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Introduction

THE WASHINGTON STATE SHORELINE MANAGEMENT ACT

- The goal of the Washington State Shoreline Management Act (SMA) is “to prevent the inherent harm in an uncoordinated and piecemeal development of the state’s shorelines,” and the Act recognizes that “shorelines are among the most valuable and fragile” of the state’s resources.¹
- The primary purpose of the Act is to provide for the management and protection of the state’s shoreline resources by planning for their reasonable and appropriate use.
- The Shoreline Management Act establishes a balance of authority between local and state government. Cities and counties are the primary regulators of development along their shorelines. However, the state (through the Department of Ecology) has authority to review and approve local master programs and shoreline development permit decisions. Ecology also reviews shoreline development permit decisions and must approve, condition or deny shoreline variances and shoreline conditional use permits following their approval by local government. All proposed uses and development occurring within shoreline jurisdiction must conform to chapter 90.58 RCW, and the Shoreline Management Act and this Master Program.

Legislative Findings and Washington Shoreline Management Act Policies

According to the Revised Code of Washington (RCW) 90.58.020, the Washington State Legislature reached the following conclusions justifying its adoption of the Washington Shoreline Management Act: the shorelines of the state are among the most valuable and fragile of the state’s natural resources and that there is great concern throughout the state relating to their utilization, protection, restoration, and preservation. In addition, the legislature determined that ever-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. The legislature further found that much of the shorelines of the state and uplands adjacent thereto are in private ownership and that unrestricted construction on the privately owned or publicly owned shorelines of the state is not in the best public interest; therefore, coordinated planning is necessary in order to

¹ RCW 90.58.

protect the public interest associated with the shorelines of the state which, at the same time, shall be consistent with public interest. Therefore, 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.

It is the policy of the state to provide for the management of the shorelines of the state by planning for and fostering all reasonable and appropriate uses. This policy is designed to ensure the development of these shorelines in a manner that, while allowing for limited reduction of rights of the public in navigable water, will promote and enhance the public interest. This policy is intended to protect against adverse effects to the public health, the land and its vegetation and wildlife, and the water of the state and its aquatic life, while generally protecting public rights of navigation and its associated activities.

Where Does the Shoreline Management Act Apply?

- The Shoreline Management Act applies to more than 20,000 miles of shorelines in the state. This includes 2,300 miles of lake shores, 16,000 miles of streams, and 2,400 miles of marine shores. Shorelines are defined as:
 1. all marine waters;
 2. streams with a mean annual flow of 20 cubic feet per second or greater;
 3. lakes 20 acres or larger;
 4. upland areas called "shorelands" which are 200 feet landward from the edge of these waters; and
 5. the following areas when they are associated with one of the above;
 6. wetlands and river deltas; and
 7. some or all of the 100 year floodplain, including all wetlands within the entire floodplain.

"Shorelines," "Shorelines of the State," and "Shorelines of Statewide Significance"

- The Shoreline Management Act differentiates between "shorelines," "shorelines of the state," and "shorelines of statewide significance." "Shorelines of the state" is the term used to include both "shorelines," and "shorelines of statewide significance." "Shorelines" and "shorelines of statewide significance" are described below.

Shorelines of Statewide Significance

- The Shoreline Management Act designates certain shoreline areas as "shorelines of statewide significance." West of the Cascade Mountains, the shorelines that are so

designated are defined as “natural rivers or segments thereof” that have a mean annual flow of one thousand (1,000) cubic feet per second (cfs) or more and the shorelands associated with those waters.^{2,3} The legislature identified and designated the waters possessing these levels of flow as shorelines of statewide significance in WAC 173-18. The Skykomish River in Sultan has mean annual flow upstream of the City equal to or greater than 1000 cfs and is therefore designated as a “shoreline of statewide significance.” Shorelines of statewide significance and the special management policies that apply to them are discussed further in *Chapter 3: Shorelines of Statewide Significance*.

