

Shoreline Master Programs

Until about 40 years ago, development in Washington’s shoreline areas tended to be piecemeal and uncoordinated. To improve and protect state shoreline areas, the Washington Legislature passed the state Shoreline Management Act in 1971. The public adopted the Act in a 1972 referendum vote.

To regulate shoreline development, the state law established a cooperative relationship between local governments and the Washington Department of Ecology (Ecology). The Shoreline Management Act applies to rivers, lakes greater than 20 acres, and marine waterfronts as well as associated shorelands, wetlands, and floodplains. The law has three main purposes:

- Encourage reasonable and orderly development of shorelines, with an emphasis on water-dependent and related uses that control pollution and prevent damage to the natural environment.
- Protect the natural character of Washington shorelines, the land, vegetation, wildlife, and shoreline environment.
- Promote public access and provide opportunities to enjoy views and recreational activities in shoreline areas.

“Shoreline master programs” are the cornerstone for carrying out the Shoreline Management Act. Under state law, Washington’s 266 towns, cities and counties that have shoreline areas covered under the Act must develop these individual, locally-tailored programs to guide construction and development in regulated shoreline areas.



Dungeness Spit in the Strait of Juan de Fuca.

Q: What do shoreline master programs do?

A: Development of each shoreline master program begins with an inventory and analysis of all shoreline areas in a given jurisdiction. Shoreline master programs help local governments avoid or lessen environmental damage as shoreline areas are developed. Based on current conditions and long-term needs, shoreline master programs reserve appropriate areas for water-oriented uses. They promote public access opportunities. Master programs include requirements for new development to stay well away from flood, landslide, erosion hazard and wetland areas. They are more than simply plans. A master program combines local plans for future shoreline development and identifies areas appropriate for restoration and preservation. They include statewide as well as local policies and related specific permitting requirements.

Q: Why are shoreline master programs important?

A: Shorelines are where the land meets state waters. If we ever hope to restore and protect state shoreline areas – including Puget Sound – at the same time we accommodate necessary and appropriate new development, we must be sure to manage our limited shoreline resources wisely. Whenever we build in our shoreline areas, we transform a unique and precious aspect of our natural environment. We clear native vegetation, build bulkheads, armor shoreline banks, and put in driveways, roads, roofs and other impervious surfaces. This development often has negative effects on our environment. Shoreline master programs are critical because they establish each community's goals for its shoreline areas and implement policies and regulations to:

- Help protect water quality for our marine waters, lakes and stream systems.
- Increase protection of lives and property from flood and landslide damage.
- Protect critical habitat as well as fish and wildlife.
- Promote recreational opportunities in shoreline areas.

Local Governments: Roles and responsibilities**Q: Why do local governments have to update their shoreline master programs?**

A: In 2003, the state Legislature set up a timetable for local governments to update local shoreline master programs. Most haven't done so comprehensively since the mid 1970s. Since voters passed the Act in 1972, Washington's statewide population nearly doubled from about 3.4 million to 6.5 million people. The old shoreline master programs need review, updated to address



current conditions, consider new science, and better align with other related laws. An effective shoreline master program update will reduce unsustainable development and provide shoreline land owners with a clearer set of standards.

Q: What economic and legal benefits do communities gain by updating their shoreline master programs?

A: Shoreline master programs help communities save time and money by integrating their shoreline programs with other existing land use and resource protection instruments such as local Comprehensive Plans and critical areas ordinances. Local governments will get economic benefits from integrating their shoreline master programs with port development plans, park and trail system development, watershed management, and salmon recovery plans. Communities also benefit economically because shoreline master programs:

- Protect lives, property, and tax expenses by keeping development from occurring in unstable or unsafe areas.
- Help towns, cities, and counties realize their vision for future waterfront development and uses.
- Allow appropriate new development to occur in the shoreline areas.
- Provide more certainty to the development community through shoreline building ordinances and permitting requirements.
- Avoid costly restoration of degraded shorelines in the future.

