

CHAPTER 7

ADMINISTRATION

7.1 General Provisions

1. There is hereby established an administrative system that (1) assigns responsibilities in the implementation of this Master Program, (2) prescribes an orderly process by which to review shoreline development and shoreline permit applications, and (3) ensures that all persons affected by this Shoreline Master Program (SMP or Program) are treated in a fair and equitable manner.
2. All proposed uses and development occurring within shoreline jurisdiction must conform to the Shoreline Management Act (SMA or Act) and this Program. The policies and regulations of this Program apply to all shoreline uses and developments within the City's shoreline jurisdiction whether or not a shoreline permit or statement of exemption is required.
3. The City may attach conditions of approval to any permitted use via a permit or statement of exemption as necessary to assure consistency of a project with the Act and this Program.
4. Applicants requesting review for permits or statement of exemption under this Program have the burden to prove that the proposed development or activity is consistent with the criteria that must be met before a permit or statement of exemption is granted.
5. A development or use that does not comply with the bulk, dimensional, and/or performance standards of this Program shall require a shoreline variance even if the development or use does not require a substantial development permit.
6. A development or use that is listed as a conditional use pursuant to this Program, or is an unlisted use, must obtain a conditional use permit even if the development or use does not require a substantial development permit.
7. Issuance of a shoreline substantial development permit, shoreline variance or shoreline conditional use permit does not constitute approval pursuant to any other federal, state or City laws or regulations. The City will inform the applicant, to the extent it can, of additional permitting that may be required for a development proposal (building permits, Hydraulic Project Approval, Army Corps permitting, etc.) in addition to shoreline permitting.

8. Special Procedures for WSDOT projects.

a. Permit review time for projects on a state highway. Pursuant to RCW 47.01.485, the Legislature established a target of 90 days review time for local governments.

7.b. Optional process allowing construction to commence twenty-one days after date of filing. Pursuant to RCW 90.58.140, Washington State Department of Transportation projects that address significant public safety risks may begin twenty-one days after the date of filing if all components of the project will achieve no net loss of shoreline ecological functions.

9. The City of Shelton may grant relief from Shoreline Master Program Development standards and use regulations resulting from shoreline restoration projects within urban growth areas consistent with the procedures in WAC 173-27-215.

8.10. Critical area review shall be conducted and processed in conjunction with the following permits, statements or determinations that are applicable to the primary development proposed:

- a. Statement of Exemption;
- b. Land Use Permit or Building Permit;
- c. Excavation, Grading, Clearing and Erosion Control Permit;
- d. SEPA Threshold Determination;
- e. Shoreline Substantial Development Permit;
- f. Shoreline Conditional Use Permit;
- g. Shoreline Variance; or
- h. Revisions to Shoreline Permits.

7.2 Administrative Authority and Responsibility

7.2.1 Shoreline Administrator

1. The Director of Planning and Community Development or his/her designee, hereinafter known as the Shoreline Administrator or Administrator, is vested with:
 - a. Administering this Master Program;

Formatted

- b. Approving, approving with conditions or denying shoreline substantial development permits in accordance with the policies and provisions of this Master Program, unless a public hearing or appeal is involved;
- c. Granting or revising statements of exemption from shoreline substantial development permits;
- d. Establishing the procedures and preparing forms deemed essential for the administration of this Program;
- e. Advising interested citizens and applicants of the goals, policies, regulations, and procedures of this Program;
- f. Making administrative decisions and interpretations of the policies and regulations of this Program and the Shoreline Management Act;
- g. Collecting applicable fees;
- h. Determining that all applications and necessary information and materials are provided;
- i. Making field inspections, as necessary;
- j. Reviewing, insofar as possible, all provided and related information deemed necessary for appropriate application needs;
- k. Determining if a shoreline substantial development permit, conditional use permit or variance permit is required;
- l. Conducting a thorough review and analysis of shoreline substantial development permit applications making written findings and conclusions and approving, approving with conditions, or denying such permits;
- m. Submitting variance and conditional use permit applications and making written recommendations and findings on such permits to the Hearings Examiner for his/her consideration and official action. The Administrator shall assure that all relevant information and testimony regarding the application is made available to the Hearings Examiner during his/her review;
- n. Assuring that proper notice is given to appropriate persons and the public for permit review and hearings;
- o. Providing the notice to the applicants for posting of permit applications in a conspicuous manner on the project site;
- p. Investigating, developing, and proposing amendments to this Program as deemed necessary to more effectively and equitably achieve its goals and policies;

- q. Seeking remedies for alleged violations of this Program, the provisions of the Act, or of conditions of any approved shoreline permit issued by the City; and
- r. Coordinating information with affected tribes and agencies.

