

ORDINANCE No. 2020-07

**AN ORDINANCE AMENDING ORDINANCE NO. 2017-02 AND
COMPLETING THE SKAMANIA COUNTY SHORELINE MASTER PROGRAM
COMPREHENSIVE UPDATE**

WHEREAS, on June 27, 2017, the Skamania County Board of Commissioners adopted Ordinance No. 2017-02, locally adopting a comprehensive update to the Shoreline Master Program (SMP) in accordance with the requirements of RCW 90.58, the Washington State Shoreline Management Act;

WHEREAS, Ordinance No. 2017-02 was adopted after an extensive public process to update the SMP which included holding six publicly noticed meetings of the ad hoc Shoreline Advisory Committee, holding two publicly noticed community visioning meetings, maintaining an informational website with meeting dates and work products, and maintaining a distribution list of interested parties;

WHEREAS, on August 8, 2017, Skamania County (County) submitted the comprehensive SMP update to the Washington State Department of Ecology (Ecology) for their review, per WAC 173-26-110;

WHEREAS, Ecology held a public comment period on the locally adopted SMP update from October 25, 2017 through November 30, 2017;

WHEREAS, following this public comment period, Ecology submitted copies of comments received to the County on December 28, 2017. The County provided a response to these comments on February 8, 2018;

WHEREAS, Ecology issued a letter of conditional approval of the SMP update on November 2, 2020, with recommended and required changes to the SMP;


WHEREAS, the Board of County Commissioners held a workshop on November 10, 2020, to review proposed amendments to the SMP update prepared in response to Ecology's conditional approval;

WHEREAS, the Board of County Commissioners held a public hearing on November 24, 2020, to receive public comment and consider the proposed amendments to the SMP update adopted in Ordinance No. 2017-02;


WHEREAS, the Board of County Commissioners finds that the proposed SMP update incorporating Ecology's recommended and required changes is consistent with the Washington Shoreline Act and the comprehensive update requirements of WAC 173-26;

NOW THEREFORE BE IT ORDAINED that Ordinance No. 2017-02 be amended as described herein and that the Skamania County Shoreline Master Program Comprehensive Update, a copy of which is attached hereto and incorporated herein by reference, be adopted. This ordinance shall be in full force and effect fourteen days after approval from the Washington State Department of Ecology.

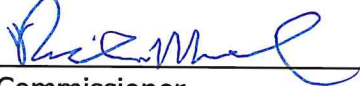
**SKAMANIA COUNTY
BOARD OF COUNTY COMMISSIONERS**

 Robert Hamlin

Chair

 T.W. Lannen

Commissioner

 Richard Mahas

Commissioner

Attest:



Clerk of the Board



Approved as to form only:


Skamania County Prosecuting Attorney

COMMISSIONER'S AGENDA ITEM COMMENTARY

<u>SUBMITTED BY</u>	<u>Community Development</u> Department	 Signature
<u>AGENDA DATE</u>	<u>November 24, 2020</u>	
<u>SUBJECT</u>	<u>Shoreline Master Program Comprehensive Update</u>	
<u>ACTION REQUESTED</u>	<u>Hold public hearing to consider and approve Ordinance No. 2020-07, final adoption of the Shoreline Master Program Comprehensive Update</u>	

SUMMARY/BACKGROUND

On June 27, 2017, the Board of County Commissioners (BOCC) approved Ordinance No. 2017-02, locally adopting the County's Shoreline Master Program (SMP) Comprehensive Update after a multi-year public process. The County subsequently submitted the update to the Washington State Department of Ecology (Ecology) for their review pursuant to RCW 90.58.

After much delay, Ecology has completed their review of the SMP Comprehensive Update and issued a conditional approval on November 2, 2020. Ecology has provided the county with required and recommended changes to the SMP that Staff and the County's consultant have incorporated in the final SMP document. Staff summarized these changes at a November 10th workshop.