Q: What is the role of local governments in shoreline management?

A: Local governments are responsible for starting the shoreline master program planning, deciding which areas are in shoreline jurisdiction, analyzing the present uses and long-term needs for waterfront lands, and locally adopting a shoreline master program. Local governments must consult with other agencies, tribal governments, and all individuals interested in developing their shoreline master programs. Once adopted, local government is the shoreline master program administrator. The local government reviews new development proposals and uses the permit system to decide what is consistent with state law and the local program.

Q: Is the public involved in developing shoreline master programs?

A: The state Shoreline Management Act requires people representing different community interests develop local shoreline programs and permit processes. These interests usually include shoreline property owners, developers, businesses, environmental and conservation groups, recreation organizations, Indian tribes, farmers and agricultural interests, and local and state governments.



Q: Who approves local shoreline master programs?

A: Each local government approves its program after a public review and comment period. Then local government sends the shoreline master program to Ecology, who reviews it for consistency with state guidelines. Ecology must approve the locally approved and submitted master program, before it takes effect. To ensure respect for private property rights, local and state legal authorities are required to review a shoreline program before formal adoption.



Homes destroyed in 1997 Perkins Lane landslide on Magnolia Bluff in Seattle

Q: Who pays to have a local master program updated?

A: The Shoreline Management Act requires the state to provide “reasonable and adequate” funding for shoreline master program updates. Ecology gives the money provided by the Legislature to local governments in the form of grants. For the current budget cycle (from July 1, 2009, through June 30, 2011), state lawmakers authorized \$7.5 million in grants to jurisdictions in Clark, Clallam, Island, King, Kitsap, Mason Pierce, San Juan, Skagit, and Snohomish counties to update their shoreline master programs.

Q: How is each grant amount determined?

A: Ecology determines each jurisdiction’s grant award based on a number of factors. The department considers past levels of funding provided to local jurisdictions for shoreline master program updates to date. Ecology also looks at:

- Miles of shoreline in each jurisdiction
- Number and complexity of kinds of shoreline (marine, streams and rivers, and lakes)
- Population
- Area
- Growth rate

Q: What if a local government doesn’t want to update its shoreline master plan?

A: Ecology is required by law to prepare and adopt master program updates for any local jurisdiction that fails to update prior to the deadline established in the law. In that case, much of the opportunity for local determination of how to regulate shoreline areas would be reduced.

Q: What if a local government can’t get their update done by Dec. 1, 2014?

A: Once a jurisdiction has received a grant from Ecology to help them update their Shoreline Master Program, they have three years to locally adopt and submit the completed update to Ecology for approval.



Guidelines, Funding and Review: Ecology's role

Q: What is Ecology's role in the shoreline master program process?

A: Ecology provides state guidelines to local jurisdictions outlining the essential elements their individual shoreline master programs must address. Ecology provides financial support technical assistance, guidance materials and regular training in support of local updates.

Q: What is the purpose of Ecology's 2003 Shoreline Management Act guidelines?

A: The guidelines set minimum procedural and substantive standards for local governments updating their programs. Ecology and state Growth Management Hearings Boards also use the guidelines to review and approve local shoreline master program updates. The 2003 guidelines now in place resulted from a negotiated settlement between business interests, ports, environmental groups, shoreline user groups, cities and counties, Ecology, and the courts. Also in 2003, the state legislature provided funding and established a mandatory schedule for local shoreline program updates through 2014.

Q: What types of action can Ecology take when it receives an updated shoreline program?

A: After Ecology reviews the local program to determine if it complies with state guidelines requirements, the department can approve it as submitted by the local jurisdiction, approve it with changes, or reject it. Once Ecology approves a local shoreline master program, it becomes part of the statewide shoreline "master" program. At that point, local jurisdictions are responsible for carrying out shoreline development ordinances and deciding how the code applies to individual projects.

Q: Why is it important for local governments to get Ecology's approval?