7.2.2 City Council ~~Commission~~

1. The City of Shelton ~~City Council Commission~~ (~~Council Commission~~) is vested with authority to:
 - a. Review and act upon any recommendations of the Administrator for amendments to or revisions of this Program.

7.2.3 City Hearings Examiner

1. The City of Shelton Hearings Examiner is vested with authority to:
 - a. Review public input and make decisions on variance requests, conditional use permits, shoreline substantial development permits (when a public hearing is required) and rescissions; provided that the Hearings Examiner's decisions may be further appealed to the State Shorelines Hearings Board as provided for in the Act.
 - b. Consider the Administrator's findings and conclusions pertinent to permit decisions in the case of an appeal made by interested parties or members of the public and render the City's final decision.
 - c. Conduct hearings which are specified in the permit process or which have been requested by the Administrator or member(s) of the public.
 - d. Prepare written findings and conclusions to approve, deny, or condition a permit based on the criteria established in this Master Program, through a public hearing as required by the permit process or by request.

7.2.4 State Department of Ecology and Attorney General

1. The duties and responsibilities of the Washington Department of Ecology shall include:
 - a. Reviewing and approving Master Program amendments prepared by the City of Shelton pursuant to WAC 173-26-120 (State Process for Approving/Amending Shoreline Master Programs).
 - b. Reviewing and petitioning for review the City's statements of exemption and shoreline substantial development permit decisions.

- c. Final approval and authority to condition or deny shoreline conditional use permits and shoreline variances filed by the City.

7.3 Public Notice Requirements

1. When a complete application has been received by the Administrator, the Administrator shall provide public notice consistent with SMC 17.06.070 with the following exceptions:
 - a. The notice of application shall be published in the newspaper, at a minimum, once a week, on the same day, for two consecutive weeks.
 - b. Interested persons may submit a written request to the City for a public hearing regarding an application for a shoreline substantial development permit within 30 days following the date of the second legal newspaper notice.

7.4 Public Hearing by the Hearings Examiner

1. A public hearing shall be held by the City Hearings Examiner regarding an application for shoreline conditional use or shoreline variance permits. A public hearing shall be held regarding an application for a shoreline substantial development permit when:
 - a. The Administrator determines that the proposed development is one of public significance and/or would have a significant impact upon the shoreline environment; or
 - b. An appeal of a shoreline substantial development permit is made.
2. The Hearings Examiner shall review an application for a shoreline substantial development, shoreline conditional use or shoreline variance permit using the following information:
 - a. The application;
 - b. Applicable SEPA documents;
 - c. Evidence presented at the public hearing;
 - d. Written and oral comments from interested persons; and
 - e. The findings, conclusions and recommendations of the Administrator.

7.5 Notification to Ecology and the Attorney General

1. The Shoreline Administrator shall notify Ecology and the Attorney General of any statement of exemption, substantial development, conditional use or variance permit decisions made by the Shoreline Administrator (or Hearings Examiner when required), whether it is an approval or denial. The notification shall occur after all local administrative appeals related to the permit have concluded or the opportunity to initiate such appeals has lapsed. When a substantial development permit and either conditional use or variance permit are required for a development, the submittal of the permits shall be made concurrently. The Shoreline Administrator shall file the following with Ecology and the Attorney General using return receipt requested mail:
 - a. A copy of the complete application per WAC 173-27-180;
 - b. Findings and conclusions that establish the basis for the decision including but not limited to identification of shoreline environment designation, applicable Program policies and regulations and the consistency of the project with appropriate review criteria for the type of permit(s);
 - c. The final decision or recommendation of the City;
 - d. The permit data sheet per WAC 173-27-990;
 - e. Affidavit of public notice; and
 - f. Where applicable, the documents required by the State Environmental Policy Act (RCW 43.21C).
2. When the project has been modified in the course of the local review process, plans or text shall be provided to Ecology that clearly indicate the final approved plan.
3. Ecology shall review the documentation provided by the Shoreline Administrator for completeness. If Ecology determines that the submittal does not contain all of the documents and information required by this section, Ecology shall identify the deficiencies and notify the City and the applicant in writing. Ecology will not act on conditional use or variance permit submittals until the material requested in writing is received.

