

Part VII: Administration

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14.26.700 Purpose

- (1) RCW 90.58.140(3) requires local governments to establish a Program, consistent with the rules adopted by the Washington Department of Ecology, for the administration and enforcement of shoreline development. Also, in accordance with RCW 90.58.050, which provides that this Program is intended to establish a cooperative program between Skagit County and the State, Skagit County has the primary responsibility for administering the regulatory program and Ecology acts primarily in a supportive and review capacity.
- (2) The application of this Master Program is intended to be consistent with constitutional and other legal limitations on the regulation of private property. The Administrative Official must give adequate consideration to mitigation measures, dimensional variances, and other possible methods to prevent undue or unreasonable hardships upon property owners.

14.26.710 Applications

- (1) Procedures. Applications are processed pursuant to SCC 14.06, Permit Procedures, as now adopted or hereafter amended. Where this Part requires additional procedures, additional public notice, or different timelines, the provisions of this Part control.

- (2) Application Level. Shoreline applications are classified as follows:

Shoreline Permit Type	Application Level
Substantial Development Permit	Level I
Substantial Development Permit Letter of Exemption	Level I
Conditional Use Permit	Level II
Variance, Administrative	Level I
Variance, Hearing Examiner	Level II

- (3) Contents. The contents of permit applications must be consistent with SCC 14.06.090, Contents of Application, and WAC 173-27-180.

(a) Where this Master Program requires more information than the minimum required by WAC 173-27-180, the Administrator may vary or waive requirements beyond WAC 173-27-180 if the information is unnecessary to process the application.

(b) The Administrator may require additional specific information if required by the nature of the proposal or the presence of sensitive ecological features, to ensure compliance with other local requirements or the provisions of this Master Program.

- (4) Fees. At the time of application, the applicant must pay the application fee.

14.26.715 Permits

- (1) Initiation of Development.

(a) As set forth in WAC 173-27-190, each Substantial Development Permit, Conditional Use Permit, or variance, issued by local government must contain a provision that construction pursuant to the permit may not begin and is not authorized until twenty-one days from the date of filing as defined in RCW 90.58.140(6) and WAC 173-27-130, or until all review proceedings initiated within twenty-one days from the date of such filing have terminated; except as provided in RCW 90.58.140(5)(a) and (b).

- (2) Complete Compliance Required. Except as specified in SCC 14.26.820, Revisions to Permits, the applicant must comply with all aspects of an approval granted under this Chapter, including conditions and restrictions.

- (3) Time Limits. Construction and activities authorized by a Shoreline Substantial Development Permit are subject to the time limitations of WAC 173-27-090.

- (4) Effective date. [Consolidated effective date section here.]

- (5) Notice. [Consolidated notice to parties of record section here.]

14.26.720 Substantial Development Permits

- (1) Purpose. A Shoreline Substantial Development Permit is required for all development of shorelines, unless the proposal is specifically exempt per SCC 14.26.760, Permit Exemptions.
- (2) Review Criteria. A Substantial Development Permit may be granted only when the development proposed is consistent with the following:
 - (a) the policies and procedures of the Shoreline Management Act;
 - (b) the provisions of WAC 173-27; and
 - (c) this Master Program.
- (3) Skagit County may attach conditions to the approval of permits as necessary to ensure consistency of the project with the Act and this Master Program.
- (4) Filing. Pursuant to WAC 173-27-130, after a final decision on a Substantial Development Permit, the Administrative Official must submit the permit to the Department of Ecology.

14.26.730 Conditional Use Permits

- (1) Purpose. The purpose of a Conditional Use Permit is to provide flexibility in authorizing uses in a manner consistent with RCW 90.58.020. Accordingly, special conditions may be imposed to prevent undesirable effects of the proposed use and ensure consistency of the project with the Act and this Master Program.
 - (a) Uses that are not classified, listed, or set forth in this Master Program may be authorized as conditional uses provided the applicant can demonstrate consistency with the requirements of this section and the requirements for conditional uses contained in this Master Program.
 - (b) Uses that are specifically prohibited by this Master Program may not be authorized as a conditional use.
- (2) Review Criteria. A Shoreline Conditional Use Permit may be granted only if the applicant can demonstrate all of the following:
 - (a) That the proposed use will be consistent with the policies of RCW 90.58.020, WAC 173-27-160, and the policies of this Master Program;
 - (b) That the proposed use will not interfere with the normal public use of public shorelines;

- (c) That the proposed use of the site and design of the project is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and this Master Program;
 - (d) That the proposed use will result in no significant adverse effects or a net loss to the shoreline environment in which it is to be located;
 - (e) That the public interest will suffer no substantial detrimental effect; and
 - (f) That the proposed use will not result in substantial adverse effects or net loss of shoreline ecosystem functions and that consideration has been given to the cumulative impact of additional requests for like actions in the area.
- (3) Final decision by Ecology. Pursuant to WAC 173-27-200, after a County approval of a Conditional Use Permit application, the Administrator must submit the permit to the Department of Ecology for its approval, approval with conditions, or denial.
 - (4) Notice. Upon receipt of the Department of Ecology's decision, the Administrator must notify those interested persons who requested notification of such decision.

