

Chapter 1

Introduction

Shorelines in Washington are regulated and protected by the Shoreline Management Act. The state of Washington's Shoreline Management Act of 1971 was written in response to a citizens' initiative petition. It was adopted through a citizen referendum by a two to one margin. The intent of the Shoreline Management Act was to benefit the public interest by protecting shorelines, which are a limited resource. The Act recognizes that it requires planning to balance protecting the public interest on one hand and private property rights on the other hand.

The Shoreline Management Act is based on the Public Trust Doctrine, a common law principle which says that the waters of the state are a public resource, owned by and available to all citizens equally for navigation, fishing, recreation, and similar uses, no matter who owns the underlying land. The state must protect individual property rights and the Public Trust, which it does through the Shoreline Management Act.

Local governments are in charge of shoreline planning, under state guidance. Each local jurisdiction with shorelines has adopted a regulatory document, called a Shoreline Master Program, which was reviewed and approved by the Washington State Department of Ecology. The state rules for Shoreline Master Programs are found in WAC 173-26. A major update of these rules was proposed in 2000. Due to a legal challenge, the updated rules were negotiated over the course of more than a year with groups including the Association of Washington Business, Washington Aggregates & Concrete Association, and Washington Environmental Council. The state rule (WAC) that resulted from these negotiations was adopted in 2003. All jurisdictions are required to adopt changes to their SMP to comply with the updated rule by 2014.

Moses Lake has had a Shoreline Master Program (SMP) since 1975. The original SMP was written with the help of a citizen committee. It was intended to be updated every two years, but no significant changes were ever adopted, and the last review was 1988. Since that time, Moses Lake has experienced significant amounts of development, additional shoreline areas were added through annexation, and the state rules on master programs have changed significantly. Scientists' understanding of the functions provided by shoreline areas, and the importance of protecting those areas, has increased during that time as well.

Jurisdiction and Applicability

The Shoreline Management Act regulates uses, activities, and modifications within 200' of the ordinary high water mark (OHWM) of lakes and streams. The 200' jurisdiction is expanded to include the upland boundary of any wetlands that are partially located within 200' of the OHWM.

While the City of Moses Lake only has jurisdiction over areas within the City, this Master Program includes environment designations for the entire Moses Lake Urban Growth Area. However, areas outside the City are regulated by Grant County's Shoreline Master Program until such a time as they are annexed into the City. Environment designations for the Urban Growth Area are required so that jurisdictions don't have to amend their SMPs every time they do an annexation.

Shoreline Master Program Update Process

Since planning works best when you know what you are planning for, one of the state requirements of a shoreline master program update is to develop an inventory of the natural characteristics and land use patterns of the shorelines. The inventory data is used to classify segments of the shoreline into "environment designations", which are similar to zoning designations. Regulations specific to each

environment designation are developed, along with policies and regulations for specific shoreline uses and modifications.

The City has learned from past experience that when state funding is offered to help jurisdictions comply with state mandates, there is never enough funding for all jurisdictions. Therefore, when the Department of Ecology offered grant funding in 2004 for updating of shoreline master programs, the City applied for and received a grant. Part of the grant money was used for a shoreline inventory by Geo-Ecology Research Group of Central Washington University. The inventory consisted of compiling, mapping, and analyzing information including zoning, land use, docks, bulkheads, wetlands, soil permeability, etc. The remainder of the grant money was used for Highlands Associates of Okanogan to take the shoreline inventory and analysis, state Shoreline Master Program guidelines, work by Moses Lake's Shoreline Citizen Advisory Committee, and Planning Commission input to create drafts of the regulatory chapters of the SMP update. At the end of that process, the draft SMP was not yet acceptable to either the state or the local citizens and Planning Commission, so staff continued to refine the draft SMP as workload allowed. A number of public meetings were held, with opportunities to comment on and participate in the update process. See Chapter 2 for the specifics of the public participation process that was followed for the update of the SMP.

Relationship to Other Plans and Regulations

In addition to compliance with the provisions of the Shoreline Management Act of 1971 and the state Shoreline Guidelines (WAC), the City of Moses Lake Shoreline Master Program is required to be consistent with local plans and policy documents, specifically the City of Moses Lake Comprehensive Plan and the City's critical area regulations (critical areas are defined by the state as wetlands, fish and wildlife habitat, steep slopes, flood plains, and aquifer recharge areas). The Master Program must 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.

Uses, developments and activities regulated by this Master Program may also be subject to the provisions of the City of Moses Lake Comprehensive Plan, the Washington State Environmental Policy Act (SEPA: RCW 43.21 and WAC 197-11), the City of Moses Lake Municipal Code, and various other provisions of local, state, and federal law, as may be amended. Project proponents shall comply with all applicable laws prior to commencing any use, development, or activity.

In the event a conflict occurs between provisions of this Master Program and the laws, regulations, codes, or rules of any other authority having jurisdiction within the City, the regulations that provide more protection to the shoreline area shall apply, except when constrained by federal or state law, or where specifically provided otherwise in this Master Program.

An applicant applying for a permit from the City is required to be in compliance with all other local, county, state, regional, or federal statutes or regulations, which may also be applicable to such development or use.

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

Other activities that could occur along the shoreline (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.

HOW TO USE THIS SHORELINE MASTER PROGRAM

1. Start with the map of Shoreline Environment Designations. This map functions in a similar way to a zoning map, in that the Environment Designation for a parcel determines allowed uses and development standards.
2. Next, refer to Tables 9.2 and 9.3 in Chapter 9, Environment Designations. These tables give a summary of the uses allowed in each environment designation and an overview of the standards (such as setbacks) that apply. Also in Chapter 9 are management policies for each environment designation.
3. Once you know whether your proposed use is allowed and the basic constraints of the site, flip to the specific sections in Chapter 7, Specific Use Policies and Regulations, and Chapter 8, Modification Policies and Regulations, for your planned uses and modifications. Remember to look at all the sections that apply. Chapter 8 begins with a general section that applies to all shoreline modifications.
4. Chapter 6, General Policies and Regulations, as the name suggests, contains general policies and regulations that could apply to any project, including such topics as critical area regulations, public access requirements, and subdivision provisions. Review this chapter to determine which sections apply to your project. The chapter begins with a general section that applies to all projects.
5. Details about the permit process are found in Chapter 12, Administration.