

**SKAMANIA COUNTY CODE
TITLE 20
SHORELINE MANAGEMENT**

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CHAPTER 20.04 - GENERAL PROVISIONS

Sections:

- 20.04.010 Severability - Conflict of provisions.
- 20.04.020 Applicability - Generally.
- 20.04.030 Shoreline designated.
- 20.04.040 Shorelines of statewide significance.
- 20.04.050 Substantial development permits.
- 20.04.060 Selective commercial timber cutting.

20.04.010 **SEVERABILITY - CONFLICT OF PROVISIONS**

- A. If any provision of this title or its application to any person or circumstance is held invalid, the remainder of this title or the application of the provision to other persons or circumstances shall not be affected.

- B. In the event any provision of this title is inconsistent with any provision of the Washington Administrative Code Chapter 173-14, this title shall be deemed to conform with said WAC regulations as they now exist or are hereafter amended.
(Ord. 1980-02 '2.0)

20.04.020 **APPLICABILITY - GENERALLY**

This title applies to all the lands and waters in Skamania County that are under the jurisdiction of Chapter 90.58 RCW, Shorelines Management Act of 1971. (Ord. 1980-02 '4.10)

20.04.030 **SHORELINES DESIGNATED**

The following streams and lakes constitute the Shorelines of Skamania County (see Section 20.12.010 for definition) and are under the jurisdiction of the Shorelines Management Act of 1971:

(NOTE: As described in Chapter 173-18 WAC, Streams And Rivers Constituting Shorelines of the State, WAC 173-18-340, Skamania County).

A. **STREAMS**

Bear Creek - From the Gifford Pinchot National Forest boundary ('5, T3N,

R8E) downstream to mouth at Wind River ('8, T3N, R8E).

Buck Creek - From Klickitat County line ('2, T3N, R10E) downstream to mouth at White Salmon River ('2, T3N, R10E).

Canyon Creek - Beginning in (NW1/4 of SE1/4 '4, T1N, R5E) downstream to Washougal River ('6, T1N, R5E).

Cold Creek - From NW1/4 of NE1/4 ('16, T4N, R7E) downstream to mouth at Wind River ('9, T4N, R7E).

Coldwater Creek - From east section line ('29, T10N, Creek R5E) downstream to Cowlitz-Skamania County line ('31, T10N, R5E) excluding federal lands.

Deer Creek - From an approximate point (NE1/4 of '17, T3N, R6E) downstream to mouth at Prospector Creek ('18 T3N, R6E).

Dougan Creek - From the confluence of Dougan Creek and unnamed creek ('2, T2N, R5E) downstream to Washougal River ('11, T2N, R5E).

Drift Creek - From south section line ('8, T6N, R6E) downstream to Swift Reservoir ('5, T6N, R6E) excluding federal lands.

Duncan Creek - Beginning in (NW1/4 of SE1/4 of NE1/4 of '17, T2N, R6E) downstream to Columbia River ('34, T2N, R6E).

Forest Creek - From the Gifford Pinchot National Forest boundary ('17, T3N, R7E) downstream to mouth at Rock Creek ('17, T3N, R7E).

Greenleaf Creek - From an approximate point (NW1/4 of '16, 2N, 7E) downstream through Greenleaf Slough to mouth at Hamilton Creek ('20, T2N, R7E).

Green River - From the Gifford Pinchot National Forest boundary ('18, T10N, R6E) downstream to the Cowlitz-Skamania County line ('6, T10N, R5E), excluding federal lands.

Hagen Creek - From the Clark County line ('6, T2N, R5E) downstream to mouth at the West Fork Washougal River ('6, T2N, R5E).

Hamilton Creek - From the confluence of Hamilton Creek and unnamed creek ('36, T3N, R6E) downstream to Columbia River ('30, T2N, R7E).

Lava Creek - From the Gifford Pinchot National Forest boundary ('33, T4N, R9E) downstream to mouth on Little White Salmon River ('1, T3N, R9E).

Little White Salmon - Beginning in (NE1/4 of NE1/4 of NE1/4 of '2, T4N, R9E) downstream to confluence with Lava Creek ('1, T3N, R9E), excluding federal lands.

