max depth at 7' at MLLW. Exception up to 150' to avoid eelgrass.
Length of 'T' or 'L' attachment	Max 16'	Max 30' single use (60' joint use).
Area of 'T' or 'L' attachment	Max 400 ft ² single use (700 ft ² joint use).	Max 350 ft ² single use (550 ft ² joint use) excluding mainstem of dock.

Dock Lengths – Freshwater: Residential docks (single owner) currently are limited to 50' long in lakes (and less than 15 percent of the fetch and not permitted to reach to within 200 feet of the opposite shore). The draft increases that maximum length to 60 feet.

Table 4

Freshwater Docks	Existing SMP	2016 Draft SMP
Width of pier	Max 8'	Max 6'
Width of ramp	Max 8'	Max 5'
Width of attached floats	Max 8'	Max 8'
Length of dock	Max 50' single use (65' joint). Max depth of 7' at MLLW.	Max 60' single use (65' joint use).
Length of 'T' or 'L' attachment	Max 16'	Max 20' single use (40' joint use).
Area of 'T' or 'L' attachment	Max 250 ft ² single use (400 ft ² joint use).	Max 250 ft ² (350 ft ² joint use) excluding mainstem of dock.

In addition, currently there is a maximum dock length of 115/65 feet for public recreational docks on saltwater/freshwater. This has been changed in the draft to no maximum length or depth for such docks, provided the applicant has demonstrated that a specific need exists to support the intended water-dependent use (and mitigation sequencing has been applied).

Dock Widths: For consistency with state and federal requirements, the regulations (MCC 17.50.320 – **page 116**) now limit piers to 6 feet wide and ramps to 5 feet wide, whereas the existing SMP allowed any portion of the dock (including piers, ramps, and floats) to be 8 feet wide.

Permitting docks: New private docks on **Hood Canal** (a shoreline of statewide significance) are prohibited in Natural designation, only allowed in Conservancy as 'joint use' and with a Conditional Use Permit. In the Residential designation, a Conditional Use Permit is required, but there is the following flexibility in the joint use requirement:

Prior to development of a new residential, single use dock, the applicant shall demonstrate that they have contacted adjacent property owners and none have indicated a willingness to share an existing dock or develop a shared moorage in conjunction with the applicant.

In **Puget Sound** (excluding Hood Canal), new dock development is somewhat less restrictive than in Hood Canal. Below is the section of the draft project classification table that pertains to docks and other overwater structures.

Table 5

	Comm.	Res.	Rural	Cons.	Natural	Aquatic
Docks, Floats, Mooring Buoys, Boat Lifts, and Covered Moorage						
Docks (piers, ramps, and/or attached floats)						
Hood Canal	P	P ¹ /C	n/a	P ¹ /C ³ /X ²	X	*
South Puget Sound	P	P/C ⁴	n/a	C	X	*
Lakes	P	P	P	P ¹ /C	X	*
Rivers	X	X	X	X	X	X
Unattached floats	n/a	n/a	n/a	n/a	n/a	P
Mooring buoys	n/a	n/a	n/a	n/a	n/a	P
Boat lifts & overwater davits	P	P	P	C	X	*
Covered moorage/overwater boathouses	n/a	n/a	n/a	n/a	n/a	X ⁵
<p>Key: P = Permitted C = Conditional Use X = Prohibited</p> <p>* = See upland designation.</p> <p>¹ Public recreational use.</p> <p>² A new, private dock serving an individual residential lot is prohibited.</p> <p>³ Joint-use or community docks are permitted with a Conditional Use Permit (and shoreline permit).</p> <p>⁴ A new, private dock serving an individual residential lot may be permitted with a Conditional Use Permit (and Shoreline Substantial Development Permit). Joint-use, community, or public recreational docks are permitted without a CUP.</p> <p>⁵ Permitted only in marinas.</p>						

h. Added Scrutiny for Hard Armoring (e.g. bulkheads)

The Shoreline Stabilization Chapter in the draft SMP contains two new substantial requirements:

