



## Scope of Work – Periodic Review of Island County Shoreline Master Program

The Island County Shoreline Master Program (SMP) was originally approved and adopted on June 26, 1976. The County's SMP has been amended several times since its initial adoption, including updates in 1985, 1992 and 2001. Island County adopted its most recent Comprehensive Update to the SMP in January 2016, after a five-year update process. Subsequent periodic reviews of SMPs are required by the State to be conducted every 8 years. Island County's deadline for a periodic review of the SMP is June of 2020.

The periodic review is distinct from the comprehensive updates required by RCW [90.58.080\(2\)](#). The presumption in the comprehensive update process was that all master programs needed to be revised to comply with the full suite of ecology guidelines. In contrast, the purpose and scope of the periodic review as established by the act is to:

- assure that the master program complies with applicable law and guidelines in effect at the time of the review;
- assure consistency of the master program with the local government's comprehensive plan and development regulations; and
- incorporate amendments that reflect changed circumstances, new information, or improved data.

The following scope of work outlines the County's approach to conducting the 2020 periodic review of the SMP.

### Project Tasks

#### Task 1 – Staff Initiated Revisions

Since 2015 Planning staff have processed a significant number of shoreline permits and have had the opportunity to identify areas for improvement. This task will be to draft code changes implementing those process improvements and language clarifications. These code changes include the following topics.

- Clarifying ambiguous and inconsistent sections of the shoreline code.
- Evaluating the Ordinary High Water Mark (OHWM) determination process for improved efficiencies.
- Evaluating a process for an applicant to request to change their Shoreline Environmental Designation (SED).
- Clarifying regulatory language and permit review processes regarding planting requirements and removal of vegetation/hazard trees within the shoreline jurisdiction.
- Including references and descriptions of two permit types: Shoreline Exemptions and Shoreline Exemption – Limited Review, within the permit type section of the SMP regulations.
- Creating an easier process than a shoreline variance for very specific circumstances that frequently occur
- Establishing a clear process for emergency bulkhead repairs



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### Task 2 – Changes to Address Amendments to State Law, Rules, and Guidelines

The Department of Ecology has published a Periodic Review Checklist to assist local jurisdictions in conducting the review of their SMPs. It summarizes amendments to state law, rules, and applicable updated guidance adopted between 2007 and 2017 that may trigger the need for local SMP amendments during periodic reviews and includes the following items. Consultant assistance may be necessary where there are multiple ways the County can address an item.

- cost threshold for substantial development
- definition of “development”
- exceptions to local review under the SMA
- permit filing procedures
- forestry use regulations
- lands under exclusive federal jurisdiction
- nonconforming uses and development
- exemption for retrofitting to comply with the Americans with Disabilities Act
- wetlands critical areas guidance
- 90-day target for local review of Washington State Department of Transportation (WSDOT) projects
- replacement docks on lakes and rivers
- floating on-water residences/homes
- SMP appeal procedures.
- federal wetland delineation manual
- commercial geoduck aquaculture
- option to classify existing structures as conforming
- shoreline restoration project within a UGA
- wetland mitigation banks
- moratoria authority and procedures
- options for defining "floodway"
- fish habitat enhancement projects exemption
- Update applicable critical areas regulations within the Shoreline jurisdiction

### Task 3 – Corrections to Shoreline Mapping

Accurate mapping is an essential tool for the implementation of the SMP. Ensuring that shoreline jurisdiction is accurately mapped, particularly when comes to coastal lagoons and brackish wetlands, promotes greater understanding of shoreline jurisdiction boundaries and reduces delays at the permit level. The following describes how hydrology affects where shoreline jurisdiction technically falls.

- Where coastal lagoons are present, shoreline jurisdiction technically extends 200 feet beyond the boundaries of that lagoon.
- Where brackish wetlands are present, shoreline jurisdiction also technically extends 200 feet beyond the boundaries of that wetland.
- Where a fresh water wetland’s hydrology is associated with the shoreline environment, the wetland itself falls within shoreline jurisdiction.
  - Shoreline jurisdiction would not extend beyond the wetland boundary.
  - The wetland buffers outlined in the County’s Critical Areas Ordinance apply.