14.26.740 Permit Revisions

- (1) Revisions to approved shoreline permits are required whenever an applicant proposes substantive changes to the design, terms, or conditions of a project from that which is stipulated within the permit. Changes are substantive if they materially alter the project in a manner that relates to its conformance to the terms and conditions of the permit, the Shoreline Master Program and/or the policies and provisions of chapter 90.58 RCW. Changes which are not substantive in effect do not require approval of a revision.
- (2) To revise a permit, the applicant must submit detailed plans and text describing the proposed changes.
 - (a) Applications for a shoreline permit revision must follow the procedures for a Level 1 development application pursuant to SCC Chapter 14.06, except as otherwise provided in this Section.
 - (b) Applications for a shoreline permit revision must provide for the following:
 - (i) The information as stipulated within SCC 14.26.770 Permit Applications, provided the Shorelines Administrator may waive submittal elements that are not subject to the revision.
 - (ii) Issuance of a Notice of Application and provisions for a Comment Period are not required for a shoreline revision.

- (3) Criteria for Approval. The Administrator must determine that the proposed revision is within the scope and intent (as defined in WAC 173-27-100(2)) of the original permit, and the revisions are consistent with the applicable Master Program provisions and the Shoreline Management Act, prior to approving a shoreline permit revision.
- (4) Should the Administrator determine the proposed revisions are not consistent with the approval criteria; a new permit is required.
- (5) The shoreline permit revision process must not be used to extend the time requirements or to authorize substantial development beyond the time limits of the original permit; provided, if the sum of the revision and any previously approved revisions violate the provisions in subsection (3) of this section or WAC 173-27-100, the responsible local government must require that the applicant apply for a new permit.
- (6) Filing. The revision approval, including the revised site plans and text consistent with the provisions of WAC 173-27-180 as necessary to clearly indicate the authorized changes, and the final ruling on consistency with this section must be filed with the Washington State Department of Ecology.
 - (a) If the revision to the original permit involves a conditional use or variance, the responsible local government must submit the revision to Ecology for the department's approval, approval with conditions, or denial, and must indicate that the revision is being submitted under the requirements of this subsection.
- (7) Notice. The Administrative Official must notify all parties of record of the revision.
- (8) The revised permit is effective immediately upon final decision by the responsible local government or, when appropriate under subsection (7) of this section, upon final action by the Department of Ecology.
- (9) Appeals must be in accordance with RCW 90.58.180 and must be filed within twenty-one days from the date of receipt of the responsible local government's action by the department or, when appropriate under subsection (7) of this section, the date the department's final decision is transmitted to local government and the applicant. Appeals must be based only upon contentions of noncompliance with the provisions of subsection (3) of this section. Construction undertaken pursuant to that portion of a revised permit not authorized under the original permit is at the applicant's own risk until the expiration of the appeals deadline. If an appeal is successful in proving that a revision is not within the scope and intent of the original permit, the decision must have no bearing on the original permit.

14.26.750 Shoreline Variances

- (1) Purpose. The purpose of a variance is to grant relief from specific bulk, dimensional, or performance standards set forth in this Master Program where there are extraordinary or unique circumstances relating to the property such that the strict implementation of this Master Program would impose unnecessary hardships on the applicant or thwart the policies set forth in RCW 90.58.020.
 - (a) Variances should be granted in circumstances where denial of the permit would result in a thwarting of the policies enumerated in RCW 90.58.020.
 - (b) Variances from the use regulations of the Master Program are prohibited.
- (2) Review Criteria.
 - (a) Pursuant to WAC 173-27-170(2), for development or a use to be located landward of the OHWM, or landward of any wetland as defined in RCW 90.58.030(2)(h), a variance may be authorized if the applicant can demonstrate all of the following:
 - (i) That the strict application of the bulk, dimensional, or performance standards set forth in the Master Program precludes, or significantly interferes with, reasonable use of the property;
 - (ii) That the hardship described in criterion (i) of this subsection is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size, or natural features and the application of the Master Program, and not, for example, from deed restrictions or the applicant's own actions;
 - (iii) That the design of the project is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and this Master Program and will not cause adverse impacts to the shoreline environment;
 - (iv) That the variance will not constitute a grant of special privilege not enjoyed by the other properties in the area;
 - (v) That the variance requested is the minimum necessary to afford relief; and
 - (vi) That the public interest will suffer no substantial detrimental effect.
 - (b) Pursuant to WAC 173-27-170(3), for development or a use to be located waterward of the OHWM, or within any wetland as defined in RCW 90.58.030(2)(h), a variance may be authorized if the applicant can demonstrate all of the following:

- (i) That the strict application of the bulk, dimensional, or performance standards set forth in the applicable master program precludes all reasonable use of the property;
 - (ii) That the proposal is consistent with the other review criteria of paragraph (a) above; and
 - (iii) That the public rights of navigation and use of the shorelines will not be adversely affected.
- (3) Cumulative impacts. Pursuant to WAC 173-27-170, in the granting of all variances, consideration must be given to the cumulative impact of additional requests for like actions in the area. For example, if variances were granted to other developments or uses in the area where similar circumstances exist, the total of the variances must also remain consistent with the policies of RCW 90.58.020 and must not cause substantial adverse effects to the shoreline environment.
- (4) Final decision by Ecology. Pursuant to WAC 173-27-200, after a County approval of a variance application, the Administrator must submit the variance to the Department of Ecology for its approval, approval with conditions, or denial.

