

## CHAPTER 8 ADMINISTRATIVE PROCEDURES

This chapter describes the administration and enforcement of the shoreline permit system. The purpose of this chapter is to provide guidance for obtaining development permits for activities in the City's shoreline jurisdiction.

### A. SHORELINE MANAGEMENT PERMIT AND ENFORCEMENT PROCEDURES, ADOPTION BY REFERENCE

The City of Puyallup hereby adopts by reference the following sections or subsections of Chapter 173-27, as amended, of the Washington Administrative Code ("WAC") entitled Shoreline Management Permit and Enforcement Procedures.

WAC 173-27-020 Purpose

WAC 173-27-040 Developments exempt from substantial development permit requirement

WAC 173-27-090 Time Requirements of Permits

WAC 173-27-130 Filing with department

WAC 173-27-270 Order to cease and desist

WAC 173-27-280 Civil penalty

WAC 173-27-290 Appeal of civil penalty

WAC 173-27-300 Criminal penalty

### B. ADMINISTRATIVE RESPONSIBILITIES

The intent of this section is to detail the duties, roles and responsibilities of the City of Puyallup's Planning Director, Hearing Examiner, Appellate Hearing Examiner, Planning Commission, City Council and State Department of Ecology for administering and implementing the Shoreline Master Program.

#### 1. Shoreline Administrator

- i. The City of Puyallup's Development Services Director, or his or her designee, known as the Administrator when carrying out the responsibilities of this Program, is hereby vested with:
  - a. Overall administrative responsibility for this Master Program;
  - b. Authority to grant or deny statements of exemption from Shoreline Substantial Development permits; and
  - c. Authority to carry out all responsibilities of the Department under the State Environmental Policy Act.
- ii. Subject to the supervision and direction of the City Manager, the duties and responsibilities of the Administrator shall include, but are not limited to the following:

- a. Establishing the procedures and preparing forms deemed necessary or useful for the administration of this Program.
- b. Advising interested citizens and applicants of the policies, regulations and procedures of this Program.
- c. Interpreting the provisions of this Program and the Shoreline Management Act and their application to development activities and uses within the City's shoreline jurisdiction. The Shoreline Administrator shall consult with the Department of Ecology prior to issuance of any written interpretations to determine consistency with the purpose and intent of RCW 90.58 and all applicable guidelines.
- d. Determining whether applications and necessary data are complete and in proper form prior to review.
- e. Making field inspections as necessary.
- f. Reviewing, insofar as possible, all data necessary for proper review and processing of applications.
- g. Preparing reports and recommendations for submission to the hearing examiner on all applications for Substantial Development Permits, conditional use permits, and variance permits. The Administrator shall assure that all relevant information and public comments regarding the application is available to the Hearing Examiner during his/her review.
- h. Assuring that notice of City actions taken pursuant to this Program is given to appropriate persons and the public as required by law.
- i. Informing the Puyallup community of the goals, policies and regulations of this Program and any subsequent changes or amendments.
- j. Developing and proposing amendments to this Program that will more effectively and equitably achieve its goals and policies.
- k. Taking enforcement actions whenever a person has violated any provision of the Act or Master Program or other regulation promulgated under the Act.
- l. Seeking remedies for violations of this Program, the Shoreline Management Act or conditions of any approved shoreline permits issued by the City of Puyallup.
- m. Filing Substantial Development Permits, Conditional Use Permits and Variance Permits with Ecology.

**2. Hearing Examiner**

- i. The Puyallup Office of the Hearing Examiner shall be responsible for hearing and making final determinations on the following matters:
  - a. Shoreline Substantial Development Permit
  - b. Shoreline Conditional Use Permits
  - c. Shoreline Variance Permits

- d. Shoreline Permit rescissions
- e. Appeals of administrative interpretations and statements of exemption.

**3. Appellate Hearing Examiner**

- i. The Puyallup Office of the Appellate Hearing Examiner shall be responsible for hearing and making final determinations on the following matters:
  - a. Appeals of the Puyallup Hearing Examiner decisions on statement of exemptions, interpretations, substantial development, conditional use and variance permits.

**4. Planning Commission**

- i. The Puyallup Planning Commission shall be responsible for hearing and making recommendations for action to the City Council on the following types of matters:
  - a. Amendments to the Shoreline Master Program
  - b. On or before **June 30, 2019**, this Program shall be evaluated for cumulative effects of all authorized development on shoreline conditions and progress on the city's SMP restoration and public access plan implementation. Following **June 30, 2019**, the Puyallup SMP shall be reviewed not less than once **every eight (8) years** for cumulative effects of all authorized development on shoreline conditions and progress on the city's SMP restoration and public access plan implementation. This process should involve coordination with State resource agencies, affected tribes, and other interested parties.