- i. New or enlarged structural shoreline stabilization measures for an existing primary structure, including residences, shall not be allowed unless there is conclusive evidence documented by a [Shoreline Geotechnical Assessment](#) that the structure is in danger from shoreline erosion caused by tidal action, currents, waves, or sea level rise. Normal sloughing, erosion of steep bluffs, or shoreline erosion itself, without a scientific or geotechnical analysis, is not demonstration of need. The geotechnical assessment shall evaluate on-site drainage issues and address drainage problems away from the shoreline edge before considering structural shoreline stabilization. (Primary structure means the structure or the only access associated with the principal use of the property that cannot feasibly be relocated. It may also include single family residential appurtenant structures that cannot feasibly be relocated. (MCC 17.50.340 – **page 132**)
- ii. For proposals that contain new hard armoring (e.g. wood, rock, concrete retaining walls or revetments) a Shoreline Geotechnical Assessment must demonstrate that there is a significant possibility that a primary structure will be damaged within three (3) years as a result of shoreline erosion in the absence of such hard armoring measures, or where waiting until the need is that immediate would foreclose the opportunity to use measures that avoid impacts on ecological functions or the opportunity to protect public health or welfare. (MCC 17.50.340 – **page 131**)

7. Permitting - Substantial Development Permits are shoreline permits required for most uses that exceed a specified, inflation-adjusted dollar value threshold (currently set at \$6,416). Some shoreline activities are exempt from requiring a Substantial Development Permit. These “permit-exempt” uses must still obtain a Letter of Exemption from the County to verify the exemption, and must still comply with any applicable substantive regulations of the SMP. The exemptions are listed in [WAC 173-27-040](#) and in Chapter 17.50.080 in the draft “Shoreline Master Program.”

Under the *current* program, [Shoreline Substantial Development Permits \(SDPs\)](#) are ‘Type III’ permits and, therefore, require a public hearing before the Hearing Examiner. Under the draft SMP (MCC 17.50.400.C.2.b – **page 143**) , *Substantial Development Permits will not require a public hearing*, unless the proposal is overwater development that is for community, public, commercial, marina, or aquaculture use or if any part of the proposal requires public hearing for another permit (e.g. Shoreline Conditional Use Permit, Shoreline Variance, Development Regulations Variance, Special Use Permit, etc). When processing an administrative Shoreline Permit, the Planner would still be required to prepare a Staff Report and Findings, therefore the review would be more involved than that for a Shoreline Exemption, but applicant costs and time will be reduced.

Although some jurisdictions trigger a public hearing for administrative Shoreline Substantial Development or Conditional Use Permits when one or more neighbor requests one, the PAC decided against this option because this would add both cost and time to the process, thereby negating the intent of changing SDP’s to an administrative review. Additionally, some jurisdictions trigger a public hearing when the cost of the project exceeds a specific dollar amount such as \$100,000 or \$500,000. The PAC decided against this method as well because project costs are often not presented accurately on shoreline applications. Therefore, it was decided that the draft SMP would require a public hearing for larger projects, not based on cost, but based on the location being “overwater” and based on the use being something other than single-family residential. SDP Applications still require

public notice providing at least a 30 day comment period. Appeals of Administrative Shoreline Permits will be made to the Hearing Examiner.

Shoreline Conditional Use Permits and Shoreline Variances will be permitted as they are now, with a public hearing. These require both local approval *and* approval from the Department of Ecology.

B. Shoreline Inventory and Characterization Report

(Final Draft October 2012 with June 2013 Errata)

The ICR documents baseline shoreline conditions and provided a basis for revising SMP goals, policies, regulations, and Shoreline Environmental Designations for the County. This characterization helped to evaluate existing functions and values of shoreline resources, and explore opportunities for conservation and restoration of ecological functions. This study also characterizes ecosystem-wide processes and how these processes relate to shoreline functions.

C. Mason County Shoreline Restoration Plan

(Final Draft April 2013 with September 2015 Errata)

This plan, in conjunction with the SMP policies and regulations, was designed to satisfy the Ecology's guidelines for shoreline restoration planning. It provides a planning level framework for understanding how and where shoreline ecological functions can be restored in Mason County. The plan also describes how future restoration activities can be integrated with existing and ongoing restoration efforts.

D. Shoreline Cumulative Impacts Analysis

(Final Draft February 2016)

This report is an analysis of the cumulative impacts to shoreline ecological functions that may be expected to occur over time as the new Shoreline Master Program is implemented. This report also addresses whether the Draft SMP achieves no net loss of shoreline ecological functions.