A: The Legislature appointed Ecology responsible for ensuring statewide policies are upheld and implemented when local shoreline master programs are adopted. Under the Shorelines Management Act, a locally approved program must meet state guidelines. Once an updated program receives approval at the local and state levels, the state becomes a full partner in defending any legal challenges to the updated program.

Legal Issues

Q: Aren't requirements for shoreline vegetation buffers a "taking" of private property rights?

A: 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. In most cases, 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.



Q: Hasn't Whatcom County's Shoreline Master Program been challenged and overturned in court?

A: No. A local developer and the Building Industry Association of Whatcom County took Whatcom County and Ecology to court and lost on all issues except one. All other issues addressed by the Western Washington Growth Management Hearings Board, and in a separate Skagit County Superior Court case, were found in Whatcom County and Ecology's favor. The issue the Board found in the appellant's favor was "despite critical areas being originally approved through a county critical areas ordinance public process, they need to be revisited and justified if incorporated into an updated shoreline master program."

The Western Washington Growth Management Hearings Board ruled:

- Ecology's approval of the shoreline master program was valid as originally approved on August 8, 2009.
- The public process was proper and legally correct.
- The county's inventory and analysis supported the designation of all marine near shore areas, streams, and lakes as critical areas.
- The issue challenging the required 100 to 150 foot buffers was dismissed.

The Skagit County Superior Court found:

- The shoreline master program is not subject to certain statutory limitations on the regulation of development because shoreline master programs constitute state, not merely local, regulations.

Q: We keep hearing that "junk science" is being used, our property rights are being stolen, and that our land is being condemned. Is this true?

A: Unfortunately, some people are worried and angry at times based on misinformation about how buffer zones or shoreline regulations would affect their property values. Many exaggerated claims have been made about how shoreline master programs will affect what they can and can't do on their property. The Shoreline Management Act requires local and state government to include the views of all interested persons in developing shoreline master program goals, policies, and regulations. We encourage open and honest dialogue with all stakeholders to develop strong shoreline programs supported by the best, sound science.

Property Issues

Q: Won't buffers and other shoreline regulations decrease my property values?

A: 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.

Q: Is it true if my house burns down I can't rebuild it in the same location?

A: No. Each local jurisdiction may modify their approach to this issue but, generally, a "grandfathered" house that burns down can be re-built in the same footprint. The exception would be if the existing location was dangerous or unsafe for building such as on a failing bluff.

Q: Whatcom County updated its shoreline master program in 2008. Have property owners applying for improvements such as new additions and garages run into any problems?

A: Since Whatcom County adopted its updated shoreline program, the county has received 20 applications to make building improvements. These building permits received approval and were issued in a timely manner. No decisions have been appealed.

Q: Could updating the local shoreline master program require me to tear down my existing shoreline structure?

A: No. Updating a local shoreline program only applies to development occurring after adoption. There are no retroactive shoreline master program requirements.

Q: Will waterfront property owners still be able to protect their property with a bulkhead under an updated shoreline master program?

A: If property owners can clearly demonstrate a need exists, they can use an approach that has the least impact on the natural shoreline.

Q: Will homeowners face more limits on building new docks?

A: That depends on the local circumstances and the choices made locally about how a community wants its future shoreline to look. If new docks can be shown not to harm the natural shoreline they can be allowed.

Q: Could there be limits on repairing houses, barns, fences, bulkheads, docks or other structures?

A: Provisions in state law allow the repair and maintenance of existing, lawful constructed structures. State shoreline guidelines allow repair and maintenance of existing structures, subject to any building requirements imposed separately by local jurisdictions.



Bulkheads, Sea Walls and Armoring

Q: What is hard armoring? What are its impacts on the shoreline?

A: The natural character of shorelines and many organisms living there depend on a continuous and uninterrupted relationship between upland areas and the water. Beaches depend on erosion to supply sand and gravel. Hard armoring interrupts this natural relationship. Property owners use hard armoring to protect an owner's preference for how the waterfront edge should look or limit property loss by erosion. Armoring prevents the supply of new material for beach formation and disturbs other ecological functions.

