

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.

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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

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.

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

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 or tension points
- Update Project Page with new code versions and continue to elicit public comment
- Work sessions with the Board and Planning Commission
- Schedule other community meetings upon request

Adoption

- Initiate concurrent public comment period (state agency and local comments) and hold comment hearing
- Develop public comment response matrix
- Hold final public hearing to adopt SMP

- Refine code drafts with the Consultant and Technical Review Committee based on public input

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

- Produce final draft for the concurrent public comment period (state agency and local comments)
- Revise the final draft based on public and agency comments
- Produce – FINAL DOCUMENT for resolution/Department of Ecology initial review

Process Steps

- Get approval from the Board and Planning Commission on the final draft to post for concurrent public comment period (state agency and local comments)
- Adopt FINAL DOCUMENT that incorporates/addresses feedback from public comment period via resolution
- Send FINAL DOCUMENT to Department of Ecology for initial review
- Adopt updated SMP via ordinance
- Submit adopted/updated SMP to Department of Ecology for final approval