E. Channel Migration Zone Report and Map

(Final Draft December 2011)

This report provides information, methods, and maps of areas in Mason County with a high probability of being subject to channel movement based on the historic record, geologic character and evidence of past migration. The regulations pertaining to CMZ's are within the draft Fish and Wildlife Habitat Conservation Areas Chapter of the Resource Ordinance, which does not permit development to occur in a CMZ, except under certain circumstances.

F. Resource Ordinance - Title 8.52 MCC

(PAC Draft for Recommendation to the Board – October 2016)

Local jurisdictions are given the option to either *reference* or *incorporate* the applicable critical area (Resource Ordinance) regulations, such as the setbacks and habitat buffers from saltwater, lakes, streams, etc. and the requirements for mitigation sequencing and Habitat Management Plans.

A decision was made before the first draft (January 2013) was created to *reference* the existing Resource Ordinance and to note in the SMP (17.50.110.B.2) where the SMP requirements or allowances overrode a provision in the Resource Ordinance. Therefore, the draft SMP *references* the Resource Ordinance for buffers/setbacks from critical areas such as lakes, saltwater, bluffs, and channel migration zones. The draft SMP also references the Resource Ordinance frequently for the required content of Habitat Management

Plans and mitigation sequencing. Later, it was decided that the Resource Ordinance, especially the Fish & Wildlife Habitat Conservation Areas Chapter (which pertains to rivers, lakes, saltwater, and listed species) needed to undergo significant remodeling in order to reduce confusion, discrepancies and vagaries within the ordinance.

Although the overlap of the Resource Ordinance and the Shoreline Master Program was not eliminated, some streamlining will result. The main streamlining that will occur is that now, for proposals within the shoreline jurisdiction, *permits required by the Resource Ordinance such as Mason Environmental Permits and Resource Ordinance Variances will no longer be required*. Only shoreline permits, variances, or exemptions are needed in the shoreline jurisdiction with exception (see next paragraph).

The Resource Ordinance allows many activities within critical areas and their buffers to be approved with a Mason Environmental Permit (administratively processed permit). However, some of these activities, such as clearing and grading, do not meet the definition of development in the Shoreline Management Act. Since Shoreline Exemptions and Shoreline Substantial Development Permits are only required for "development," this required adding the following statement into the SMP:

Applications that are processed as a Mason Environmental Permit per MCC 8.52.190(C), and do not require a Shoreline Variance, Shoreline Substantial Development Permit, or Shoreline Conditional Use shall instead be processed as a Shoreline Exemption.

G. Development Code - Title 15 MCC - Administrative Procedures

(PAC Draft for Recommendation to the Board – October 2016)

Title 15 of the Mason County Code contains noticing procedures and other administrative review requirements for different levels of permit reviews. The subsection of Title 15 pertaining exclusively to Type III (quasi-judicial) shoreline permits was revised and moved to the SMP (Title 17.50 MCC). Some corrections and clarifications were made to the remaining subsections in Title 15.

IV. BACKGROUND ON THE SMA

The Washington State Shoreline Management Act (RCW 90.58) and its associated rules (WAC 173-26) require local governments to adopt Shoreline Master Programs (SMP's) with policies and regulations that apply to development near shorelines. The Shoreline Management Act (SMA) was approved by the Legislature in 1971 and overwhelmingly approved by public initiative in 1972. The overarching goal of the Act is "to prevent the inherent harm in an uncoordinated and piecemeal development of the state's shorelines."

The **three main policies** of the Act are the following:

- **Environmental Protection:** The SMA is intended to protect shoreline natural resources, including "...the land and its vegetation and wildlife, and the water of the state and their aquatic life..." against adverse effects.
- **Shoreline Use:** The SMA establishes the concept of *preferred uses* of shoreline areas that are consistent with control of pollution and prevention of damage to the natural environment, or are unique to or dependent upon use of the states' shorelines. *Preferred uses* include single family residences, ports, shoreline recreational uses, water dependent industrial and commercial developments and other developments that provide public access opportunities. To the maximum extent possible, the shorelines should be reserved

for **water-oriented uses**, including **water-dependent**, **water-related**, and **water-enjoyment** uses (for more information, see part III(C) below). The Act affords special consideration to Shorelines of Statewide Significance (Hood Canal, Skokomish River, and Lake Cushman in Mason County) that have greater than regional importance.