Q: What is soft armoring? What are its impacts on the shoreline?

A: There are many ways to slow the rate of erosion that are less disruptive than hard armoring. Soft armoring approaches often use a combination of less rigid structural materials and native vegetation to stabilize the shoreline. Placing large logs or native vegetation along the shoreline, for example, can serve as a natural break for waves while simultaneously providing some habitat value.

No Net Loss and Restoration

Q: What is “no net loss” of ecological or environmental functions?

A: 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.

Q: Do the new guidelines require restoration?

A: Local governments must plan for restoration in their shoreline master programs. Restoration is not a direct requirement for private development. Local government must consider its restoration needs, identify resources available to conduct restoration, prioritize restoration actions, and make sure development activities don't interfere with planned restoration efforts in the community and vice versa. A shoreline master program may include incentives for developers to invest in shoreline restoration.

Q: Why are some “conservancy” or “urban” shoreline areas being designated “natural?”

A: State guidelines establish criteria specifying that if an area meets those criteria, they should be thus designated. This is an important part of achieving the broad policy objective of “no net loss.”



Agricultural Issues

Q: How do Shoreline Master Programs apply to farms / agriculture?

A: A 2002 state law requires when local shoreline programs are updated, the new standards, setbacks and buffers do not apply retroactively to existing agricultural development. Updated shoreline program requirements will however apply to new agricultural activities located in shoreline areas and where agricultural activities are converted to other uses. Local governments will need to be aware of this requirement when updating their master programs. Agricultural interests represented in the negotiations agreed with this approach.

Other Shoreline-Related Issues

Q: Why are critical areas ordinances often incorporated into local shoreline program updates?

A: A recent state Supreme Court decision (*Futurewise v. Anacortes*) decided that the shoreline master program solely regulates the shorelines and critical areas covered by the program, once Ecology approves it. Many existing master programs contain buffer requirements but are based on outdated conditions and science. Rather than repeat the work local governments have already done developing their critical areas ordinances under the state Growth Management Act, relevant portions of existing critical areas ordinances may be placed in updated shoreline master programs under the Shoreline Management Act.

Q: What are differences between critical areas ordinances and shoreline master programs?

A: Local governments and Ecology implement the Shoreline Management Act using locally-tailored Shoreline Master Programs. Local governments implement critical areas ordinances under the authority of the state Growth Management Act. The two laws have many similar requirements for environmental protection but they are administered with different kinds of regulatory procedures. The two laws also have many similar and some different objectives for dealing with future land use and development. Integrating Growth Management and Shoreline Management Act goals, policies, and regulations is required but often difficult to accomplish.

Q: Do the rules surrounding “best available science” apply to shoreline master programs?

A: No. Current science is the basis for shoreline master programs while “best available science” is a term from the state Growth Management Act, and does not apply to shoreline master programs. Shoreline management requires use of the “most current, accurate and complete scientific and technical information” as the basis for decision making.

Q: What is Ecology’s role in developing and providing wetlands guidance to local governments?

A: Local governments and the state Department of Commerce implement the GMA. Ecology, however, has expertise in managing and protecting wetlands. We knew most local governments didn’t have the resources to develop a science-based standard for protecting wetlands. To help local governments meet GMA requirements without reinventing the wheel, Ecology got a federal grant in 2002 and spent three years crafting wetlands guidance. We scanned over 15,000 scientific articles and summarized another 1,000 related to protecting and managing wetlands. Ecology continues to provide this guidance and technical assistance, as applicable wetland regulations are updated all across the state.



Contact information:

Peter Skowlund

(360) 407-6522

peter.skolund@ecy.wa.gov

Jeff Stewart

(360) 407-6521

jeff.stewart@ecy.wa.gov

Special accommodations:

To ask about the availability of this document in a version for the visually impaired call the Shorelands and Environmental Assistance program at 360-407-7291. Persons with hearing loss, call 711 for Washington Relay Service. Persons with a speech disability, call 877-833-6341.