Staff have a good understanding of where these areas may not be accurately mapped. In some cases, salinity data has been provided to the County, demonstrating how an area should be mapped. This exercise will not change where shoreline jurisdiction applies, but will ensure that entire areas are correctly mapped so these determinations will not need to be made at the permit level.



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The first aspect of this task will involve mostly staff work, identifying areas that are incorrectly mapped, and whether there is enough information available to correct the error. Staff will then create a short list of areas where there is not enough information to correct the map. Consultant assistance will then be utilized to evaluate on-the-ground factors, such as prevalent vegetation types, to inform and confirm the necessary mapping changes. The amount of these on-the-ground verifications will be limited in number and scope.

### Task 4 – Changes to Address Sea Level Rise

On July 2018, Sea Grant and the Washington Climate Impacts Group published an updated set of sea level rise projections that incorporate the latest science, provides community-scale projections, and is designed for direct application to risk management and planning.

The Shoreline Management Act (SMA) and the Shoreline Master Program (SMP) Guidelines contain no requirements for SMPs to address climate change or sea level rise; however:

- local jurisdictions are required to take into account the most current, accurate and complete scientific and technical information pertinent to shoreline management issues [WAC 173-26-201(2)(a)];
- local governments are encouraged by the SMP Guidelines to review their shoreline master program and make amendments deemed necessary to reflect changing local circumstances, new information or improved data; and
- local governments are encouraged to consult department guidance for applicable new information on emerging topics such as sea level rise. [WAC 173-26-090(1)].

The Department of Ecology also will be working to produce guidance for local jurisdictions on sea level rise, in time for this round of SMP updates. The consultant deliverable for this step will be a memo, which will outline different ways the County can advise, provide guidance, and encourage shoreline property owners to make smart investments on a parcel-by-parcel scale. The memo may also include a timeline and potential thresholds that could indicate a need for regulatory adjustments in the future.



## Project Phases

### Project Ramp-Up

The Project Ramp-Up phase will span January through May of 2019 and consist of work that staff can begin prior to receiving Ecology funding or executing a contract, in order to get the project in motion. Specifically this phase will include the following actions.

#### Regulatory Task Work

- Begin background research, benchmark studies, and code drafting for Tasks 1 and 2

#### Process Steps

- Apply for funding from Ecology
- Consultant solicitation/selection
- Send Scope of Work and Public Participation Plan to the Department of Ecology for review

### Project Kick-Off

The Project Kick-Off phase will span May through July of 2019 and consist mostly of executing a consultant contract and engaging the public in the update process. Staff anticipates working with the BOCC, the Planning Commission, DOE, and members of the development community to form a Technical Review Committee (TRC) to assist with development of revisions to the SMP. Specifically, this phase will include the following actions.

#### Process Steps

- Execute contract with consultant

### Draft Development

The Draft Development phase will span August through December of 2019 and consist of continued development and refinement of code changes from Tasks 1 and 2; vetting the changes through the Board, Planning Commission, and Technical Review Committee. This phase will also include the execution of Tasks 3 and 4. More specifically, the phase will consist of the following actions.

#### Regulatory Task Work

- Continued development and refinement of Tasks 1 and 2
- Initiate development and refinement of Tasks 3 and 4

#### Process Steps

- Review of regulatory options with the Board and Planning Commission
- Refine code drafts with the Consultant and Technical Review Committee based on public input

## PUBLIC PARTICIPATION

### Project Ramp Up

- Formalize and approve Public Participation Plan
- Identify Technical Review Committee Members
- Conduct stakeholder interviews

### Project Kick-Off

- Launch project page
- Convene the Technical Review Committee
- Send email blast to listserv notifying of project start and ways to get involved

### Draft Development

- Provide presentations on both Whidbey and Camano Islands to give a project overview and discuss remaining questions /tension points
- Update Project Page with new code versions and elicit public comment
- Work sessions with the Board and Planning Commission
- Schedule other community meetings upon request

### Adoption

- Initiate concurrent public comment period, Dept of Commerce 60-day review, and SEPA comment period
- Hold public comment hearing
- Develop public comment response matrix
- Hold final public hearing to adopt SMP



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### Joint Review | Adoption

The Adoption phase will span January 2020 through June of 2020 and will consist of all steps necessary to take the SMP from Final Draft stage to adoption. More specifically, the phase will consist of the following actions.