**5. City Council**

- i. The Puyallup City Council shall be responsible for making final local determinations on amendments to the Shoreline Master Program, which shall be adopted by ordinance.

**6. State Department of Ecology**

The duties and responsibilities of the Washington Department of Ecology shall include, but are not limited to the following:

- a. Adopting guidelines consistent with the Shoreline Management Act which assist in the development of local master programs.
- b. Adopting rules that are necessary and appropriate to carry out the provisions of the Shoreline Management Act.
- c. Reviewing and approving Master Program amendments prepared by the City of Puyallup pursuant to WAC 173-26-120.
- d. Final approval and authority to condition or deny Shoreline Conditional Use Permits and Shoreline Variance Permits filed by the City of Puyallup.

**C. TYPES OF SHORELINE PERMITS**

**1. Shoreline Substantial Development Permit**

- a. Purpose

The purpose of a Substantial Development Permit is to provide an approval process for any defined as substantial development or any development which materially interferes with the normal public use of the water or shorelines of the state.

b. Process

An open record decision hearing by the City of Puyallup's Hearing Examiner is required for a Substantial Development Permit. Public notice of complete application, date of public hearing and final decision is required as described in Section E. The Administrator shall notify Department of Ecology and Attorney General of the permit decision after expiration of the local appeal period.

c. Hearing Examiner review criteria

A Substantial Development Permit shall be granted by the Hearing Examiner only when the development is consistent with the following:

- i. Goals, policies and use regulations of the SMP;
- ii. Puyallup Comprehensive Plan and Municipal Code; and
- iii. The policies, guidelines and regulations of the Shoreline Management Act.

The Administrator and Hearing Examiner may attach conditions to the approval of permits as necessary to assure consistency of the proposal with the above criteria. The burden of proving that the proposed substantial development is consistent with the criteria shall be on the applicant.

**2. Shoreline Conditional Use Permits**

a. Purpose

The purpose of a Shoreline Conditional Use Permit is to allow a case-by-case review of certain uses which may have a greater potential for impacts if permitted without project-specific conditions. In authorizing a Shoreline Conditional Use Permit, special conditions may be attached to the permit by the Hearing Examiner or Ecology.

b. Process

An open record decision hearing by the City of Puyallup's Hearing Examiner is required for a Conditional Use Permit. Public notice of completed application, date of public hearing and final decision is required as described in Section E. Ecology is the final approving authority for Conditional Use Permits.

c. Hearing Examiner review criteria

The criteria below shall constitute the minimum criteria for review and approval of a conditional use permit. Uses classified as conditional uses, not uses prohibited by the regulations of this SMP, may be authorized provided that the applicant can demonstrate all of the following:

- i. That the proposed use will be consistent with the policies of RCW 90.58.020, the policies of this SMP, the City of Puyallup Comprehensive Plan and other applicable plans, programs and/or regulations;
- ii. That the proposed use will not interfere with the normal public use of public shorelines;
- iii. That the proposed use of the site and design of the project is compatible with other authorized uses within the area and with uses planned for the area under the Comprehensive Plan and Shoreline Master Program.
- iv. That the proposed use will cause no significant adverse effects to the shoreline environment in which it is to be located;
- v. That the public interest suffers no substantial detrimental effect;

In the granting of all conditional use permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if conditional use permits were granted for other developments in the area where similar circumstances exist, the total of the conditional uses shall also remain consistent with the policies of RCW [90.58.020](#) and shall not produce substantial adverse effects to the shoreline environment.

Other uses which are not classified or set forth in the applicable master program may be authorized as conditional uses provided the applicant can demonstrate consistency with the requirements of this section and the requirements for conditional uses contained in the master program. Uses which are specifically prohibited by the master program may not be authorized through a shoreline conditional use permit. The Hearing Examiner may attach conditions to the approval of permits as necessary to assure consistency of the proposal with WAC 173-27-160 and this Program.

### **3. Shoreline Variance Permits**

#### **a. Purpose**

The purpose of a Shoreline Variance Permit is strictly limited to granting relief from specific bulk, dimensional or performance standards set forth in this SMP. Variance permits should be granted in circumstances where denial of the permit would result in a thwarting of the policy enumerated in RCW [90.58.020](#). In all instances the applicant must demonstrate that extraordinary circumstances shall be shown and the public interest shall suffer no substantial detrimental effect.