7.6 Ecology Review

1. After all local permit administrative appeals or reconsideration periods are complete and the permit documents are amended to incorporate any resulting changes, the City of Shelton will mail the permit using return receipt requested mail to the Department of Ecology regional office and the Office of the Attorney General in the form identified in Section 7.5. above. Projects that require Conditional Use Permit and/or Variance requests shall be mailed simultaneously with any Substantial Development Permit(s) for the project.
 - a. Consistent with RCW 90.58.140(6), the state's Shorelines Hearings Board twenty-one (21) day appeal period starts with the date of filing, which is defined below:
 - i. For projects that only require a Substantial Development Permit: the date that Ecology receives the decision from the City of Shelton.
 - ii. For a Conditional Use Permit (CUP) or Variance: the date that Ecology's decision on the CUP or Variance is transmitted to the applicant and the City of Shelton.
 - iii. For Substantial Development Permits simultaneously mailed with a CUP or Variance to Ecology: the date that Ecology's decision on the CUP or Variance is transmitted to the applicant and the City of Shelton.
1. ~~Ecology shall make a final decision approving, approving with conditions, or disapproving a shoreline conditional use permit or shoreline variance permit and convey its decision to the City and the applicant within thirty (30) days of the date of filing by the City. The Shoreline Administrator will notify those interested persons having requested notification of such decision.~~
2. ~~Ecology shall base its determination to approve, approve with conditions or deny a conditional use permit or variance permit on consistency with the policy and provisions of the SMA, the criteria listed in this Program and the provisions of WAC 173-27-160 for conditional use permits, WAC 173-27-170 for variances and WAC 173-27-210 relating to minimum standards for conditional use and variance permits.~~
3. ~~Appeals of Ecology decisions on shoreline conditional use permits and shoreline variance permits shall be made to the Shorelines Hearing Board as specified in Section 7.9.2.~~

Formatted: Indent: Left: 0.63", Hanging: 0.38"

Formatted: Keep with next, Keep lines together

Formatted: Right: 0", Widow/Orphan control, Keep with next, Keep lines together, Tab stops: Not at 0.25"

7.7 Commencement of Development Activity and Permit Validity

1. No construction pursuant to a substantial development permit, shoreline variance or shoreline conditional use authorized by this Program shall begin or be authorized and no building, grading or other construction permits shall be issued by the City until twenty-one (21) days from the date the permit decision was filed or until all review proceedings are terminated.
2. Construction may be commenced no sooner than thirty (30) days after the date of the Shoreline Hearings Board's decision is filed if a permit is granted by the City of Shelton, and
 - a. The granting of the permit is appealed to the Shorelines Hearings Board within twenty-one (21) days of the date of filing;
 - b. The Hearings Board approves the granting of the permit by the local government or approves a portion of the substantial development for which the local government issued the permit; and
 - c. An appeal for judicial review of the Hearings Board decision is filed pursuant to Chapter 34.05 RCW.
3. Construction activities shall be commenced, or where no construction activities are involved, the use or activity shall be commenced within two (2) years of the effective date of a substantial development permit. The Shoreline Administrator may authorize a single extension for a period not to exceed one (1) year based on reasonable factors, if a request for extension has been filed before the expiration date and notice of proposed extension is given to parties of record on the substantial development permit and to Ecology.
4. Authorization to conduct construction activities shall terminate five (5) years after the effective date of a substantial development permit. However, upon a finding of good cause, based on the requirements and circumstances of the project proposed and consistent with the policy and provisions of the Master Program and WAC 173-27-090 the City may adopt different time limits as a part of action on a substantial development permit. The Shoreline Administrator may authorize a single extension if it has been filed before the expiration date and notice of the proposed extension is given to parties of record and Ecology.

Formatted: Indent: Left: 0.25", Hanging: 0.38"

7.8 Revision of Permits

1. A permit revision is required whenever an applicant proposes substantive changes to the design, terms or conditions of a project from that which was approved in 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 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. All revisions shall be processed in accordance with WAC 173-27-100.
2. When an applicant seeks to revise a permit, the applicant shall submit detailed plans and text describing the proposed changes in the permit and demonstrating compliance with Section 7.8, Regulation #4 and WAC 173-27-100.
3. If the proposed changes are determined by the Shoreline Administrator to be within the scope and intent of the original permit, and are consistent with the SMA (RCW 90.58), and this SMP, the revision shall be approved by the Shoreline Administrator.
4. "Within the scope and intent of the original permit" means the following:
 - a. No additional overwater construction will be involved except that pier, dock, or float construction may be increased by five hundred (500) square feet or ten percent (10%) from the provisions of the original permit, whichever is less.
 - b. Lot coverage and height may be increased a maximum of ten percent (10%) from the provisions of the original permit: Provided, that revisions involving new structures not shown on the original site plan shall require a new permit.
 - c. The revised permit does not authorize development to exceed height, lot coverage, setback or any other requirements of this SMP except as authorized under a variance granted as the original permit or a part thereof.
 - d. Landscaping may be added to a project without necessitating an application for a new permit. Provided, that the landscaping is consistent with conditions (if any) attached to the original permit and is consistent with this SMP.
 - e. The use authorized pursuant to the original permit is not changed.
 - f. No adverse environmental impact will be caused by the project revision.