#### Regulatory Task Work

1. **Produce Final Draft** for:
  - Concurrent public comment period;
  - Department of Commerce 60-day review;
  - SEPA 14 day public comment period; and
  - The public comment hearing.
2. **Produce a Public Comment Matrix** detailing all comments received during the comment periods described in Item 1 and develop a local response to each comment
3. **Revise the Final Draft** based on public and agency comments
4. **Produce Final Document** for resolution/Department of Ecology initial review
5. After Department of Ecology initial review, **prepare updated SMP for final adoption and approval**

#### Process Steps

1. **Get approval from the Board and Planning Commission on the Final Draft** and post for:
  - Concurrent public comment period;
  - Department of Commerce 60-day review;
  - SEPA 14 day public comment period; and
  - The public comment hearing.
2. **Submit Final Draft to Department of Ecology** to initiate concurrent public comment period
3. **Submit the Final Draft to Department of Commerce** for 60 day review, allow this time to overlap with concurrent public comment period and the SEPA public comment period
4. **Issue SEPA Determination**, allow 14 day comment period to overlap with concurrent public comment period and Department of Commerce 60 day review
5. **Hold public comment hearing**, during the concurrent public comment period
6. **Adopt Final Document** that incorporates/addresses feedback from concurrent public comment period **via resolution**
7. **Send Final Document to Department of Ecology** for initial review
8. After initial review by Department of Ecology, **adopt updated SMP via ordinance**
9. **Submit adopted/updated SMP to Department of Ecology** for final approval



## Comprehensive SMP Code Update List

Category	ICC Section	Item	Brief Description
<b>Periodic Review Item</b>	050 or 080	Exceptions from Shoreline Permits	Ecology adopted rules that clarify exceptions to local review under the SMA.
<b>Periodic Review Item</b>	050.C	Federal Lands	Ecology clarified the SMA does not apply to lands under exclusive federal jurisdiction
<b>Maps</b>	060.A	SED Map	Reference the digital map and comment on future updates to the digital map. Add note into the code that there may be errors, and which takes priority.
<b>Maps</b>	060.A	Shoreline Environmental Designations	Ensure the SED map is accurate, and solidify it to prevent discrepancies and the need for SED changes post adoption. See also Policy 003/17 - Regulations of Conflicting Shoreline Environmental Designation (SED) - Policy for map change at Beverly Beach and policy 005/17
<b>Maps</b>	060.C	Shoreline Environmental Designations	Create a process for an applicant to request to change their shoreline environmental designation and include criteria such as: the parcel is next to the desired designation, and the proposal does not create non-contiguous spots of designation. See also Policy 003/17 - Regulations of Conflicting Shoreline Environmental Designation (SED) - Policy for map change at Beverly Beach and policy 005/17
<b>Maps</b>	060.H.4	Historic Beach Community list	Fix the discrepancies (see notes) in the existing Historic Beach Community list. Potentially delete the list and just reference an official map version once all communities are mapped.
<b>Maps</b>	060.H.4	Historic Beach Community list	Finalize the list of Historic Beach Communities and not allow modifications (except errors)
<b>Definitions</b>	070	Definition for "beach access structures"	Add definition for "beach access structures". See use in 17.05A.100.C.1
<b>Definitions</b>	070	Definition for "Historic Beach Community"	Clarify the definition of "Historic Beach Community"
<b>Definitions</b>	070	Definition for "structure"	Revise definition of a "structure"