Little Wind River - From the Gifford Pinchot National Forest boundary ('14, T3N, R8E) downstream to mouth at Wind River ('22, T3N, R8E).

Lookout Creek - From an approximate point (NW1/4 of '6, T3N, R6E) downstream to mouth at Washougal River ('1, T3N, R5E).

Miners Creek - From confluence of Miner's Creek and unnamed creek (SE 1/4 of '8, T10N, R5E) downstream to Lewis-Skamania county line ('8, T10N, R5E).

Moss Creek - From the west section line of ('27, T4N, R9E) downstream to confluence with Little White Salmon River ('26, T4N, R9E), excluding federal lands.

Muddy River - From the west section line of ('16, T8N, R6E) down-stream to mouth at Lewis River ('24, T7N, R6E), excluding federal lands.

North Fork Toutle River - From Spirit Lake ('15, T9N, R5E) downstream to Skamania County line ('15, T9N, R5E), excluding federal lands.

North Siouxon Creek - From the Gifford Pinchot National Forest boundary ('16, T6N, R5E) downstream to the Clark County line ('30, T6N, R5E).

Ole Creek - From the confluence of Ole Creek and an unnamed creek ('31, T7N, R5E) downstream to Lewis River ('31, T7N, R5E).

Panther Creek - Beginning in (NW1/4 of SE1/4 of SE1/4 of '25, T4N, R7 1/2E) downstream to mouth at Wind River ('8, T3N, R8E).

Prospector Creek - From the confluence of Prospector Creek and Deer Creek ('18, T3N, R6E) downstream to mouth at Washougal River ('13, T3N, R5E).

Range Creek - From south section line of ('12, T6N, R5E) downstream to Swift Reservoir ('6, T6N, R6E).

Rock Creek - From west section line ('2, T3N, R6E) downstream to Columbia River ('1, T2N, R7E).

Siouxon Creek - From the Gifford Pinchot National Forest boundary ('31, T6N, R5E) downstream to Clark County line ('31, T6N, R5E), excluding federal lands.

Smith Creek - From east section line of ('30, T9N, R6E) downstream to mouth at Muddy River ('15, T8N, R6E), excluding federal lands.

Spring Creek - From the Gifford Pinchot National Forest boundary ('22, T3N, R7E) downstream to mouth at Rock Creek ('27, T3N, R7E).

Stebbins Creek - From the confluence of Stebbins Creek and unnamed creek ('28, T3N, R6E) downstream to mouth at Washougal River ('6, T2N, R6E).

Swift Creek - From the Gifford Pinchot National Forest boundary ('4, T7N, R5E) downstream to mouth at Swift Reservoir ('16, T7N, R5E), except those reaches within the national forest.

Swift Creek West Fork - Beginning in (SE1/4 of NW1/4 of SW1/4 of '4, T7N, R5E) downstream to Swift Creek ('16, T7N, R5E).

Trout Creek - Beginning in (SE1/4 of SE1/4 of NE1/4 of '27, T4N, R7E) downstream to mouth at Wind River ('26, T4N, R7E).

Unnamed tributary to Swift Creek - From the Gifford Pinchot National Forest boundary ('10, T7N, R5E) downstream to mouth at Swift Creek ('9, T7N, R5E).

Unnamed tributary to Swift Reservoir - From the east section line ('2, T6N, R6E) downstream to mouth at Swift Reservoir ('35, T7N, R6E).

Washougal River - From the Gifford Pinchot National Forest boundary ('1, T3N, R5E) downstream to mouth at Clark County line ('31, T2N, R5E).

Washougal River, West Fork - From an approximate point (NW1/4 of SW1/4 of '29, T3N, R5E) downstream to mouth at Washougal River ('33, T2N, R5E).

Wildboy Creek - From the confluence of Wildboy Creek and Texas Creek ('17, T2N, R5E) downstream to West Fork Washougal River ('20, T2N, R5E).

Wind River - Beginning at the north section line of ('9, T4N, R7E) downstream to Gifford Pinchot National Forest boundary at north section line of ('1, T3N, R71/2E).