(5) [Insert reference to pre-existing structures; link to other section.]

14.26.760 Permit Exemptions

- (1) Purpose. Some development, such as construction of a single-family residence or development less than a specified dollar threshold, is categorically exempt from the requirement to obtain a Shoreline Substantial Development Permit. Permit-exempt development must still comply with the substantive regulations of the Act and this Master Program.
- (2) Permit Exemptions.
- (a) A development listed in WAC 173-27-040 or RCW 90.58.030 (3)(e), 90.58.140(9), 90.58.147, 90.58.355, or 90.58.515 is exempt from the requirement to obtain a Substantial Development Permit.
- (i) Pursuant to WAC 173-27-040(1)(d), if any part of a proposed development is not eligible for exemption, then a Shoreline Substantial Development Permit is required for the entire proposed development project.
 - (ii) Pursuant to WAC 173-27-040(1)(b), exemption from the permit requirement is not an exemption from the substantive regulatory requirements of the Act or this Master Program.

(3) Letter of Exemption.

- (a) A letter of exemption is required for all development qualifying for a permit exemption.
- (b) Content of letter of exemption. Consistent with WAC 173-27-050, a letter of exemption must contain the following:
 - (i) the specific exemption provision from WAC 173-27-040 that is being applied to the development;
 - (ii) a summary of the County's analysis of the consistency of the project with this Master Program and the Act;
 - (iii) any conditions to the approval of an exemption that the Administrative Official determines are necessary to ensure consistency of the project with this Master Program and the Act; and
 - (iv) a statement that the exemption is not effective unless and until the applicant obtains all other necessary local, state, and federal permits.
- (c) Pursuant to WAC 173-27-050, for any project qualifying for a permit exemption that requires a Federal Rivers & Harbors Act §10 permit, Federal Clean Water Act §404 permit, or State Hydraulic Project Approval, the Administrative Official must transmit the permit exemption letter to the Department of Ecology.

(4) Application and Interpretation of Exemptions

- (a) Pursuant to WAC 173-27-040(1)(a), permit exemptions are construed narrowly. Only a development that meets the precise terms of one or more of the listed exemptions is exempt from the Shoreline Substantial Development Permit process.
- (b) Pursuant to WAC 173-27-040(1)(c), the burden of proof that a development or use is exempt from the permit process is on the applicant.
- (c) A development or use that qualifies for a permit exemption must still obtain any required Shoreline Conditional Use Permit or Shoreline Variance.

14.26.770 Monitoring

- (1) The Administrative Official must track all shoreline permits and exemption activities to evaluate whether the Master Program is achieving no net loss of shoreline ecosystem function.

- (2) Project monitoring is required for individual restoration and mitigation projects consistent with the Shoreline Critical Areas Regulations (SCC Chapter 14.26, Part V: Critical Areas Regulations in Shoreline Jurisdiction).
- (3) In addition, Skagit County must conduct systemwide monitoring of shoreline conditions and development activity that occur in shoreline jurisdiction outside of critical areas and their buffers, whenever practical. Such monitoring should include permit tracking of development, conservation, restoration, and mitigation, such as:
 - (a) new shoreline development;
 - (b) Shoreline Variances and the nature of the variance;
 - (c) compliance issues;
 - (d) net changes in impervious surface areas, including associated stormwater management;
 - (e) net changes in fill or armoring;
 - (f) net change in linear feet of levee and/or distance between OHWM and any levees;
 - (g) net changes in vegetation (area, character).
- (4) Using this information and information about the outcomes of other actions and programs of the other County departments, the Administrative Official must prepare a no-net-loss report every eight years as part of the Master Program evaluation or Comprehensive Plan Amendment process. If the no-net-loss report shows degradation of the baseline condition documented in the County's Shoreline Analysis Report (2012), the Administrative Official must propose changes to the Master Program, or Shoreline Restoration Plan, or both, at the time of the eight-year update to prevent further degradation and address the loss of ecological function.

14.26.780 Enforcement

Whenever a person has violated any provision of the Act, any provision of this Master Program, or any other regulation promulgated under the Shoreline Management Act, Skagit County may take enforcement action pursuant to SCC 14.44, Enforcement/Penalties, consistent with RCW 90.58.210-230 and WAC 173-27-240 through 310. The Department of Ecology may also take enforcement action pursuant to WAC 173-27-240 through 310.

14.26.790 Interpretations

- (1) The Administrative Official may issue interpretations of this Master Program consistent with SCC 14.06.040, Administration and Interpretation.

- (2) The Administrative Official must consult with Ecology to ensure that any formal written interpretations are consistent with the purpose and intent of chapter 90.58 RCW and 173-26 WAC.