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<b>Definitions</b>	070	Definition for "commercial development"	Specify that commercial does not include home industry and home occupancy.
<b>Definitions</b>	070	Definition for "industrial"	Add definition for "industrial". See 17.05A.100.G.2 for restricted use. Also clarify that this does not include home industry and home occupancy.
<b>Definitions</b>	070	Definition for "entire site"	Add definition for "entire site". See use in 17.05A.090.D.7
<b>Definitions</b>	070	Definitions for "pervious" and "impervious"	Update the definition for impervious. Consider adding a definition for pervious and partially pervious. Specifically look at implications to the 20% coverage allowed in the setback and what counts towards this. See Policy 001/17 - Regulation of Pervious Pavement and Surfaces and 002/17.
<b>Definitions</b>	070	Definitions for "repair" and "replacement"	update definition to increase clarity for bulkhead repairs and replacements
<b>Definitions</b>	070	Definitions for "modified" and "expanded"	consider creating definitions for "modified" and "expanded"
<b>Definitions</b>	070	Community dock	In the definition of community dock, specify that this also covers docks owned by HOAs
<b>Periodic Review Item</b>	070	Substantial Development	OFM adjusted the cost threshold for substantial development to \$7,047.
<b>Periodic Review Item</b>	070	Removing Structures	Ecology amended rules to clarify that the definition of "development" does not include dismantling or removing structures.
<b>Periodic Review Item</b>	070 and 080	Floating on-water residences	The Legislature created a new definition and policy for floating on-water residences legally established before 7/1/2014.
<b>Periodic Review Item</b>	070 and 080	Floating Homes	The Legislature created a new definition and policy for floating homes permitted or legally established prior to January 1, 2011.
<b>Periodic Review Item</b>	070 or 110B	SDP for Docks	The Legislature raised the cost threshold for requiring a Substantial Development Permit (SDP) for replacement docks on lakes and rivers to \$20,000 (from \$10,000).



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<b>Uses</b>	080	Tide gates	Add tide gates to the use tables, with the process being a CUP.
<b>Uses</b>	080 & 110.B	Floating boat storage	Consider adding floating boat storage to the uses list.
<b>Periodic Review Item</b>	080 and 100.F	Forest Practices	Ecology amended forestry use regulations to clarify that forest practices that only involves timber cutting are not SMA “developments” and do not require SDPs.
<b>Setbacks</b>	090	Setbacks outside shoreline	Clarify that if the buffer and setback add up to more than 200ft, they no longer apply because outside of shoreline jurisdiction
<b>Critical Areas</b>	090 Table 3	Steep slope buffers - SRCC and SRHBC	Add steep slope buffers to SRCC and SRHBC
<b>Periodic Review Item</b>	090.C.13	Streams and Lakes	Ecology amended rules to clarify that comprehensively updated SMPs shall include a list and map of streams and lakes that are in shoreline jurisdiction.
<b>Critical Areas</b>	090.C.13.c	BSA in FWHCA	Change language from "projects located adjacent to marine waters..." to "projects within marine waters, marine buffer..."
<b>Critical Areas</b>	090.C.13.h	Stream buffer & CAO	Add "If a conflict exists between this chapter and another chapter or planning policy, the more restrictive shall apply."
<b>Vegetation Maintenance</b>	090.C.13.K.i	Removal of hazardous trees	Clarify that this does not allow the removal of diseased and damaged trees. Rather, reference the 17.05A.090.K
<b>Critical Areas</b>	090.C.14.a	CAO reference	Update to reference the most current CAO and ensure that SVAR is the process for critical areas alterations, not RUD
<b>Setbacks</b>	090.D.3	Reference to common line setback	Add reference to common line setback - 17.05A.090.E
<b>Buffer Enhancement</b>	090.D.8	Vegetative enhancements	Clarify when this is required.
<b>Setbacks</b>	090.E.2 & 4	Expansion in building setback	Move this language to a “variance light” section. Also provide in the new section, some flexibility in regulating impervious surface area when only a portion of a lot is within shoreline jurisdiction.
<b>Setbacks</b>	090.F.2	Common line setback	Update the section figure in Figure 1 to be accurate with the language in this section.
<b>Buffer Enhancement</b>	090.F.4	Buffer enhancement	Clarify what the "remaining buffer" means.