Woodward Creek - From the confluence of Woodward Creek and unnamed creek ('27, T2N, R6E) downstream to mouth at Columbia River ('36, T2N, R6E).

B. LAKES

Ashes Lake	Section 11, T2N, R7E
Drano Lake	Section 25 & 26, T3N, R10E
Elk Lake	Section 19, T10N, R5E
Franz Lake	Section 4 & 5, T1N, R6E
Greenleaf Slough	Section 20 & 21, T2N, R7E
Hanaford Lake	Section 19, T10N, R5E
Northwestern Lake	Section 2 & 3, T3N, R10E
Stevenson Lake	Section 1, T2N, R7E
Unnamed Lake	Section 30, T2N, R7E
Venus Lake	Section 14, T2N, R7E
Wauna Lake	Section 14, T2N, R7E.
Woody Lake (Ord. 1980-02 '4.20)	Section 34, T2N, R6E

20.04.040 **SHORELINES OF STATE-WIDE SIGNIFICANCE**

The following rivers and lakes constitute the Shorelines of State-Wide Significance (see Section 20.12.010 for definition) within Skamania County and are under the jurisdiction of the Shorelines Management Act of 1971.

(NOTE: As described in Chapter 173-18 WAC, Streams And Rivers Constituting Shorelines of the State, (WAC 173-18-340, Skamania County; except White Salmon River.)

A. **RIVERS**

Columbia River - From Klickitat County line ('23, T3N, R10E) downstream along Washington shoreline to Clark County line ('19, T1N, R5E), excluding federal lands.

Lewis River - From Gifford Pinchot National Forest boundary ('24, T7N, R5E) downstream through Swift Reservoir to Cowlitz County line ('31, T7N, R5E), excluding federal lands.

Little White Salmon River - Beginning at the confluence with Lava Creek ('1, T3N, R9E) downstream to Drano Lake, excluding federal lands.

White Salmon River - From Klickitat County line ('2, T3N, R10E) downstream right bank only to mouth on Columbia River ('23, T3N, R10E), except that portion from Condit Dam to Nester Peak Road, known as Northwestern Lake.

Wind River - Beginning at Gifford Pinchot National Forest boundary ('1, T3N, R71/2E) downstream to mouth on Columbia River.

B. **LAKES**

Spirit Lake - Section 15, T.9N, R5E

Swift Reservoir - Within T7N, R5E
(Ord. 1980-02 '4.30)

20.04.050 **SUBSTANTIAL DEVELOPMENT PERMITS**

- A. No substantial development shall be undertaken on the shorelines except those which are consistent with the Shorelines Management Act of 1971, and the County Master Program, and the regulations of this title.
- B. No substantial development shall be undertaken on the shorelines without first obtaining a substantial development permit in accordance with this title.
- C. Substantial development undertaken prior to June 1, 1971, shall not continue without a permit into other phases followed at the time construction commenced.
- D. Substantial development undertaken prior to June 1, 1971, shall not require a permit except under the following circumstances:
 - 1. Where the activity was unlawful prior to June 1, 1971;
 - 2. Where the development was not completed prior to June 1, 1971;
 - 3. Where development occurred prior to June 1, 1971 on the shoreline, and continued on to a different lake, river or tributary after June 1, 1971, a permit shall be required for the substantial development undertaken after June 1, 1971. (Ord. 1980-02 '4.40)

20.04.060 **SELECTIVE COMMERCIAL TIMBER CUTTING**

Only selective commercial timber cutting shall be allowed within two hundred feet abutting landward of the ordinary high water mark within shorelines of state-wide significance, so that no more than thirty percent of the merchantable trees may be harvested in any ten year period of time; provided, that other timber harvesting methods may be permitted in those limited instances where the topography, soil conditions or silviculture practices necessary for regeneration render selective logging ecologically detrimental; provided further, that clear-cutting of timber which is solely incidental to the preparation of land for other uses authorized by this title may be permitted. (Ord. 1980-02 '4.50)

CHAPTER 20.08 - ADMINISTRATION

Sections:

- 20.08.010 Authority.
- 20.08.020 Master plan maps adopted - Contents.
- 20.08.030 Unofficial maps - Availability - Contents.
- 20.08.040 Master program - Conformance required - Copies on file.