Ordinance No. 2020-07 supersedes Ordinance No. 2017-02 and incorporates Ecology's required and recommended changes. This is the county's final step to complete the SMP Comprehensive Update Process. Following the adoption of this ordinance, Ecology will grant final approval to the Shoreline Master Program Comprehensive Update.

FISCAL IMPACT

None.

RECOMMENDATION

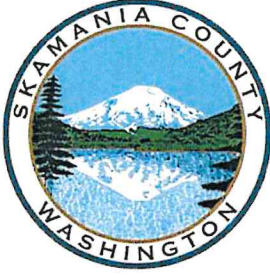
It is recommended that the Board of County Commissioners adopt Ordinance No. 2020-07.

LIST ATTACHMENTS

Staff Report

Ordinance No. 2020-07

Updated Shoreline Master Program and Appendices



Skamania County

Community Development Department

Building/Fire Marshal • Environmental Health • Planning

Skamania County Courthouse Annex

Post Office Box 1009

Stevenson, Washington 98648

Phone: 509-427-3900 Inspection Line: 509-427-3922

MEMORANDUM

TO: Board of County Commissioners
FROM: Alan Peters, Assistant Planning Director
Ethan Spoo, Senior Planner, WSP USA
Dusty Day, Natural Resource Scientist, WSP USA
DATE: November 18, 2020
RE: Shoreline Master Program Comprehensive Update – Ordinance No. 2020-07

INTRODUCTION

Like all jurisdictions with shorelines in Washington, Skamania County is required to have a shoreline master program (SMP) and to update it. The SMP sets land use policies and regulations for shoreline areas upland 200 feet of lakes, rivers, and larger streams. There are two types of updates: comprehensive and periodic. The Washington Department of Ecology (Ecology) has final approval authority for SMPs.

Skamania County began its comprehensive SMP update in early 2015 and locally adopted it in June of 2017. The comprehensive update completely overhauled Skamania County's SMP and the process included extensive public involvement. Staff have been working with Ecology throughout 2020 to narrow the list of required and recommended changes. Ecology issued a conditional approval of the SMP on November 2, 2020 (see attached). The County has 30 days to respond and adopt the changes.

SMPs are required to be updated periodically every eight years or by June 30, 2020 based on the County's mandated completion date for the comprehensive update of 2012. The due date for the periodic update is extended until June 30, 2021 under a grant contract with Ecology. Concurrent with the comprehensive update, the County also made required changes to the SMP that were necessary as part of the County's periodic update process with the goal of completing all changes under the comprehensive SMP update process. The formal periodic review process (findings, notice, hearing) will still need to be completed in early 2021.

Following the completion of the comprehensive and periodic updates, the County will prepare several guidance documents including a user guide, handouts, and application forms. These documents will be prepared with Ecology grant funds and will better explain the shoreline permitting process and information requirements to property owners.

The figure below illustrates key milestones in the comprehensive and periodic update process, and how they coincide.

	Notes	2015	2016	2017	2018	2019	2020	2021		
Comprehensive Update										
County Starts SMP Update/Locally Approves			Feb. 2015 - June 2017							
Ecology Formal Review Begins/Ends					Aug. 2017 - Dec. 2020					
Ecology 30-day Comment Period				November 1 - 30, 2017						
County Responds to Public Comments	45 days per statute				December 2017 - January 2018					
Ecology Issues Draft Findings							● March 2020			
County Staff Update SMP							■ March-Nov. 2020			
Ecology Formal Findings	30-days for County to respond						● Nov 3, 2020			
Board Workshop							● Nov 10, 2020			
<i>SMP Adopted</i>							● Nov 24, 2020			
<i>Ecology Final Action/SMP Effective</i>							● January 2021			
Periodic Update										
Periodic Update Begins/Ends							■ March 2020 - May 2021			
Joint County-Ecology 30-day comment period	30 days by statute						■ Feb. 2021			
County Response to Public Comments	Within 30 days by statute						■ March 2021			
Revise SMP							■ April 2021			
Issue Findings of Adequacy							● May 2021			
Adopt Periodic SMP Update	Required by June 30, 2021						● May 2021			
Handbook, Handouts, Application Forms										
Project Start							● Dec. 2021			
Draft Handbook							■ Jan. 2021			
Final Handbook							■ Feb-March 2021			
Draft/Final Handouts							■ April 2021			
Draft/Final Application Forms							■ May 2021			