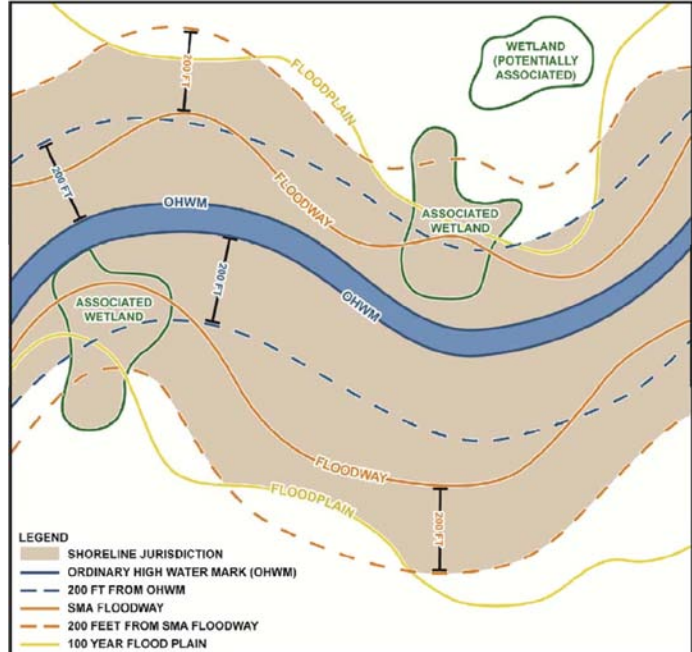
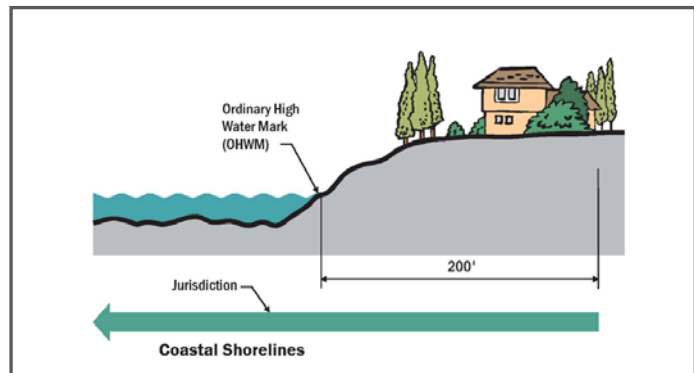
- **Public Access:** Master programs must include a public access element making provisions for public access to publicly owned areas, and a recreational element for the preservation and enlargement of recreational opportunities.

V. FREQUENTLY ASKED QUESTIONS

A. What are "shorelines"?

Shorelines include the following:

- All **marine waters**.
- Segments of **streams** where the mean annual flow is more than 20 cubic feet per second.
- **Lakes** and reservoirs 20 acres and greater in area.
- **Associated wetlands**.
- **Shorelands** adjacent to these water bodies. This is typically the land area within 200 feet of the water body, but also includes floodways and contiguous floodplain areas landward 200 feet from such floodways.