20.08.010 **AUTHORITY**

The Skamania County Planning Department is vested with the duty of administering this title. The Planning Department may prepare and use such forms as are authorized by act, or any subsequent state law, and authorized for use by the Board of County Commissioners. (Ord. 1980-02 '3.10)

20.08.020 **MASTER PLAN MAPS ADOPTED - CONTENTS**

- A. There is hereby made a part of this title a set of maps which shall be officially known as the "Shorelines Master Plan Maps." There shall be only one official copy of this set of maps which shall be on file with the Skamania County Auditor. The official copy shall be made available to the general public upon request.
- B. These maps will show the shoreline areas of the county which are under the jurisdiction of the act and the shorelines environments as they affect the various lands and waters within the county. (Ord. 1980-02 '3.20)

20.08.030 **UNOFFICIAL MAPS**

- A. There will be unofficial copies of the Shorelines Master Plan Maps prepared for administrative purposes. The unofficial maps will be made available to the general public at the County Planning Department at the cost of reproduction.
- B. These maps will show the shoreline areas of the county, which are under the jurisdiction of the act and the shorelines environments, as they affect the various lands and waters within the county. (Ord. 1980-02 '3.30)

20.08.040 **MASTER PROGRAM - CONFORMANCE REQUIRED - COPIES ON FILE**

- A. In reviewing shorelines permits the Planning Department shall determine if the proposed development or project is in conformance with the Skamania County Shorelines Management Master Program and its associated Shorelines Master Plan maps mentioned in Section 20.08.020.
- B. There shall be an official copy of this program on file with the County Auditor. The official copy shall be made available to the general public upon request. Copies of the program, or parts of the program, will be made available to the general public at the County Planning Department at the cost of reproduction. (Ord. 1980-02 '3.40)

CHAPTER 20.12 - DEFINITIONS

Sections:

20.12.010 Definitions - Generally.

20.12.010 **DEFINITIONS**

Whenever the following words and phrases appear in this title they shall be given the meaning attributed to them by this section. When not inconsistent with the context, words used in the present tense shall include the future; the singular shall include the plural, and the plural the singular; the word "shall" is always mandatory, and the word "may" indicates a use of discretion in making a decision.

- A. **Act** means the Shoreline Management Act of 1971, Chapter 286, Laws of 1971, Ex. Sess.
- B. **Associated Wetlands** means those wetlands which are strongly influenced by and in close proximity to any stream, river or lake subject to the act. See also "wetlands."
- C. **Average Grade Level** means the average of the natural or existing topography of the portion of the lot, parcel, or tract of real property which will be directly under the proposed building or structure; provided, that in the case of structures to be built over water, average grade level shall be the elevation of ordinary high water. Calculation of the average grade level shall be made by averaging the elevations at the center of all exterior walls of the proposed building or structure.
- D. **Board** means the Board of County Commissioners of Skamania County.
- E. **Department** means the Washington State Department of Ecology.
- F. **Development** means a use consisting of the construction or exterior alteration of structures, dredging, drilling, dumping, filling, removal of any sand, gravel or minerals, bulkheading, driving of piling, placing of obstructions, or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters overlying lands subject to the act at any state of water or water level. See also "substantial development."

- G. **Height** shall be measured from average grade level to the highest point of a structure; provided, that appurtenances such as television antennas and chimneys shall not be used in calculating height.
- H. **Master Program** means the Shoreline Management Master Program and its associated Shorelines Master Plan maps.
- I. **Natural or Existing Topography** means the topography of the lot, parcel or tract of real property immediately prior to any site preparation grading, excavation or filling.
- J. **Ordinary High Water Mark** means the mark on all lakes and streams, which will be found by examining the beds and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, with respect to the vegetation, or as it may naturally change thereafter. In any areas where the ordinary high water mark cannot be found, the line of mean high water shall be considered as the ordinary high water mark.
- K. **Permit** means that required by the Act for substantial development on the shorelines to be issued by the county, and subject to review by the Department of Ecology.
- L. **Person** means an individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, or agency of the state or any local governmental unit however designated.
- M. **Planning Department** means the Skamania County Planning Department.
- N. **Shorelines** means both the shorelines of Skamania County and the shorelines of statewide significance.
- O. **Shorelines Hearing Board** means the state Shorelines Hearing Board established by the Act.
- P. **Shorelines of Skamania County** means all of the water areas of the county on segments of streams downstream of a point where the mean annual flow is 20 cubic feet per second or more and lakes larger than 20 acres in size and their associated wetlands, together with the lands underlying them, except the shorelines of statewide

significance.