Shorelines

- The Shoreline Management Act defines “shorelines” to mean all of the waters of the state, including reservoirs, and their associated shorelands, together with the lands underlying them. Not included in this definition are shorelines of statewide significance, shorelines on streams having a mean annual flow of less than twenty cubic feet per second or shorelines on lakes less than twenty acres in size. In Sultan, the Sultan and Wallace Rivers are designated as “shorelines” because their mean annual flow upstream of the City of Sultan is equal to or greater than 20 cfs. Although Winters and Wagleys creeks flows are less than 20 cfs, the portions of both creeks that fall within the designated floodways of the Sultan and Skykomish Rivers, respectively, are within the City’s shoreline jurisdiction.

The Shoreline Jurisdiction in Sultan

Shoreline jurisdiction within the City of Sultan includes the Skykomish River, the Sultan River and the Wallace River and all lands that are located within 200 feet of the floodway edge or ordinary high water mark (OHWM), whichever is further landward, and any associated wetlands.

1. For management purposes, under the Shoreline Master Program, the shoreline is divided into distinct shoreline environments for which specific allowed uses and activities are identified, and specific development standards are established. These environments are determined based on the findings of

² RCW 90.58.030.

³ "Shorelands" are defined as those lands that extend landward for two hundred feet from the ordinary high water mark, and include floodways and the associated floodplain that is within two hundred feet of that floodway, and all wetlands associated with the waters regulated under the Shoreline Management Act. A jurisdiction may choose to include all or part of its one-hundred-year-flood plain within its shoreline jurisdiction, as long as that includes, as a minimum, the floodway and the adjacent land within two hundred feet (RCW 90.58.030).

⁶ New Shoreline Master Program Guidelines have been proposed and are currently being reviewed. The Draft Sultan Shoreline Master Program, including the Shoreline Inventory, has been developed with the expectation that the new Guidelines will be adopted.

the shoreline inventory (discussed in more detail in *Chapter 5: Shoreline Environments*).

Purposes of the Shoreline Master Program

The Shoreline Management Act defines a Master Program as a “comprehensive use plan for a described area.” The shoreline planning process differs from the more traditional planning process in that the emphasis is on protecting the shoreline environment through management of uses, rather than trying to maximize development potential.

The purposes of the Sultan Shoreline Master Program are:

1. To carry out the responsibilities imposed on the City of Sultan by the Washington State Shoreline Management Act (RCW 90.58).
2. To promote the public health, safety, and general welfare by providing a guide and regulation for the future development of the shoreline resources of the City of Sultan.
3. To further, by adoption, the policies of RCW 90.58, and the goals of this Master Program, both described in this document.

The City’s Role in Implementing the Shoreline Management Act

- In order to protect the public interest in the preservation of the shorelines of the state, the Shoreline Management Act establishes a planning program coordinated between the state and local jurisdictions to address the types and effects of development occurring along the state’s shorelines. By law, the City is responsible for the following⁶:
 1. Development of an inventory of the natural characteristics and land use patterns along shorelines regulated by the Act. This inventory provides the foundation for development of a system that classifies the shoreline into distinct environments. These environments provide the framework for implementing shoreline policies and regulatory measures.
 2. Preparation of a “master program” to determine the future of the shorelines. These “master programs” contain the policies and regulations that direct development and use of shorelines along rivers and larger streams, along lakes over 20 acres, and along marine waterfronts. The future of the shorelines is defined through the goals developed for the following land and water use elements:
 3. Economic development

4. Public access
5. Circulation
6. Recreation
7. Shoreline use
8. Conservation
9. Historical/cultural protection
10. Floodplain management
11. The City is encouraged to adopt goals for any other elements, which, because of present uses or future needs, are deemed appropriate and necessary to implement the intent of the Shoreline Management Act. In addition, policy statements are developed to provide a bridge between the goals of the master program and the use activity regulations developed to address different types of development along the shoreline. Master program regulations are developed and adopted, as appropriate, for various types of shoreline development, including the following:
 12. Agriculture
 13. Aquaculture
 14. Forest management
 15. Commercial development
 16. Marinas
 17. Outdoor advertising and signs
 18. Residential development
 19. Utilities
 20. Ports and water related industries
 21. Shoreline modifications (bulkheads, breakwaters, jetties and groins)
 22. Landfills
 23. Solid waste disposal
 24. Dredging

25. Shoreline protection
26. Road and railroad design
27. Piers
28. Recreation
29. Development of a permit system to further the goals and policies of both the Act and the master program.