#### **b. Process**

An open record decision hearing by the City of Puyallup's Hearing Examiner is required for a variance permit. Public notice of complete application, date of public hearing and final decision is required as described in Section E. Ecology is the final approving authority for variance permits.

#### **c. Hearing Examiner review criteria**

The criteria below shall constitute the minimum criteria for review and approval of a Shoreline Variance Permit.

Variance permits for development that will be located landward of the ordinary high water mark and/or upland of any wetland as defined in RCW 90.58.030 (2)(h) may be authorized provided the applicant can demonstrate all of the following:

- i. That the strict application of the bulk, dimensional or performance standards set forth in the Master Program precludes, or significantly interferes with a reasonable use of the property not otherwise prohibited by this SMP;
- ii. That the hardship described above 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;
- iii. That the design of the project is compatible with other authorized uses within the area and with uses planned for the area under the Comprehensive Plan and Shoreline Master Program and will not cause adverse impacts to the shoreline environment;
- iv. That the variance will not constitute a grant of special privilege not enjoyed by the other properties in the area;
- v. That the variance requested is the minimum necessary to afford relief; and
- vi. That the public interest will suffer no substantial detrimental effect.

Variance permits for development and/or uses that will be located waterward of the ordinary high water mark or within any wetland may be authorized provided the applicant can demonstrate all the criteria stated above as well as the following:

- i. That the strict application of the bulk, dimensional or performance standards set forth in this SMP precludes all reasonable use of the property not otherwise prohibited by this SMP; and
- ii. That the public rights of navigation and use of the shorelines will not be adversely affected.

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 and/or uses in the area where similar circumstances exist the total of the variances shall also remain consistent with the policies of RCW 90.58.020 and shall not cause substantial adverse effects to the shoreline environment. Variances from the use regulations of the master program are prohibited.

#### **D. STATEMENT OF EXEMPTION**

Development or activities that are exempt from the requirement to obtain a Substantial Development Permit as established in WAC 173-27-040 (see appendix D) are required to obtain a letter of exemption from the Shoreline Administrator.

1. The City shall prepare a letter of exemption, addressed to the applicant and the Department of Ecology, whenever a development is determined by the Administrator to be exempt from the Substantial Development Permit requirements.
2. A statement of exemption must be obtained from the Administrator for a development activity or use that is exempt from a Substantial Development Permit, but which requires other permit approvals, such as a building permit.

The statement of exemption shall indicate the specific exemption provision from WAC 173-27-040 (see appendix D) that is being applied to the development and provide a summary of the Administrator's analysis of the consistency of the project with the Master Program and the Act. According to State guidelines, the burden of proof that a development activity or use is exempt from the permit process is on the applicant.

The statement of exemption shall provide an itemization of the Program's requirements and other requirements applicable to the proposed project in conjunction with other permit processes. The Administrator may attach conditions to the approval of exempted developments and/or uses as necessary to assure consistency of the project with the Act and the Puyallup Shoreline Master Program.

#### **E. PUBLIC NOTIFICATION REQUIREMENTS**

Upon submittal of a complete application for Substantial Development, shoreline conditional use or shoreline variance permit, the Administrator shall publish a notice of application at least once a week on the same day of the week for 2 consecutive weeks in a newspaper of general circulation within the area in which the development is proposed. The notice of application shall include a statement of the public comment period, which shall not be less than 30 calendar days following the date of application completeness as determined by the Shoreline Administrator or designee. Notice of application shall contain the information required by WAC 173-27-110. The Administrator shall also follow the procedures prescribed in PMC 20.11.012.

A notice of public hearing and notice of final decision shall also be made pursuant to PMC 20.12.010 and PMC 20.11.012, respectively. Notice of public hearing shall be provided via direct mailing at least 15 days prior to the date of a public hearing on a shoreline development permit to all property owners within 300' of the area of work or development site. The development site shall be posted with a public notice board, at the applicant's expense, using public notice signs as prepared and provided by the city.