Q. **Shorelines of Statewide Significance** means those natural rivers or segments thereof, as follows:

1. Any west of the crest of the Cascade range downstream of a point where the mean annual flow is measured at 1,000 cubic feet per second, or more;
2. Any east of the crest of the Cascade range downstream of a point where the annual flow is measured at 200 cubic feet per second, or more, or those portions or rivers east of the crest of the Cascade range downstream from the first 300 square miles of drainage area, whichever is longer;
3. Those wetlands associated with subdivisions 1 and 2 above;
4. Those lakes, whether natural, artificial or a combination thereof, with a surface acreage of 1,000 acres, or more, measured at the ordinary high water mark and their associated wetlands. (See Chapter 20.04)

R. **Shorelines Environment** means those shoreline environments as designated on the Shoreline Master Plan maps. The purposes, uses and environment regulations are set forth in the Shoreline Management Master Program.

S. **Substantial Development** means any development of which the total cost or fair market value exceeds one thousand dollars or any development which materially interferes with normal public use of the water or shorelines, except that the following shall not be considered substantial developments:

1. Normal maintenance or repair of existing structures or developments, including damage by fire, accident, or elements;
2. Construction of the normal protective bulkhead, common to single-family residences;
3. Emergency construction necessary to protect property from damage by the elements;

4. 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 head gates, pumping facilities and irrigation channels; provided, that a feedlot 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 the land for growing crops or vegetation for livestock feeding and/or grazing, nor shall it include normal livestock wintering operations;
5. Construction or modification of navigational aids such as channel markers and anchor buoys;
6. 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 feet above average grade level, and which meets all requirements of the state Department or county master program;
7. 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, for which the cost or fair market value, whichever is higher, does not exceed two thousand five hundred dollars;
8. 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 waters, including return flow and artificially stored ground water from the irrigation of lands;
9. 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;

10. Operation and maintenance of any system of dikes, ditches, drains, or other facilities existing on the effective date of the 1975 Amendatory Act which were created, developed or utilized primarily as a part of an agricultural drainage or diking system;
11. Any project with a certification from the governor pursuant to Chapter 80.50 RCW;
12. The construction of up to 500 feet of one and only one road or segment of a road, for forest practices, provided such road does not enter the shoreline more than once. Such exemption from said permit requirements shall be limited to a single road or road segment for each forest practice, and such road construction shall be subject to the requirements of RCW Chapter 76.09, the Forest Practices Act, and regulations adopted pursuant thereto, and to the prohibitions or restrictions of any master program in effect under the provisions of RCW Chapter 90.58. Nothing in this section shall add to or diminish the authority of the Shoreline Management Act regarding road construction except as specifically provided in this title. The provisions of this section shall not relate to any road which crosses over or through a stream, lake, or other body subject to RCW Chapter 90.58.

T. **Wetlands or Wetland Areas** means those lands extending landward for two hundred feet in all directions, as measured on a horizontal plane from the ordinary high water mark and all marshes, bogs, swamps, floodway, and river deltas associated with the streams and lakes which are subject to the provisions of the act. See also "associated wetlands."
(Ord. 1980-02 '5.0)

CHAPTER 20.16 - PRELIMINARY PROCEDURES

Sections:

- 20.16.010 Application.
- 20.16.020 Fees.
- 20.16.030 Notice of application.
- 20.16.040 Application distribution.
- 20.16.050 Interested parties.