Local governments have the prime responsibility for initiating the planning program and administering the regulatory requirements. The City of Sultan must develop a Shoreline Master Program that is consistent with the guidance and intent provided in the Shoreline Management Act.

The role of the Department of Ecology is to provide technical support, to review and approve the Shoreline Master Program, and to provide review of locally approved shoreline permit requests to ensure their compliance with the Shoreline Management Act and the adopted Master Program.

The Shoreline Master Program and the Comprehensive Plan

Shoreline management is most effective and efficient when accomplished within the context of comprehensive planning. The Growth Management Act defines shoreline master program policies as a part of the local comprehensive Plan:

For shorelines of the state, the goals and policies of the Shoreline Management Act as set forth in RCW 90.58.020 are added as one of the goals of this chapter as set forth in RCW 36.70A.020. The goals and policies of a shoreline master program for a county or city approved under chapter 90.58 RCW shall be considered an element of the county or city's comprehensive plan. All other portions of the shoreline master program for a county or city adopted under chapter 90.58 RCW, including use regulations, shall be considered a part of the county or city's development regulations. (RCW 36.70A.480(1))

Cities that plan under the Growth Management Act are required, under RCW 36.70A, to ensure that there is mutual and internal consistency between the comprehensive plan elements and implementing development regulations (including master programs). This requirement also requires consistency between the shoreline master program and the future land use plan, specifically demonstrating that there is consistency regarding the:

- (1) Ability of physical aspects of the plan to coexist on the available land.
- (2) Ability of the plan to provide that adequate public facilities are available when the impacts of development occur (concurrency). (RCW 365-195-500)

In addition, the Growth Management Act also calls for coordination and consistency of comprehensive plans among local jurisdictions:

... The comprehensive plan of each county or city that is adopted pursuant to (... the Growth Management Act) shall be coordinated with, and consistent with, the comprehensive plans adopted pursuant to chapter (Growth Management plans) of other counties or cities with which the county or city has, in part, common borders or related regional issues. (RCW 36.70A.100)

Consistency is discussed further in Chapter 5: *Shoreline Environments*.

THE SULTAN SHORELINE MASTER PROGRAM

Snohomish County Shoreline Master Program

The City adopted the Snohomish County Shoreline Master Program in 1995, which was developed by the County in 1974 (and subsequently amended). At that time, the shoreline inventory data that was available was considerably more limited, in addition to being less detailed in the designation of shoreline environments relative to today's requirements. Furthermore, the Snohomish County Master Program was developed prior to the listing of several species of fish present in Sultan waters under the Endangered Species Act and it was developed by Snohomish County with unknown participation by the citizens and local government of Sultan.

2002-2007 Shoreline Master Program Update

In 2002, the City received funding through the Coastal Zone Management program offered through the Washington Department of Ecology and in July 2002, began work on Phase I of a two-phase project. The City notified the community of the opportunity to participate in the development of the City's Shoreline Master Program and invited them to attend Planning Commission meetings and provide comment. A public open house to present the Planning Commission's work on the Shoreline Master Program was held on June 28, 2004, followed by a public hearing on October 18, 2005. After completing final revisions to the draft Master Program, the Planning Commission voted to recommend to the Sultan City Council adoption of the final Planning Commission draft of the Shoreline Master Program.

The City Council reviewed the Planning Commission's draft Master Program and held another public hearing on April 13, 2006. The City Council passed Ordinance 915-07 indicating intent to adopt the Shoreline Master Program. The Master Program was forwarded to the Department of Ecology for their final review and comment. The Department of Ecology approved the Shoreline Master Program on _____ and the City Council adopted it on _____.

How the Shoreline Master Program is Used

The City of Sultan Shoreline Master Program is both a planning and a regulatory document that outlines goals and policies for the shorelines of the City and establishes regulations for development occurring specifically in that area. The shoreline development regulations are contained within the Shoreline Master Program, and have been reviewed for consistency with other development regulations in the Sultan Municipal Code. In general, the most restrictive regulations should apply to the shorelines.

