

## **CHAPTER 9 PROCEDURES**

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### **9.01 Substantial Development Permit Application**

1. Any person wishing to undertake substantial development on shorelines shall apply to the Administrator for a substantial development permit.
2.
  - a. Any person wishing to undertake development on shorelines where such development is deemed by the applicant and/or Administrator to be uncertain regarding qualification for permit exemption, shall obtain a statement of exemption from the Administrator.
  - b. No landfill, dredging, shoreline stabilization and flood protection work, or shore defense work other than emergency work shall commence until a statement of exemption has been obtained.

### **9.02 Criteria for Granting Permits**

1. Upon the effective date of this program, a shoreline substantial development permit or a statement of exemption shall be granted only when the proposed development is consistent with:
  - a. Policies and regulations of the Skagit County Shoreline Master Program; and
  - b. Applicable policies enumerated in RCW 90.58.020 in regard to shorelines of the state and shorelines of statewide significance; and

- c. Regulations adopted by the Department of Ecology pursuant to the Act (WAC 173-14).
2. Burden of Proof - The burden of proving that the proposed development is consistent with the above (paragraph 1) shall be on the applicant.

### **9.03 Fees**

1. A filing fee in an amount established by the Board shall be paid to the Skagit County Permit Center at the time of application.

### **9.04 Notice of Application**

Procedures for notification of application for a shoreline permit shall follow those established by WAC 173-14-070, stated below:

Upon receipt of a proper application for a shoreline management substantial development permit, the county shall ensure that notices thereof are published at least once a week on the same day of the week for two consecutive weeks in a newspaper of general circulation within the area in which the development is proposed. In addition, the county shall ensure that additional notice of such application is given by at least one of the following methods:

1. Mailing to the latest recorded real property owners as shown by the county assessor within at least three hundred (300) feet of the boundary of the property upon which the substantial development is proposed.
2. Posting in a conspicuous manner on the property upon which the project is to be constructed, or
3. Any other manner deemed appropriate by local authorities to accomplish the objectives of reasonable notice to adjacent landowners and the public. Such additional notice shall be given or mailed at least thirty (30) days before the date of final local action. An affidavit or publication that the notice has been properly published and/or as applicable, posted or deposited in the U.S. mail pursuant to this section shall be affixed to the application. Within thirty (30) days of the final publication, posting or mailing of the notice, whichever comes last, any interested person may submit his written views upon the application to the county or notify

the county of his desire to receive a copy of the action taken upon the application. All persons who so submit their views and all others who so notify the county, shall be notified in a timely manner of the action taken upon the application.

**9.05 Application Review - Planning Commission**

1. The Skagit County Planning Commission shall consider applications and make recommendations regarding permits, based upon:
  - a. The policies and procedures of the Act and the Master Program.
2. The Planning Commission shall review an application for a permit based on the following: the application; the environmental impact statement, if one has been prepared, or environmental checklist; written comments from interested persons; information and comment from other county departments affected and from the Prosecuting Attorney; independent study of the Planning Department; and evidence presented at the public hearing, if any, held pursuant to provisions of Section 9.08 of this program. The Planning Commission may require that an applicant furnish information in addition to the information required in the application forms prescribed. Unless an adequate environmental impact statement has previously been prepared for the proposed development by another agency, the Planning Commission shall cause to be prepared such a statement, prior to ruling on an application for a permit, when the project being applied for constitutes a major action significantly affecting the quality of the environment under the State Environmental Policy Act of 1971, as amended.
3. The Planning Commission shall transmit its recommendations in writing to the Board within a reasonable time after the required thirty (30) day notice period and public hearing.
4. The burden shall be on the applicant to prove that the proposed development is consistent with the criteria set forth in this section of this program.

**9.06 Application Review - Hearing Examiner**

1. The Skagit County Hearing Examiner shall consider applications for shoreline substantial development, conditional use and variance permits and shall make

decisions regarding permits based upon the Skagit County Shoreline Management Master Program and the policies and procedures of the Shoreline Management Act.

2. The Hearing Examiner shall review an application for a permit based on the following: the application, the environmental impact statement, if one has been prepared, or the environmental checklist; information and comments from other interested persons; information and comments from other county departments affected and from the Prosecuting Attorney; independent studies of the Planning Department; and, the evidence presented at the public hearing.
3. The Hearing Examiner shall render a written decision on all applications, including findings, conclusions and a final order.
4. The decision of the Hearing Examiner may be appealed to the Board of County Commissioners by so notifying the Administrator in writing within five (5) days from the date of the Examiner's decision.

**9.07 Public Hearings - Hearing Examiner**

1. At least one public hearing shall be held by the Hearing Examiner for all shoreline substantial development, conditional use or variance permit applications, PROVIDED the Hearing Examiner may refer applications to the Planning Commission if, for any reason, he believes the public interest would be better served by a public hearing before that body and a final decision by the Board of County Commissioners.