B. Why do we protect shorelines?

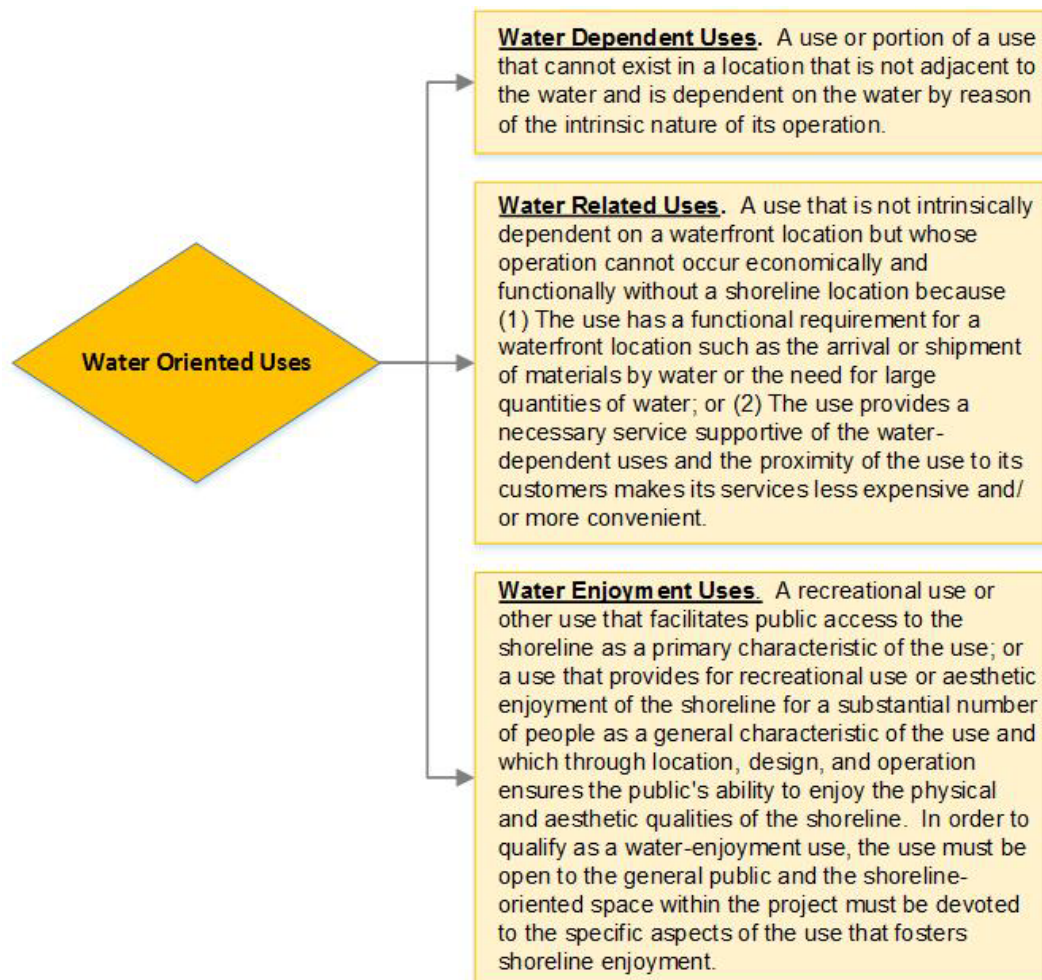
In the early 70's, the people of the state of Washington observed a trend of development along marine, river, and lake shores that blocked visual and physical access to public waters. The Legislature determined the following:

- Shorelines are among the most valuable and fragile of Washington's natural resources;
- There is great concern throughout the state relating to the utilization, protection, restoration, and preservation of shorelines;
- The increasing pressures of additional uses are being placed on the shorelines necessitating increased coordination in the management and development of the shorelines of the state;

- Much of the shorelines and the adjacent uplands are in private ownership;
- That unrestricted construction on the privately owned or publicly owned shorelines is not in the best public interest;
- Coordinated planning is necessary in order to protect the public interest associated with the shorelines of the state while, at the same time, recognizing and protecting private property rights consistent with the public interest; and
- There is a clear and urgent demand for a planned, rational, and concerted effort, jointly performed by federal, state, and local governments, to prevent the inherent harm in an uncoordinated and piecemeal development of the state's shorelines.

C. What are "Water-Oriented Uses" ?

The SMP uses the terms "water-dependent," "water-related," and "water-enjoyment," when discussing appropriate uses for various shoreline areas. Any of the three are "water oriented." According to the Shoreline Management Act, shoreline areas should be reserved for water-dependent and associated water-related uses. They should also be reserved for single-family residential uses, water-related, and water-enjoyment uses that are compatible with ecological protection and restoration objectives. Non-water-oriented uses are limited to those locations where the above described uses are inappropriate or where non-water-oriented uses contribute to the objectives of the Shoreline Management Act.



D. What is “no net loss” of ecological or environmental functions?

The new environmental protection standard for updated shoreline master programs is “no- net-loss of shoreline ecological functions.” While restoration of degraded areas is encouraged, this does not mean all shoreline areas are required to be made “pristine” or returned to pre- settlement conditions. Local governments are required to inventory current shoreline conditions – including identifying existing ecological processes and functions that influence physical and biological conditions. When a shoreline program is adopted, existing ecological conditions on the ground must be protected while development of shoreline areas is continued in accordance with adopted regulations. This is accomplished by avoiding or minimizing the introduction of impacts to ecological functions that result from new shoreline development.