In order to preserve and enhance the shorelines of the City of Sultan it is important that all development proposals relating to the shoreline area be evaluated in terms of the City's Shoreline Master Program, and that the City shoreline **Administrator** be consulted. (In Sultan, the Administrator function is filled by the Planning Director.) Some developments may be exempt from regulation, while others may need to stay within established guidelines, or may require a Shoreline Conditional Use Permit or Shoreline Variance. **ALL proposals must comply with the policies and regulations established by the state Shoreline Management Act as expressed through this local Shoreline Master Program adopted by the City of Sultan.**

The Shoreline Management Act (SMA) defines for local jurisdictions the content and goals that should be represented in the Shoreline master programs developed by each community. Within these guidelines, it is left to each community to develop the specific regulations appropriate to that community. Under the SMA, all shorelines of the state meeting the criteria established receive a given shoreline environmental designation. The purpose of the shoreline designation system is to ensure that all land use, development, or other activity occurring within the designated shoreline jurisdiction is appropriate for that area and provides consideration for the special requirements of that environment. Sultan has designated five shoreline environments: Urban Center, Shoreline Residential, Urban Conservancy, Natural, and Aquatic. These environments are described in *Chapter 5: Shoreline Environments*.

How is the Shoreline Master Program is Applied to Development?

The Sultan Shoreline Master Program addresses a broad range of uses that could be proposed in the shoreline area. This thoroughness is intended to ensure that the Sultan shoreline area is protected from activities and uses that, if unmonitored, could be developed inappropriately and could cause damage to the ecological system of the shoreline, or cause the degradation of the aesthetic values of the shoreline that the community enjoys. The Shoreline Master Program provides the regulatory parameters within which development may occur, or it states that the community considers a certain type of use or activity is unacceptable within the City's shoreline jurisdiction, or it states that a use or activity may be considered (if a Shoreline Conditional Use Permit is applied for), but that the community should be able to ensure that the development is carried out in such a way that the public's interest in protecting the shoreline is retained.

When is a Permit Required?

The Shoreline Master Program regulates “development,” and further defines what is considered “substantial development” and would, therefore, require a Shoreline Substantial Development Permit (SSDP), unless exempt. Some development may require a Shoreline Conditional Use Permit or a Shoreline Variance from the provisions of the Master Program. Review under the State Environmental Policy Act (SEPA) may also be required.

“**Development**,” as defined under the Shoreline Management Act of 1971 is:

A use consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals; bulkheading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters of the state subject to Chapter 90.58 RCW at any state of water level (RCW 90.58.030(3d)).

This definition indicates that the “development” regulated by the Shoreline Management Act includes not only those activities that most people recognize as “development” (for example, improving a road surface or building a structure), but also those activities that citizens may do around their own home (for example, grading an area of riverfront to enhance their personal view of the river). While the impact of these potential “developments” may seem inconsequential at first glance, they may have unwanted and damaging affects on the river ecology, the property of others and the shoreline aesthetics.

Projects that are identified as “developments” and not “substantial developments” do not require a shoreline Substantial Development Permit. However, they must still comply with all applicable regulations in the Shoreline Master Program. In addition, some developments may require a Conditional Use or a Variance from the Shoreline Master Program’s provisions, even if they do not meet the definition of a “substantial development.”

“**Substantial development**” is any “development” of which the total cost or fair market value exceeds five thousand dollars (\$5,000), or any development that materially interferes with the normal public use of the water or shorelines of the state. Under the Shoreline Management Act, some types of development are exempt from the requirement to apply for and receive a permit before beginning work.¹⁰ These exemptions are listed in *Chapter 7: Administration*. A project that is exempt from permit requirements must still comply with all applicable regulations in the City’s Shoreline Master Program.