**9.08 Public Hearings - Planning Commission**

1. At least one public hearing shall be held by the Planning Commission for shoreline substantial development, conditional use or variance permit applications when such applications are referred to the Commission by the Hearing Examiner in accordance with Section 9.07 of this Chapter.

**9.09 Board of County Commissioners**

1. Upon receipt of the recommendation from the Planning Commission, if the Board is in agreement with the findings and conclusions of the Planning Commission, it shall prepare a final order based on said findings and conclusions. If the Board is in disagreement with any or all of the findings and conclusions of the Planning Commission, it shall enter its own findings and conclusions and order based upon the following: application, the environmental impact statement, if one has been prepared or environmental checklist; written comments from interested persons; testimony from the public hearing, information and comment from other county departments affected and from the Prosecuting Attorney; independent study of the Planning Department. Said findings and conclusions set forth the manner in which the decision is consistent with the criteria set forth in Section 9.08 of this program.
2. The decision of the Board shall be the final decision of the county on all applications and the Board shall render a written decision including findings, conclusions and a final order, and transmit copies of its decision to the persons who are required to receive copies of the decision pursuant to Section 9.04 of this program.
3. The Board shall hear appeals from decisions of the Hearing Examiner in accordance with Sections 9.11 and 13.01 of this Master Program.

#### **9.10 State Review**

Development pursuant to a substantial development, conditional use or variance permit shall not begin and shall not be authorized until thirty (30) days from the date the Board files the approved substantial development, conditional use or variance permit with the Department of Ecology and Attorney General, or until all review proceedings initiated within thirty (30) days of the date of such filing have been terminated. See RCW 90.58.140 as amended and WAC 173-14-120 as amended.

#### **9.11 Appeals**

Any person aggrieved by the granting or denial of a statement of exemption or shoreline permit application may take action to appeal such decision pursuant to Chapter 13, Legal Provisions, this program.

**9.12 Permit Reapplication**

For shoreline permits denied by the Board, reapplication for the same or essentially similar development may be made no sooner than one year after the date of denial.

**9.13 Permit Modification, Rescission**

A person operating under a current shoreline substantial development, conditional use or variance permit may apply to the Administrator for modifications to the permit or, the Board, Hearing Examiner or Administrator may require modification of a permit if there is evidence of noncompliance with the existing permit. In either case, the following procedure shall apply:

- a. The Administrator shall determine if the modifications are “significant” or “insignificant” changes to the scope and intent of the original permit, current operations, the shoreline environment and any conditions attached to the permit.
- b. If said modifications are determined to be "significant", a new and complete permit application shall be made in compliance with the Act and this program.
- c. If said modifications are determined to be "insignificant", i.e., within the scope and intent of the original permit, the Hearing Examiner or Board shall review and approve the revision. The revised permit shall become effective immediately. The approved revision along with copies of the revised site plan and text, shall be submitted by certified mail to the Department of Ecology Regional Office, the Attorney General and to persons who have previously notified the county relative to the original application.
- d. Appeals shall be in accordance with RCW 90.58.180 and shall be filed within 15 days from date of certified mailing. The party seeking review shall have the burden of proving the revision granted was not within the scope and intent of the original permit.

- e. If the Administrator, Hearing Examiner or Board determines that there exists noncompliance with a shoreline substantial development, conditional use or variance permit and/or any conditions attached thereto, or any revisions and modifications, then the Administrator, Hearing Examiner or Board shall issue notice of noncompliance on the permittee and move to rescind the shoreline permit.

#### **9.14 Amendments to the Master Program**

1. A proposed amendment to the Master Program and/or Shoreline Area Designation Map shall follow the process required in WAC 173-19, including legal notices, public hearings and final action by the Board.
2. The Board, Commission or Administration may initiate an amendment to this program according to the procedures prescribed in WAC 173-19. The Commission shall conduct a public hearing on amendments proposed by the Board or Administrator.
3. Any person may petition the Administrator to amend this program. Petitions shall specify the changes requested and any and all reasons therefore. The Administrator may schedule a public hearing on said petition(s) if it is deemed the proposed amendment would make this program more consistent with the Act and/or any applicable Department of Ecology guidelines, or more equitable in its application to persons or property.
4. Three years from the effective date of this program, the Administrator shall submit a report to the Commission and the Board reviewing the effectiveness of the program in achieving its stated purpose, goals and objectives and to what extent the 1972 Skagit County Shoreline Inventory requires updating and/or republication. Such report may also include any proposed amendments deemed necessary to increase program effectiveness or equity. If said report contains proposed amendments, the Administrator may schedule a public hearing to consider such matters in accordance with the procedure prescribed in subsection 2 above.

5. A filing fee in an amount established by the Board shall be paid to the Planning Department at the time the petition for amendment is submitted to the Administrator.