20.16.010 **APPLICATION**

Any person required to comply with the Shorelines Management Act of 1971 and this title, shall obtain the proper application forms from the County Planning Department. The completed application shall then be submitted to the Planning Department.
(Ord. 1989-02 '6.10)

20.16.020 **FEES**

Upon submittal and acceptance of a proper application for a permit under this title, the applicant shall pay a fee, as established by the Board of County Commissioners from time to time. Fees shall be based upon the fair market value of the project and shall be submitted to the Department. Checks shall be made payable to the Skamania County Treasurer.

20.16.030 **NOTICE OF APPLICATION**

- A. Upon submittal and acceptance of a proper application for a permit, the Planning Department shall cause to be published notices of the application and public hearing for a permit at least once a week, on the same day of the week, for two consecutive weeks in a newspaper circulating and published within Skamania County.
- B. In addition, the Planning Department shall insure that additional notice of such application is given by at least one of the following methods:
 - 1. Mailing of the notice to the latest recorded real property owners as shown by the records of the County Assessor within at least three hundred feet of the boundary of the property upon which the development is proposed;

2. Posting of the notice in a conspicuous manner on the property upon which the project is to be constructed; or,
3. Any other manner deemed appropriate by the Planning Department to accomplish the objectives of reasonable notice to adjacent landowners and the public.
(Ord. 1980-02 '6.30)

20.16.040 **APPLICATION DISTRIBUTION**

The application for a permit and related information shall be submitted to the Board by the Planning Department for a public hearing at their first regular meeting after 30 days from the date of the last publication of the application for a permit.

(Ord. 1980-02 '6.40)

20.16.050 **INTERESTED PARTIES**

Within 30 days of the last publication of the notice of application for a permit, any interested person may submit his views on the application in writing to the Board, or may notify the Board of his desire to be notified of the action taken by the Board. (Ord. 1980-02 '6.50)

CHAPTER 20.20 - REVIEW AND HEARINGS

Sections:

- 20.20.010 Hearing required.
- 20.20.020 Granting or denial of a permit.
- 20.20.030 Conditional use permit.
- 20.20.040 Variance permit.
- 20.20.050 Notification of action.
- 20.20.060 Appeals.

20.20.010 **HEARING REQUIRED**

The Board of County Commissioners shall hold a public hearing for all applications for permits under this title. (Ord. 1980-02 '7.10)

20.20.020 **GRANTING OR DENIAL OF A PERMIT**

- A. At the public hearing scheduled for consideration of a permit by the Board, the Board shall, after considering all relevant information available and evidence presented to it, grant a substantial development permit only when the development proposed is consistent with:
 - 1. The policies and procedures of the act;
 - 2. The provisions of Chapter 173-14 WAC; and
 - 3. The Master Program.
- B. In granting or extending a permit, the Board may attach thereto such conditions, modifications and restrictions regarding the location, character and other features of the proposed development as it finds necessary. Such conditions may include the requirement to post a performance bond assuring compliance with other permit requirements, terms, and conditions.
- C. The decision of the Board shall be the final decision of the County on all applications for permits. The Board shall render a written decision including findings, conclusions, and a final order, and transmit copies of its decision to the persons who are required to receive copies of the decision pursuant to Section 20.20.050. (Ord. 1980-02 '7.20)

20.20.030 **REVIEW CRITERIA FOR CONDITIONAL USE PERMITS**

- A. The purpose of a conditional use permit is to allow greater flexibility in administering the use regulations of the master program in a manner consistent with the policies of RCW 90.58.020; provided, that conditional use permits should also be granted in a circumstance where denial of the permit would result in a thwarting of the policy enumerated in RCW 90.58.020. In authorizing a conditional use, special conditions may be attached to the permit by the County or the Department to prevent undesirable effects of the proposed use.
- B. Uses which are classified or set forth in the Master Program as conditional uses may be authorized provided the applicant can demonstrate all of the following:
 - 1. That the proposed use will be consistent with the policies of RCW 90.58.020 and the policies of the Master Program;
 - 2. That the proposed use will not interfere with the normal public use of public shorelines;
 - 3. That the proposed use of the site and design of the project will be compatible with other permitted uses within the area. (Ord. 1980-02 '7.30)