Public Noticing Action	Required Timeline/Procedure
<p>Notice of application (NOA) for shoreline substantial development, variance or conditional use permit</p>	<p>City staff will evaluate an application for completeness within fourteen (14) days of submittal (see subsection (2) of WAC 173-27-110 for required information in the notice). The Shoreline Administrator shall provide written notification to the applicant of status of application completeness within 14 days of Department receipt.</p> <p>Immediately following a determination of application completeness, the Shoreline Administrator shall provide all property owners within 300' of the site, all affected Tribal Governments and any other government entity affected by the proposal with formal Notice of Application. If the project site abuts another government jurisdiction or the project is anticipated to affect that other city or county, notice shall be provided to that jurisdiction as well. Notice of Complete Application (NOA) publication will be mailed with at least thirty (30) days for the public to comment on the application from the date the public notice was published (before a final decision is rendered).</p> <p>The Administrator shall also publish a notice of application at least once a week on the same day of the week for 2 consecutive weeks in a newspaper of general circulation within the area in which the development is proposed.</p>
<p>Notice of Public Hearing</p>	<p>Notice of public hearing shall be provided via direct mailing at least 15 days prior to the date of a public hearing on a shoreline permit (e.g. substantial development permit, shoreline variance, shoreline conditional use) to all property owners within 300' of the area of work or development site. The development site shall be posted with a public notice board, at the applicant's expense, using public notice signs as prepared and provided by the city.</p>

**F. APPLICATION REQUIREMENTS**

Prior to submitting a complete application for a Shoreline Substantial Development, shoreline conditional use or shoreline variance permit, the applicant may request a pre-application meeting. This will enable the applicant to become familiar with the requirements of the Program, other applicable regulations, and the permitting process. A pre-application form, site map, conceptual plan and other applicable documents pertinent to the project is required to initiate the pre-application process.

To apply for a Statement of Exemption, Substantial Development, Shoreline Conditional Use or Shoreline Variance permit, obtain the applicable permit form from the Development Services Center. Application forms identify the necessary information to be submitted with the application and applicable permit fees.

**G. PUBLIC HEARING BY THE HEARING EXAMINER**

A public hearing shall be held by the Hearing Examiner regarding an application for a shoreline Substantial Development, shoreline Conditional Use or shoreline Variance permit. The public hearing should be held at the earliest possible date after the thirty (30) day public comment period has ended. Any applicable SEPA determination related to the



project proposal must be finalized prior to a public hearing on the applicable shoreline permit(s) related to the project action. The Hearing Examiner shall review the application and related information and make a decision to approve, approve with conditions, or deny the application for a shoreline Substantial Development, shoreline Conditional Use or shoreline Variance permit.

The Hearing Examiner shall review an application for a Substantial Development, Conditional Use or Variance permit using the following information:

1. The application
2. Applicable SEPA documents
3. Written and oral comments from interested persons
4. Information and comment from other City departments
5. Evidence presented at the public hearing
6. Independent study of the Planning Department
7. The findings, conclusions and recommendations of the Administrator

#### **H. APPEALS**

1. Appeals of administrative interpretations and statements of exemption may be made to the Puyallup Office of the Hearing Examiner. Appeals of Hearing Examiner decisions on shoreline Substantial Development, shoreline Conditional Use, shoreline Variance permit decisions as well as Hearing Examiner appeal decisions regarding administrative interpretations/exemption statements shall be heard by the City of Puyallup Appellate Hearing Examiner. Appeals and appeal timelines of Hearing Examiner decisions shall follow procedures established by PMC 2.54.150. All appeals of Hearing Examiner decisions related to shoreline permits shall be made within 15 business days of the date a final decision is rendered. After expiration of the local appeal period of 15 business days, the city's shoreline permit decision related to shoreline Substantial Development, Conditional use and/or shoreline Variance permits shall be submitted to the Department of Ecology for final review, approval and filing.
2. Appeals of any final permit decision may be made to the Shorelines Hearing Board as governed by the procedures established in RCW 90.58.180 and WAC 461-08. All appeals of any final permit decision must be made to the Shorelines Hearing Board within twenty-one (21) days from the date of filing concerning the shoreline permit or formal approval to revisions of the permit.

#### **I. PERMIT REVISIONS**

A permit revision is required whenever an applicant proposes substantive changes to the design, terms or conditions of a project from that which was approved in the permit. When a revision of a permit is sought, the applicant shall submit detailed plans and text describing the proposed changes in the permit and demonstrating compliance with minimum standards pursuant to WAC 173-27-100.

If the proposed changes are determined by the Administrator to be within the scope and intent of the original permit, and are consistent with the SMA, the Guidelines, and this SMP, the revision shall be approved.

Decisions on all permit revisions shall be filed with Ecology.

If the revision to the original permit involves a conditional use or variance, the revision shall be submitted to Ecology for approval, approval with conditions, or denial.

**J. NONCONFORMING USE OR DEVELOPMENT**

A nonconforming use or development is a shoreline use or development which was lawfully constructed or established prior to the effective date of the Act or the Master Program, or amendments thereto, but which does not conform to present regulations or standards of the Program. In such cases, the use or development may continue subject to the provisions of WAC 173-27-080, Nonconforming Uses and Development Standards.