



# Shoreline Master Program

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**WHAT IT IS  
and  
WHERE WE'RE AT**

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7-29-2010



# Shoreline Master Program

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Two Major land use Programs in WA:

- Growth Management Act
- Shoreline Management Act



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- Courts have ruled shorelines subject only to SMA – not GMA
- But EHB 1653 says both the GMA and SMA apply until county SMP update.
- Pacific Legal Foundation challenged EHB1653 – Appellate Court to review.



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**Shorelines Management Act RCW 90.58**



**Guidelines WAC 173-26**



**Local Shoreline Master Program  
(local ordinance)**



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## **Shorelines Management Act RCW 90.58**

- Adopted 1971, Affirmed 1972 referendum.
- Plan for all reasonable and appropriate uses.
- Protect against adverse effects to public health, the land, its vegetation and wildlife, and the waters of the state and their aquatic life, while protecting public rights of navigation.



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## **Shorelines Management Act RCW 90.58**

- Controls shoreline development and prioritizes uses that include single family residences and uses that require a shoreline location.
- Provides standards for protecting single family residences and from erosion, including construction of bulkheads



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## **SMA requires master programs include:**

Economic Development element

Public access element

Recreational Element

Transportation circulation element

Use element (housing, business, industry, etc.)

Conservation element

Historic, cultural, scientific, and educational element

Flood damage prevention element



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## **Guidelines WAC 173-26 - History**

1995 – Legislature directed update

2000 – New guidelines published by Ecology

2001 – Appealed and invalidated

2002 – Negotiations & settlement agreement

2003 – Current guidelines adopted



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## **WAC 173-26 – Guidelines set minimum requirements**

- Shoreline inventory and Characterization
- Shoreline environmental designations
- Policies and regulations
- Cumulative impacts and use analysis
- Restoration planning



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## **SMP Ordinance – locally customized to provide:**

- A plan for managing the shorelines.
- A shoreline environmental designation system.
- Regulations and standards and an administration and permitting system



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## **Local SMP Ordinances – lots of work**

Over 260 counties and cities need updates

About 30 done, 120 in process

Kitsap began process in 2009 and has a schedule to complete the draft SMP in April 2012. Details are found at

[www.kitsapshoreline.org](http://www.kitsapshoreline.org)



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**The potential problem:** Other counties have implemented overly-restrictive requirements – including large buffers and weak protection of existing structures and uses.



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**The bad news:** Ecology, Fish and Wildlife, Environmental Organizations, the Puget Sound Partnership, and the Puget Sound Regional Council all encourage highly restrictive shoreline regulations to protect the “fragile” ecosystem.



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**The “iffy” news:** The question whether all shorelines can be considered “Critical Areas” will not be firmly settled until the Appeals Court decides our case. However, the county would be well advised to not take this approach which, prior to EHB 1653, was rejected by the appeals court.



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**The good news:** The SMP process, as prescribed by WAC, allows flexibility in many areas, including buffers and grandfathering, but requires the county to show its work (e.g. the science that ensures no net loss of ecological function from future development)



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**More good news:** The county has assembled a 20-person Task Force to assist in developing the SMP update. Wide range of perspectives – but KAPO is represented and has found allies. The county appears willing to listen.



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**The outcome is far from certain.**

Ecology has the final approval authority. Science is the key – but much of Ecology's science in their guideline documents doesn't pass muster. The challenge will be in presenting valid scientific information in a way that will allow it to be accepted by both the county and Ecology in lieu of their boilerplate.



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**The outcome is also political.** The environmental movement has dominated the political process in Olympia and has had an effect here in Kitsap Co. Their theme appears to be that human activities and the environment are not compatible. A balanced SMP update will not be achievable unless property owners become involved.



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**Be Involved and get your friends involved.** The presence of property owners at Task Force and Commissioners meetings; as well as letters to the editors and other communications is crucial to a satisfactory SMP outcome. Politicians really do pay attention when a large number of their constituents are actively involved.

The End