20.20.040 **VARIANCE PERMIT**

- A. The purpose of a variance permit is strictly limited to granting relief to specific bulk, dimensional or performance standards set forth in the Master Program where there are extraordinary or unique circumstances relating to the property such that the strict implementation of the Master Program would impose unnecessary hardships on the applicant, or thwart the policies set forth in RCW 90.58.020.
- B. Variance permits should be granted in a circumstance where denial of the permit would result in a thwarting of the policy enumerated in RCW 90.58.020. In all instances extraordinary circumstances should be shown and the public interest shall suffer no substantial detrimental effect.
- C. Variance permits for development that will be located landward of the ordinary high water mark as defined in RCW 90.58.030(2)(b), except

within those areas designated by the Department as marshes, bogs, or swamps pursuant to Chapter 173-22 WAC, may be authorized; provided that applicant can demonstrate all of the following:

1. That the strict application of the bulk, dimensional or performance standards set forth in the Master Program precludes or significantly interferes with a reasonable permitted use of the property;
2. That the hardship described in subsection C1 of this section is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size, or natural features and the application of the Master Program, and not, for example, from deed restrictions or the applicant's own actions;
3. That the design of the project will be compatible with other permitted activities in the area or qualify as a prior nonconforming use, and will not cause adverse effects to adjacent properties or the shoreline environment designation;
4. That the variance authorized does not constitute a granting of special privilege not enjoyed by the other properties in the area, and will be the minimum necessary to afford relief;
5. That the public interest will suffer no substantial detrimental effect.

D. Variance permits for developments that will be located either waterward of the ordinary high water mark as defined in RCW 90.58.030(2)(b), or within marshes, bogs, or swamps as designated by the Department pursuant to Chapter 173-22 WAC, may be authorized provided the applicant can demonstrate all of the following:

1. That the strict application of the bulk, dimensional or performance standards set forth in the applicable Master Program precludes a reasonable permitted use of the property;
2. That the hardship described in subsection C1 of this section is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size or natural features and the application of the Master Program, and not, for example, from deed restrictions or the applicant's own actions;

3. That the design of the project will be compatible with other permitted activities in the area, and will not cause adverse effects to adjacent properties or the shoreline environment designation;
 4. That the requested variance will not constitute a grant of special privilege not enjoyed by the other properties in the area, and will be the minimum necessary to afford relief;
 5. That the public rights of navigation and use of the shorelines will not be adversely affected by the granting of the variance;
 6. That the public interest will suffer no substantial detrimental effect.
- E. In the granting of all variance permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if variances were granted to other developments in the area where similar circumstances exist, the total of the variances should also remain consistent with the policies of RCW 90.58.020, and should not produce substantial adverse effects to the shoreline environment. (Ord. 1980-02 '7.40)

20.20.050 **NOTIFICATION OF ACTION**

The Board shall cause to be delivered to the following persons copies of the permit and notice of the action taken by the Board within eight (8) days of its final decision:

- A. The applicant;
- B. The Washington State Department of Ecology;
- C. The Washington State Attorney General;
- D. Any interested party who has submitted written comments on the application;
- E. Any interested party who has written the Board requesting notification. (Ord. 1980-02 '7.50)

20.20.060 **APPEALS**

Any person aggrieved by the granting or denial of a permit by the Board may seek review from the Shorelines Hearing Board, pursuant to State Statute RCW 90.58.180. This section of state law is included in the appendix attached to the ordinance codified in this title and filed in the office of the County Clerk.
(Ord. 1980-02 '7.60)

CHAPTER 20.24 - PERMITS

Sections:

- 20.24.010 Requirements.
- 20.24.020 Expiration of permits.
- 20.24.030 Revisions of permits.