5. Revisions to permits may be authorized after original permit authorization has expired under RCW 90.58.143. The purpose of such revisions shall be limited to authorization of changes which are consistent with this section and which would not require a permit for the development or change proposed under the terms of Chapter 90.58 RCW, this regulation and the local Master Program. If the proposed change constitutes substantial development then a new permit is required. Provided, this subsection shall not be used to extend the time requirements or to authorize substantial development beyond the time limits of the original permit.
6. If the sum of the revision and any previously approved revisions under WAC 173-27-100 or this section violate the provisions in Section 7.8, Regulation #4, local government shall require that the applicant apply for a new permit.
7. 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 shall be filed with Ecology. In addition, the Shoreline Administrator shall notify parties of record of the action.
8. If the revision to the original permit involves a conditional use or variance, the Shoreline Administrator shall submit the revision to Ecology for approval, approval with conditions, or denial, and shall indicate that the revision is being submitted under the requirements of WAC 173-27.
9. Upon receipt of Ecology's final decision, the Shoreline Administrator shall within 14 days notify parties of record of Ecology's final decision.
10. The revised permit is effective immediately upon final decision by Shoreline Administrator, when appropriate under Section 7.8, Regulation #8, upon final action by Ecology.
11. Appeals shall be in accordance with RCW 90.58. Appeals shall be based only upon contentions of noncompliance with the provisions of Section 7.8, Regulation #8. 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 shall have no bearing on the original permit.

7.9 Appeals

7.9.1 Local Appeals

1. Any decision or ruling made by the Administrator on a substantial development permit, Master Program policy or regulation interpretation, permit revision, or other action within the purview and responsibility of the Administrator, may be appealed by the applicant, private or public organization, or individual to the City of Shelton Hearings Examiner within ten (10) calendar days following the issuance of a written decision by the Administrator. Such appeals shall be initiated by filing with the City Planning Department, who will forward to the Shoreline Administrator a notice of appeal setting forth the action being appealed and the principal points upon which the appeal is based, together with a filing fee as prescribed by the Commission. The Hearings Examiner shall hear the appeal as soon thereafter as is feasible. The Hearings Examiner, using the applicable decision making criteria established in this Master Program, shall affirm, modify, or reverse the decision of the Administrator. This decision of the Hearings Examiner shall be the final local government decision. An appeal or request for reconsideration of the Hearing Examiner's decision shall be consistent with Shelton Municipal Code Chapter 2.36. Appeals of Hearings Examiner decisions must be filed with the State Shoreline Hearings Board pursuant to Section 7.9.2 of this Master Program.

7.9.2 State Shorelines Hearing Board

1. Any person aggrieved by the granting, denying, rescission or modification of a shoreline permit may seek review from the State Shorelines Hearings Board as governed by the procedures established in RCW 90.58.180 (Appeals from Granting, Denying, or Rescinding Permits) and WAC 461-08 (Practice and Procedure, Review of the Granting, Denying or Rescinding of Substantial Development Permits, Hearings). All appeals of any final permit decision must be made to the Shorelines Hearings Board within twenty-one (21) days from the date the permit decision was filed.
2. The provisions of this section shall apply to any final order, requirement, permit, decision, or determination on land use proposals made by the Shoreline Administrator, Hearings Examiner on appeal. These may include, but are not limited to, shoreline substantial development permits, statements of exemption, shoreline conditional use permits, shoreline variances, and shoreline revisions.

7.9.3 State Growth Management Hearings Board

1. Ecology's decision on an SMP amendment including a map amendment may be appealed to the Growth Management Hearings Board in accordance with RCW 90.58.190.

7.10 Master Program Review

1. This Master Program shall be periodically reviewed and adjustments shall be made as are necessary to reflect changing local circumstances, new information or improved data, and changes in state statutes and regulations.
2. This review process shall be consistent with [RCW 90.58.050](#) and WAC 173-26-090 requirements and shall include a local citizen involvement effort and public hearing to obtain the views and comments of the public.

7.11 Amendments to Master Program

1. Any of the provisions of this Master Program may be amended as provided for in WAC 173-26-100, ~~104, and~~ 110, ~~and~~ 120. Amendments or revisions to the Master Program, as provided by law, do not become effective until approved by the Washington State Department of Ecology.
2. Proposals for shoreline environment redesignations (i.e., amendments to the shoreline maps and descriptions) must demonstrate consistency with the criteria set forth in Shoreline Environment Designation Criteria and the Shelton Comprehensive Plan.

7.12 Enforcement

Violations of the SMP shall be enforced pursuant to the provisions of SMC Chapter 17.08 Enforcement.