

CHAPTER 2 APPLICABILITY

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2.01 Geographical Jurisdiction

This Master Program shall apply to all lands and waters as defined by RCW 90.58.030 for unincorporated Skagit County and for those cities and towns who adopt this program by resolution.

2.02 Applicability to Persons

This Master Program shall apply to every person, individual, firm, partnership, association, organization, corporation, local or state government agency, public or municipal corporation, or other entity which develops, owns, leases, or administers lands, wetlands, and waters which fall under the jurisdiction of the Shoreline Management Act. Nothing in this management program shall be construed as allowing any abridgement of private property rights.

2.03 Applicability to Federal Agencies

1. Federal agencies shall not be required to obtain permits for substantial developments undertaken by the federal government on lands owned in fee by the federal government, unless federal government grants or reserves to the state or local government, substantial jurisdiction over activities on those lands. (WAC 173-14-062)
2. When and if the Washington State shoreline program is approved under the Coastal Zone Management Act, 16b USC 1451 et seq., the federal government shall be subject to the state shoreline program as provided by the Coastal Zone Management Act. (WAC 173-14-062)

3. The substantial development permit system shall apply to nonfederal activities constituting substantial developments undertaken on shorelines of the state subject to nonfederal ownership, lease or easement, even though such lands may fall within the external boundaries of a federal ownership and whether or not such shorelines have been identified with a Shoreline Area designation pursuant to Chapter 4, this program. (WAC 173-14-062)
4. The substantial development permit system shall apply to substantial developments undertaken on lands not federally owned but under lease, easement, license, or other similar federal property rights short of fee ownership, to the federal government. (WAC 173-14-062)
5. The shoreline permit procedure, policies and regulations established by this program shall apply to development on privately owned shorelines of the state within the Swinomish Indian Reservation except development by persons having rights established by treaty to which the United States is a party pursuant to RCW 90.58.350.
6. All shorelines within federally owned lands that are subject to the provisions of the Shoreline Management Act are hereby designated as Natural Shoreline Areas and any uses proposed for such shorelines are subject to the applicable policies and regulations of this Master Program. See Nos. 3 and 4 above.

2.04 Applicability to Development

1. All provisions of this Master Program shall apply to any development as defined in Chapter 3, Definitions. All development and use of the shorelines of the state shall be conducted in such a manner to comply with this Master Program and the policies of the Act as required by RCW 90.58.140(1), whether or not a shoreline permit is required for such development.
2. Existing development - To insure that strict implementation of this program will not create unnecessary hardships or thwart the policy enumerated in RCW 90.58.020, any development or activity on private or public shorelines in operation prior to June 1, 1971, are exempt from permit procedures PROVIDED the development meets the requirements of WAC 173-14-050, Application of the Permit System to Substantial Development Undertaken Prior to the Act.

However, if any existing developments normally exempt significantly expand or initiate new forms of activity, such expansion or activity shall adhere to the policies, regulations, and permit procedures of this Master Program.

3. Change of ownership - Change of ownership will not require a shoreline permit unless the new owner/operator significantly expands the operations or initiates new forms of activity.

2.05 Applicability to Substantial Development

No substantial development as defined in Chapter 3 shall be undertaken by any person on shorelines without first obtaining a shoreline permit from Skagit County; PROVIDED, that such a permit shall not be required for the following classes of substantial development exempted from the shoreline permit requirement; PROVIDED FURTHER, that a statement of exemption as provided for in Section 2.06 of this program shall be obtained from the Administrator prior to beginning development if uncertainty exists regarding qualification for the exemption;

- a. Normal maintenance or repair of existing structures or development, including damage by fire, accident, or elements; PROVIDED that the new development or structure is essentially the same as the original in location, size, design, function, and use;
- b. Construction of the normal protective bulkhead common to single family residences;
- c. Emergency construction necessary to protect property from damage by the elements;
- d. Construction of a barn or similar agricultural structure on wetlands. Construction and practices normal or necessary for farming, irrigation, and ranching activities including agricultural service roads and utilities on wetlands, and the construction and maintenance of irrigation structures including, but not limited to, headgates, pumping facilities, and irrigation channels: PROVIDED, that a feed lot of any size, all processing plants, other activities of a commercial nature, alteration of the contour of the wetlands by leveling or filling other than that which results from normal cultivation, shall not be considered normal or necessary farming or ranching activities. A feedlot shall be an enclosure or facility used or capable of being used for feeding livestock hay, grain, silage, or other livestock feed, but shall not include land for growing crops or vegetation for livestock feeding and/or grazing, nor shall it include normal livestock wintering operations.