(Copied from Ecology Publication Number: 09-06-029)

E. Why update the SMP?

For a variety of reasons, it's in the County's interest to update our Shoreline Master Program:

1. Updating our SMP is required by state law. If Mason County does not update our SMP, the Department of Ecology is authorized to update the SMP for the County, thereby reducing our opportunity for tailoring the SMP to our local circumstances and local priorities.
2. Our current SMP was first adopted in 1975, and last updated in 1988, with only minor amendments made in 2002 and 2006. It is no longer based on current science, current law, or current conditions.
3. Our current SMP results in duplicate permit processes that are an unnecessary burden on property owners. The proposed revisions would streamline permitting (e.g. Shoreline Variance now suffices for a reduced shoreline setback rather than a Shoreline Variance plus a Resource Ordinance Variance) and provide clearer guidance to applicants. And although it does not incorporate *all* of the Washington State Department of Fish and Wildlife’s rules for granting Hydraulic Project Approvals (HPA), it includes many and provides references to the HPA rules to prepare applicants for the next step in review of overwater¹ development. The current/old SMP is so different than state and federal requirements for overwater development, that after a project permit is issued by the County, the applicant would oftentimes need to revise their proposal to meet state and federal requirements and follow up by submitting revised applications to the County.

F. How are proposed developments in the shoreline jurisdiction reviewed and permitted?

After applications (see section (V)(C)(5) below for details on types of shoreline permits) for use and developments within the shoreline jurisdiction are submitted to the County, the Planners review them for compliance with the shoreline regulations in the SMP, critical area regulations in the Resource Ordinance, zoning regulations, and other use and development standards. This review process usually includes a site inspection, and it often includes publicizing the development proposal so that other property owners and other agencies with jurisdiction have an opportunity to provide comments. Concurrent to the Planner’s review, the Building Division, the Environmental Health Division, and sometimes the Public Works’ Department perform their respective reviews of the proposal, where applicable.

¹ “Overwater development” refers to development that is waterward of the Ordinary High Water Mark, and does not depend on whether it’s over water at the time of development.

Some shoreline applications are approved administratively, and others are approved after a public hearing. For Shoreline Conditional Uses and Variance Permits, Ecology then has the responsibility to review the County's decisions to issue or to deny proposed developments or uses.

Since many overwater developments also require state and/or federal approvals, the applicant may have to wait weeks, months, or years after the County has issued the permit before development can occur. In particular, new saltwater dock proposals can be held up for a year or more or they may be denied approval by the Army Corps of Engineers.

G. Do the regulations apply to existing uses and structures?

Typically, when new land use regulations are adopted, uses and structures that were legally created prior to adoption of the new regulations but do not meet the new standards are allowed to continue but may not expand without approval of a Variance. For the Shoreline Master Program, state law allows for special treatment of "legally established pre-existing uses," especially single-family residences. Mason County's draft Resource Ordinance allows residences that do not meet shoreline setbacks to be (replaced and) expanded vertically up to 35 feet in height. This provision in Fish & Wildlife Habitat Conservation Areas Chapter of the draft Resource Ordinance states:

The following additional provisions only apply within the shoreline jurisdiction (per MCC 17.50): ... Except for overwater structures, legally established residences may be expanded by addition of space above the existing building footprint up to authorized heights. Upward expansions shall minimize impacts to existing views and FWHCA's to the greatest extent practical. For the purposes of this subsection, footprint does not include covered or uncovered decks, boat houses, sheds or other appurtenances.

H. Aren't requirements such as shoreline vegetation buffers a "taking" of private property rights?

No. The U.S. Constitution allows state and local governments to limit private property activities provided it's for a legitimate public benefit and they do not deprive the landowner of all reasonable use of the property. For example, state and local governments can adopt regulations that prevent sediment from running off private property and entering a salmon-spawning stream. These regulations protect salmon, a public resource.

Buffers do not deprive landowners of all reasonable use of their property and, in fact, all property tends to benefit from reasonable setbacks and buffers. In those limited instances where the buffer precludes or significantly interferes with a reasonable use, the property owner may obtain a variance.

(Copied from Ecology Publication Number: 09-06-029)

I. Won't buffers and other shoreline regulations decrease my property values?

Property values are relatively unaffected by buffers. Waterfront property has skyrocketed in value in the past 30 years despite shoreline buffers of 25 to 125 feet being in place for the same period. Protecting native vegetation along the shoreline actually enhances property values by:

- Stabilizing slopes.
- Screening adjacent development from view.
- Providing attractive landscaping and habitat.
- Blocking noise and glare from adjacent properties

(Copied from Ecology Publication Number: 09-06-029)