Note: Italicized are anticipated dates

DISCUSSION OF REQUIRED AND RECOMMENDED CHANGES

Ecology's conditional approval includes: (1) a list of required changes that must be made to comply with the Shoreline Management Act (RCW 90.58) and the State Master Program Guidelines (WAC 173-26) and (2) a list of recommended changes. Following is a summary of key issues from each list with a focus on development regulations. Many of the required and recommended changes are procedural and administrative in nature and pertain to how shoreline permits are processed, but wouldn't affect development of property and aren't discussed here.

Required Changes

Ecology is requiring that a total of 21 changes be made to the County's locally approved SMP. The following discussion highlights the more significant changes:

- **Critical Area Buffers:**
 - WAC 173-26-221(2.c.i.D) requires wetland buffers that protect ecological functions over the long term, and that reflect the setting and characteristics of the wetland. Ecology requires the County insert a sentence that says the County “may” require wider buffers or a revegetation plan when the required buffer areas are unvegetated or sparsely vegetated. The science behind buffers indicates they can protect the critical area from land uses or activities that might damage them. The required buffer widths assume a well-vegetated buffer; if the buffer is unvegetated, it might not be performing its purpose and protecting the critical area.
 - Buffers do not have to extend beyond existing improvements.
 - Based on Ecology’s wetland guidance, they are requiring a 100-foot “habitat corridor” between a reduced wetland buffer and a nearby habitat area.
- **Forest Practices:** Per WAC 173-26-241(3)(e), timber cutting alone in the absence of any other development is not shoreline “development” and would not be subject to the County’s SMP. Ecology requires a sentence be inserted reflecting this.
- **Residential uses:**
 - SMPs commonly allow setback reductions from the water to preserve views when adjacent residences are closer to the water than the required setback. This is called a “common line setback.” The previous draft of the SMP proposed that the setback be reduced to 50 feet to preserve views. While agreeing with the idea of a common line setback, Ecology is requiring that the provision be modified to allow for reduction of no more than 25 percent (75 percent buffer width) or 50 feet, *whichever is greater*. Their reasoning is that 50 feet would result in a net loss of shoreline ecological functions in environment designations with large setbacks such as the Rural Conservancy environment where standard setbacks are 150 feet.
 - One exception to the setback requirements for residential uses are water-oriented uses such as docks, stairs, walkways, natural trails to the water, and piers. These uses may be placed within the setback area provided they are no more than 10 percent of that area. Ecology requires a new provision be inserted that such uses must also be consolidated to reduce impacts.

Recommended Changes

Ecology is recommending that a total of 38 changes be made to the County’s locally approved SMP. The following discussion highlights the more significant changes:

- **Clarifications on applicability and exceptions:** Consistent with the WACs, Ecology is recommending changes to clarify that the SMP does not apply to trust lands, projects undertaken using the State’s Environmental Excellence Program, or projects reviewed under the Energy Facility Site Evaluation Council. In addition, remedial actions, boatyard improvements consistent with federal pollution control laws, and WSDOT facility operational and maintenance improvements are not subject to the SMP. These changes take effect under the WACs whether or not the County includes them in the SMP.
- **Non-conforming development:** Non-conforming development are existing uses or structures legally approved, but that would not comply with the updated SMP once adopted. The previous draft of the SMP relied on the County’s existing non-conforming development provisions in County code. Because the state’s “template” language for non-conforming development generally provides more flexibility than the County’s

language, staff requested that Ecology approve a change to the SMP to mirror the State's language. Key changes include:

- Discontinuance: when non-conforming structures are discontinued for 12 months or more, they may be reinitiated up to two years after discontinuance under a shoreline conditional use permit. This provides significantly more flexibility than the County's existing code which requires that discontinued uses comply with the SMP after one year.
- Expansion: While the County's existing code only allows for expansion of non-conforming structures if the degree of non-conformity isn't increased, the State's template language allows for greater non-conformity with a shoreline variance permit.
- Damage: the new proposed language allows for application for a rebuilt structure to be made within two years after it is damaged rather than one year under the existing code, providing significantly more time for a property owner to file permits.
- **Vegetation pruning:** Vegetation pruning would likely be an exempt activity under the SMP because it wouldn't meet the value threshold of \$7,047 that triggers a substantial development permit. Ecology recommends that pruning requirements be included in the SMP so as not to encourage pruning that would damage the health of a tree and result in a net loss of shoreline ecological function including prohibiting topping of trees.
- **Overwater uses:** The primary purpose of overwater structures is moorage. Ecology recommends that kayak/boat rentals, view restaurants, and maritime museums exceed the requirements of auxiliary/accessory uses.
- **Recreational facilities:** These facilities need to be located, designed and operated consistent with the environment designation. One example is requiring trails to be the minimum width necessary to serve their purpose.

NEXT STEPS

Once adopted, the final updated SMP document and associated items will be sent to Ecology for their final action and will become effective 14 days thereafter.

Later this year or early next year, the County will begin its periodic review update process. All of the necessary updates for that process have been included in this document, but that process requires separate steps including a finding that no further changes are necessary (finding of adequacy), public notice, and another hearing. The hearing for final adoption of the periodic update will likely occur in February or March of 2020.

ATTACHMENTS

- Ecology Conditional Approval Letter – November 2, 2020



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

PO Box 47600 • Olympia, WA 98504-7600 • 360-407-6000
711 for Washington Relay Service • Persons with a speech disability can call 877-833-6341

November 2, 2020

The Honorable Bob Hamlin
Skamania County Courthouse
240 NW Vancouver
Stevenson, WA 98648

**Re: Skamania County Comprehensive Shoreline Master Program Update –
Conditional Approval**

Dear Commissioner Hamlin:

I would like to take this opportunity to commend Skamania County (County) for its efforts in developing the proposed comprehensive Shoreline Master Program (SMP) update. It is obvious that a significant effort was invested in this update and the SMP will provide a framework to guide development and environmental protection along the County's shorelines into the future.

As we have already discussed with your staff, the Washington State Department of Ecology (Ecology) has identified specific changes necessary to make the proposal approvable. These required changes are detailed in Attachment B. Additional recommended changes are proposed in Attachment C. The findings and conclusions that support Ecology's decision are contained in Attachment A.

Pursuant to RCW 90.58.090(2)(e), at this point, the County may:

- Agree to the proposed changes, or
- Submit an alternative proposal. Ecology will then review the alternative(s) submitted for consistency with the purpose and intent of the changes originally developed by Ecology and with the Shoreline Management Act.

Final Ecology approval will occur when the County and Ecology agree on language that meets statutory and guidelines requirements.

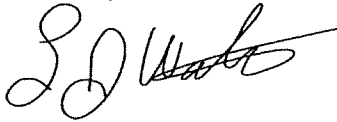
Please provide your response within 30 days to the Director at laura.watson@ecy.wa.gov.

Ecology appreciates the dedicated work that the Board of County Commissioners, the Planning Commission, the Shoreline Advisory Committee, County staff, and the community have put into the Shoreline Master Program Comprehensive Update.

The Honorable Bob Hamlin
November 2, 2020
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We look forward to concluding the SMP update process in the near future. If you have any questions or would like to discuss the changes identified by Ecology, please contact our Regional Planner, Michelle McConnell, at Michelle.McConnell@ecy.wa.gov or (360) 407-6349.

Sincerely,

A handwritten signature in black ink, appearing to read 'Laura Watson', written in a cursive style.

Laura Watson
Director

Enclosures

cc: Perry Lund, Ecology
Michelle McConnell, Ecology
Alan Peters, Skamania County