- e. Construction or modification of navigational aids such as channel markers and anchor buoys.
- f. Construction on wetlands by an owner, lessee or contract purchaser of a single family residence for his own use or for the use of his family, which residence does not exceed a height of thirty-five (35) feet above average grade level, and which meets all requirements of the state agency or local government having jurisdiction thereof, other than requirements imposed pursuant to this chapter.
- g. Construction of a dock, designed for pleasure craft only, for the private noncommercial use of the owners, lessee, or contract purchaser of a single family residence, the cost or fair market value, whichever is higher, does not exceed two thousand five hundred dollars (\$2,500).
- h. Operation, maintenance, or construction of canals, waterways, drains, reservoirs, or other facilities that now exist or are hereafter created or developed as a part of an irrigation system for the primary purpose of making use of system water, including return flow and artificially stored ground water from the irrigation of lands.
- i. The marking of property lines or corners on state owned lands, when such marking does not significantly interfere with normal public use of the surface of the water.
- j. Operation and maintenance of any system of dikes, ditches, drains, or other facilities existing on the effective date of this 1975 amendatory act which were created, developed or utilized primarily as a part of an agricultural drainage or diking system.
- k. Any project with a certification from the governor pursuant to Chapter 80.50 RCW.

NOTE: EXEMPTION FROM THE SUBSTANTIAL DEVELOPMENT REQUIREMENTS UNDER SECTION 2.05 ABOVE DOES NOT CONSTITUTE AN EXEMPTION FROM THE POLICIES OF THE ACT, THE PROVISIONS OF THIS MASTER PROGRAM AND OTHER APPLICABLE LOCAL, STATE OR FEDERAL PERMIT REQUIREMENTS.

2.06 Statement of Exemption

- 1. A statement of exemption shall be obtained from the Administrator prior to beginning development on shorelines of the state in this county if uncertainty exists regarding

qualification for permit exemption. Forms for statements of exemption shall be supplied to the applicant by the Administrator.

2. Certain developments - A statement of exemption is necessary prior to commencement of work for the following forms of development normally exempt from shoreline permit application requirements: bulkheads for single family residences (Shore Defense Works) and dikes or levees (Shoreline Stabilization and Flood Protection).
3. The Administrator's actions concerning statements of exemptions are subject to appeal pursuant to Chapter 9, Procedures.

2.07 Applicability to Other Local, State, and Federal Laws

Obtaining a shoreline permit or statement of exemption for a development or use does not excuse the applicant from complying with any other local, regional, state, or federal laws applicable to such development or use.

2.08 Applicability to and Conflicts with Other Local and State Policies and Regulations

1. The Shorelines Management Act and this Master Program comprise the basic state and county laws regulating use of the shorelines of Skagit County. In the event the Act and this Master Program conflict with other existing applicable state and county policies, regulations, and ordinances for the same affected area, the provisions of the Act and the Master Program shall prevail.
2. The County Building Official
 - a. In the case of development subject to the shoreline permit and building permit regulations, the County Building Official shall not issue a building permit for such development until a shoreline permit has been granted by local government and approved by the state; PROVIDED also that the building permit shall be subject to the same terms and conditions that apply to the shoreline permit.
 - b. In the case of development subject to the policies and regulations of this Master Program, but exempt from the shoreline permit process, the Building Official, through consultation and coordination with the Administrator, shall attach shoreline management terms and conditions to the building permit pursuant to RCW 90.58.140(1).

3. Conditional Use and Special Use Permits and Variances - For conditional use permits, special use permits, and/or variances required by other county ordinances for development subject to this Master Program, but exempt from the shoreline permit procedures, the reviewing authority with the advice and recommendations of the Administrator shall attach shoreline management terms and conditions to such conditional use permits, special use permits and variances as required to insure such development is consistent with this Master Program.
4. Subdivisions and short subdivisions - For subdivisions and short subdivisions of land within the jurisdiction of the Act and this Master Program the Administrator shall review such subdivisions to insure consistency with the Master Program and, as appropriate, shall attach terms and conditions to preliminary and/or final approval as required to insure consistency with this Master Program.
5. Lands adjacent to shorelines - The county shall review all administrative and management policies, regulations, plans, and ordinances relative to lands under county jurisdiction adjacent to shorelines so as to achieve a use policy on such lands that is consistent with the Act and this Master Program pursuant to RCW 90.58.340.

2.09 Liberal Construction

As provided for in RCW 90.58.900, the Act is exempted from the rule of strict construction; the Act and this program shall therefore be liberally construed to give full effect to the purposes, goals, objectives, and policies for which the Act and this Master Program were enacted and adopted, respectively.