20.24.010 **REQUIREMENTS**

- A. The Board of County Commissioners shall cause permits to be issued under this title.
- B. Each permit must include a provision that construction pursuant to the permit will not begin and is not authorized until thirty (30) days from the date of filing of the final order or the Board with the Washington State Department of Ecology and Attorney General, or until all review proceedings initiated within thirty (30) days from the date of such filing have been terminated.
- C. The Board may revoke a permit and halt a project if conditions written on the permit are not fulfilled, or are violated, or if other of these regulations are violated. Any such revocation shall be in the form of a "Cease" or "Desist" order from the Prosecuting Attorney obtained at the request of the Board and served by him.
- D. Issuance of a permit does not obviate the applicant from meeting requirements for other federal, state and county permits, procedures and regulations. (Ord. 1980-02 '8.10)

20.24.020 **EXPIRATION OF PERMITS**

The following time requirements shall apply to all permits:

- A. Construction or substantial progress toward construction of a project for which a permit has been granted pursuant to the act must be undertaken within two years after the approval of the permit. Substantial progress towards construction shall include, but not be limited to, the letting of bids, making of contracts, purchase of materials involved in development, but shall not include development or uses which are inconsistent with the criteria set forth in the Master Program. In determining the running of the two-year period, there shall not be included the time during which a development was not

actually pursued by construction, and the pendency of litigation reasonably related thereto made it reasonable not to so pursue; provided, that the Board may, at its discretion extend the two-year time period for a reasonable time based on factors, including the inability to expeditiously obtain other governmental permits which are required prior to the commencement of construction.

B. If a project for which a permit has been granted, pursuant to this title has not been completed within five years after the approval of the permit, the Board shall, at the expiration of the five-year period, review the permit, and upon a showing of good cause, do either of the following:

1. Extend the permit for one year; or
2. Terminate the permit.

Provided that nothing in this section shall preclude the Board from issuing permits with a fixed termination date of less than five years. (Ord. 1980-02 '8.20)

20.24.030 **REVISIONS OF PERMITS**

When an applicant seeks to revise a substantial development, conditional use, or variance permit, the Planning Department shall request from the applicant detailed plans and text describing the proposed changes in the permit:

A. If the Board determines that the proposed changes are within the scope and intent of the original permit, the Board may approve a revision.

B. "Within the scope and intent of the original permit" shall mean the following:

1. No additional over water construction will be involved;
2. Lot coverage and height may be increased a maximum of ten percent from the provisions of the original permit; provided, that revisions involving new structures not shown on the original site plan shall require a new permit, and provided further, that any revisions authorized under this subsection shall not exceed height, lot coverage, setback or any other

requirements of the Master Program;

3. Landscaping may be added to a project without necessitating an application for a new permit; provided, that the landscaping is consistent with conditions (if any) attached to the original permit and is consistent with the master program.
- C. If the revision or the sum of the revision and any previously approved revisions pursuant to this section will violate the terms of one or more of the provisions in subsection B of this section, the Board shall require that the applicant apply for a new substantial development, conditional use, or variance permit in the manner provided for in this chapter.
 - D. The revised permit shall become effective immediately. Within eight days of the date of final action by the Board the revised site plan, text and the approved revision shall be submitted to the Southwest Regional Office of the Department of Ecology and the Attorney General for the completion of their files. In addition, the Planning Department shall submit a notice of revision of approval to persons who have notified the Board of their desire to receive a copy of the action on a permit pursuant to Section 20.20.050.
 - E. Appeals shall be in accordance with RCW 90.58.180 and shall be filed within fifteen days from the date of receipt of the board's action by the Southwest Regional Office of the Department of Ecology. Appeals shall be based only upon contentions of noncompliance with one or more of the provisions of subsection B of this section. Construction undertaken pursuant to that portion of a revised permit not authorized under the original permit shall be at the applicant's own risk until the expiration of the appeals deadline. If an appeal is successful in proving that a revision was not within the scope and intent of the original permit, the decision shall have no bearing on the original permit. (Ord. 1980-02 '8.30)

CHAPTER 20.28 - VIOLATION - PENALTY

Sections:

20.28.010 Violation - Penalty.

20.28.010 **VIOLATION - PENALTY**

In addition to incurring civil liability under RCW 90.58.210, any person found to have wilfully engaged in violation of the provisions of the Master Program rules, or regulations adopted pursuant thereto or this title, shall be punished by a fine of not less than twenty-five dollars nor more than one thousand dollars; provided, that the fine for the third and all subsequent violations in any five-year period shall be not less than five hundred nor more than ten thousand dollars. (Ord. 1980-02 '9.0)