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<b>Buffer Enhancement</b>	090.G	Buffer enhancement figure	Update figure 2 to match 090.G
<b>Buffer Enhancement</b>	090.G.1	Buffer enhancement	Clarify what the 200 square feet applies to. Also update figure 2 to remove reference to the 2,200 square feet, since that only applies to stream buffer reductions.
<b>Buffer Enhancement</b>	090.H.1.a(iii)	Buffer enhancement violations	Clarify the cutoff for violations
<b>Shoreline Stabilization</b>	090.I.1	Shoreline buffer - restoration	Clarify
<b>Setbacks</b>	090.J	Setback reduction - Canal Communities	Clarify when the reduction to 24ft is allowed.
<b>Setbacks</b>	090.J.2	Vegetative enhancements	Reword and add clarifying language.
<b>Subdivision/Plats</b>	090.M.5	Public access	Clarify the process for ensuring this is implemented in plats and such.
<b>Periodic Review Item</b>	100.B	Geoducks	Ecology adopted rules for new commercial geoduck aquaculture.
<b>Uses</b>	100.D.1.b	Float Plane Base restrictions	Add restriction of float plane bases in the natural shoreline, as per the use table.
<b>Uses</b>	100.E.6	Non-water-oriented commercial uses	Clarify how this impacts home occupancy or home industry
<b>Subdivision/Plats</b>	100.J.2	Density restrictions	Add language that states that lots that have a portion within the shoreline jurisdiction can only be subdivided at the boundary of the shoreline jurisdiction or more landward, unless the portion of the property that is within shoreline jurisdiction is at least double the minimum density requirements for that shoreline environmental designation.
<b>Other</b>	100.K	Signs	Cross reference other sign code section
<b>Shoreline Stabilization</b>	110.A.3.f & E.7	Replacement shoreline stabilization and structures	Clarify what it means to be "regulated as new stabilization" or "new structures"
<b>Docks/Piers/Floats</b>	110.B	Moorage facilities (docks, piers, floats)	Consider moving to be under section 100, with the other uses



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<b>Docks/Piers /Floats</b>	110.B.13	Replacement docks, piers, or floats	Rework this section to clarify this process. Consider how this affects owners who do partial repairs over periods greater than 5 years.
<b>Docks/Piers /Floats</b>	110.B.20	Docks - new waterfront properties	Clarify what "new" means.
<b>Docks/Piers /Floats</b>	110.B.20	Docks - unsafe	Clarify what "promptly" means.
<b>Docks/Piers /Floats</b>	110.B.6	Demonstrating need for dock, piers, or floats	Clarify how applicants can provide information required under section (a) and (b)
<b>Periodic Review Item</b>	130.C	WSDOT Projects	The Legislature adopted a 90-day target for local review of Washington State Department of Transportation (WSDOT) projects.
<b>Periodic Review Item</b>	130.C.11	Permit Filing	Ecology amended rules that clarify permit filing procedures consistent with a 2011 statute.
<b>Periodic Review Item</b>	130.D.6		The Legislature adopted Growth Management Act – Shoreline Management Act clarifications.
<b>Other</b>	130.E.2.d(iv)	Emergency permit	Clarify when an emergency is not "anticipated".
<b>Permit Process</b>	130	SHE & SHE-LR Process	Add sections about the SHE & SHE-LR process. See also policies 001/12, 002/14, 006/14, and 004/17
<b>Permit Process</b>	130.B.8.b	OHWM determination process	add process for when there are disputes about the OHWM location
<b>Periodic Review Item</b>	130	ADA	The Legislature created a new shoreline permit exemption for retrofitting existing structures to comply with the Americans with Disabilities Act.
<b>Variations</b>		Easier Variance process for specific circumstances	Create a "variance light" process in order to provide some flexibility in regulating impervious surface area when only a portion of a lot is within shoreline jurisdiction. Include the language from section 090.E.2 & 4 about expansion in the building setback.
<b>Other</b>		Dumping	Add "no-dumping" in shoreline/over steep slope.
<b>Other</b>		Failing Septic Systems	Policy 002/14 - Shoreline Exemption for failing septic systems



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<b>Other</b>		HVAC Systems	Policy 004/17 - Minor Heating, Ventilation, and Air Conditioning (HVAC) appurtenances in Shoreline Jurisdiction
<b>Other</b>	17.03.180.S.8	Land Use Standards	Delete this section and reference 17.05A
<b>Periodic Review Item</b>		Existing Structures	The Legislature authorized a new option to classify existing structures as conforming.
<b>Periodic Review Item</b>		OHWM	The Legislature created new “relief” procedures for instances in which a shoreline restoration project within a UGA creates a shift in Ordinary High Water Mark.
<b>Periodic Review Item</b>		Moratoria	The Legislature added moratoria authority and procedures to the SMA.