The City Shoreline Administrator responsible for enforcing and implementing the Shoreline Master Program can help identify if a project is classified as a development or a substantial development, determine if a permit is necessary or if a project is exempt from permit requirements, and identify which regulations in the SMP may apply to the proposed project. The City Shoreline Administrator can also provide information on the permit application process and how the SMP process relates to, and can coordinate with,

¹⁰ Per RCW 90.58.030(3)(e), Definitions and concepts: Substantial development.

the State Environmental Policy Act (SEPA) process. The permitting process can be divided into three phases: pre-application, submittal, and review (these are discussed in greater detail in *Chapter 7: Administration*).

The Shoreline Permit and Permit Process

Requests for a shoreline Substantial Development Permit, Variance, or a Conditional Use require review by the City of Sultan Hearing Examiner (per Sultan Municipal Code, Chapter 16.120 SMC, Ordinance 630 § 2, 1995 in Appendix C). There may be instances where a Conditional Use or Variance may be approved without the need for a Substantial Development Permit. The Hearing Examiner will hold a public hearing on the proposal and approve, approve with conditions, or deny the application. This decision can be appealed to the Sultan City Council. Appeals of the City Council decision go to the State Shoreline Hearings Board. Requests for Conditional Uses and Variances require final approval by the State of Washington Department of Ecology. A description of exempt projects, and shoreline application procedures and criteria are discussed in *Chapter 7: Administration*.

A description and map of the area within the jurisdiction of this Shoreline Management Program are presented in *Chapter 5: Shoreline Environment*.

Relationship of this Shoreline Master Program to Other Plans, Regulations, and Requirements

In addition to compliance with the provisions of the Shoreline Management Act, the Sultan Shoreline Master Program must be consistent with local plans and policy documents, specifically, the Sultan Comprehensive Plan and the City's critical area regulations. Appendices A & B of this document include incorporated ordinances that are included to meet State of Washington Shoreline Master Program Guidelines (Ch 173-26 WAC). Appendices C & D of this document are to be considered referenced ordinances, since they are not intended to address State SMP guidance requirements. The City's Shoreline Master Program must also be consistent with the regulations developed by the City to implement its plans, such as the zoning code and subdivision code, as well as regulations relating to building construction and safety.

Submitting to the permitting process for a shoreline development or use does not exempt an applicant from complying with any other local, county, state, regional, or federal statutes or regulations, which may also be applicable to such development or use. Examples of activities that may require permits, review, or approval from other agencies are listed in the following table. Some of the activities listed below are unlikely to occur within the Sultan shoreline jurisdiction. The following list of permits is provided, however, as additional information about regulatory requirements that exist for various land use activities that may occur in the Sultan area.

Agency	Authority/Jurisdiction	Types of Activity Requiring Permit	Permit
Federal Emergency Management Agency (FEMA)	CFR 44, Part 60 This Ordinance applies to the areas designated as flood zones on FEMA's Federal Insurance Rate Map. The adopted FEMA ordinance enables City residents to acquire federal flood insurance and allows Sultan to be eligible to receive Federal Flood Disaster Funds.	All construction within and uses of the floodplain must meet the standards established in the Sultan Municipal Code, Chapter 17.08.	Review for compliance with FEMA guidelines is conducted through enforcement of the Sultan Flood Damage Prevention Regulations.
Army Corps of Engineers	Sect. 10 of Federal River & Harbor Act Jurisdiction extends to Ordinary High Water Mark of the navigable waters of the US	Structures or work in these waters, including marinas, piers, wharves, floats, intake pipes, outfall pipes, pilings, bulkheads, boat ramps, dredging, dolphins, fills, overhead transmission lines, etc.	Section 10 Permit
	Sect. 404 of Clean Waters Act Jurisdiction extends to Ordinary High Water Mark of all waters of the US and includes all adjacent wetlands	Discharge of dredged materials, fills, grading, ditch sidelaying, groins, breakwaters, road fills, beach nourishment, riprap, jetties, etc.	Section 404 Permit (some limited activities are covered by nationwide general permits)
Washington Department of Agriculture	Varies	Use of pesticides by any means other than hand pumped device - varied restrictions apply depending on the ownership of the property receiving the pesticide, the type of pesticide, etc.	Varies
Washington State Department of Fish and Wildlife (DFW)	RCW 75.20.100-160. All fresh or salt water in the state	Work, construction, development, or other activities that will change the natural flow or bed of any fresh or salt water in the state.	Hydraulic Project Approval (HPA)
Washington State Department of Natural Resources (DNR)	RCW 79.90. Navigable water bodies, including certain lakes, rivers, and streams. These waters are owned by the State of Washington.	Construction, filling, dredging, drilling, mining, road construction, utility installation, etc., within the beds or shorelines of these waters.	Aquatic Lands Lease and/or Authorization.
	RCW 76.09. Waterbodies near forest activities	Forest activities relating to growing, harvesting or processing timber, road construction and maintenance, brush clearing, slash disposal.	Forest Practice Approval

Agency	Authority/Jurisdiction	Types of Activity Requiring Permit	Permit
Washington State Department of Ecology (DOE)	Section 401, Clean Water Act	Any activity that might result in a discharge of dredge or fill material into water or wetlands, or excavation in water or wetlands that requires a federal permit.	Water Quality Certification
	RCW 90 (various chapters)	Withdrawal of surface or ground water.	Water Use Permit; Certificate of Water Right
	RCW 43.21C Determined by the scope of the project. See also: City of Sultan, SEPA.	SEPA is a process that provides a way to analyze and address the environmental impacts of a project and is geared to mesh with already existing permits, approvals, and/or licenses.	State Environmental Policy Act (SEPA) Review
	Water Pollution Control Act (RCW 90.48)	Act prohibits discharges of polluting matter to any waters of the state, including wetlands. A permit is required for any project potentially impacting state waters.	Various permits, including NPDES, Municipal Wastewater, and Septic permits.
City of Sultan	Sultan Shoreline Master Program - SMP jurisdiction and environment designations are shown in Chapter 5.	Development within the shoreline jurisdiction of Sultan.	Shoreline Substantial Development Permit
			Shoreline Conditional Use Permit
			Shoreline Variance
	Sultan Municipal Code, Chapter 15	Development over 120 square feet. See Building Code	Building Permit
	Sultan Municipal Code, Chapter 17.08, Ordinance 808-03 (Appendix A) is intended to carry out FEMA requirements within the 100-year floodplain	All development activity, including buildings, mining, filling, dredging, grading, paving, excavations, drilling operations, and storage of equipment or materials.	Floodplain Development Permit - review for compliance with this ordinance is conducted as a part of the development review and building permit process.
	Title 16, Unified Development Code	Development within the City of Sultan	Zoning Variance
			Zoning Conditional Use
			Zone Change
Title 16, Unified Development Code	Development in a Critical Area (Streams, Wetlands, Fish and Wildlife Habitat, Flood Hazard Areas, Geologically Hazard Areas)	Critical Areas Regulations	
Sultan Municipal Code, Chapter 17.04, Ordinance 714-00 (Appendix A) contains the Sultan State Environmental Policy Act (SEPA) Policies	All activity meeting the threshold identified in RCW 43.21C and WAC Chapter 197-11.	State Environmental Policy Act (SEPA) Review	

Agency	Authority/Jurisdiction	Types of Activity Requiring Permit	Permit
	Sultan Municipal Code, Chapter 16.92, Ordinance 630 § 2, 1995 – (Appendix D) Stormwater Management Performance Standards	Development of more than 3,000 SF of impervious surface area.	Stormwater Management Permit

At the time of an initial inquiry or when a permit application is submitted, the City Shoreline Administrator should inform an applicant of those regulations and statutes that may be also applicable to the proposed project to the best of the administrator’s knowledge, PROVIDED, that the final responsibility for complying with such other statutes and regulations shall rest with the applicant.

Other activities that could occur along the shoreline (starting bonfires, disposing or spilling/releasing of regulated or hazardous waste products, use of pesticides, activities within wetlands) may require other permits, review, or approval not identified here.

Questions about permits, licenses, or review may be directed to the City of Sultan Planning Department at 360-793-2231.

TITLE

This document shall be known and may be cited as the **Sultan Shoreline Master Program**. This document may refer to itself as “this Master Program.”