



# **Shoreline Master Program Town of La Conner, Washington**

Department of Ecology approval effective \_\_\_\_\_

Adopted September 24, 2013 by Town of La Conner Ordinance No.1106  
Amended May 13, 2014 by Town of La Conner Ordinance No. 1118

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## ***Chapter 1 - Introduction***

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### **1.1 Title**

This chapter shall be known and may be cited as the “Shoreline Master Program.”

### **1.2 Purpose**

The purpose of this chapter is to update the shoreline master program to enable the Town to manage its shorelines in accordance with Chapter 90.58 RCW and Chapter 173-26 WAC and to adopt goals, policies, and regulations designed to promote the health, safety, and general welfare of the people of La Conner.

Washington’s Shoreline Management Act (SMA) (Chapter 90.58 RCW, the Shoreline Management Act of 1971) was passed by the State Legislature in 1971 and adopted by the public in a referendum. The Act was created in response to a growing concern among residents of the state that serious and permanent damage was being done to shorelines by unplanned and uncoordinated development. The goal of the Act was "to prevent the inherent harm in an uncoordinated and piecemeal development of the state's shorelines." While protecting shoreline resources by regulating development, the Act is also intended to provide for appropriate shoreline growth by encouraging land uses that enhance and conserve shorelines functions and values.

The SMA established a cooperative program of shoreline management between local government and the state. Local governments have the primary responsibility for initiating the planning and administration of the local Shoreline Master Program (SMP). The Washington State Department of Ecology (Ecology) is responsible for supporting and assisting local governments and insuring compliance with the SMA and its provisions, primarily WAC Sections 173-26 – *State Master Program Approval/Amendment Procedures and Master Program Guidelines* and 173-27-*Shoreline Management Permit and Enforcement Procedures*.

The SMP is a comprehensive use plan for local shoreline areas that includes desired goals and policies consistent with SMA policy (RCW 90.58.020); maps, diagrams and charts or other descriptive material and text; use and development regulations; and administrative procedures for the shoreline permitting process. The Ecology SMP guidelines (WAC 173-26) establish general goals and policies, and standards and criteria for regulations. The SMP is based on State guidelines, but tailored to the specific conditions and needs of

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individual communities. The SMP is also meant to be a comprehensive vision of how the shoreline area will be used and developed over time.

All shoreline development shall be consistent with the Shoreline Management Act (SMA), this shoreline master program (SMP) and with applicable sections of the Town's land use zoning ordinances, including the Uniform Development Code, FEMA flood control, historic preservation and management codes and regulations, the State Environmental Policy Act, and other applicable local, state and federal laws and regulations.

### 1.3 Findings

- (1) There are approximately 9,300 feet of shoreline in La Conner adjacent to the Swinomish Channel, a navigable waterway.
- (2) Approximately 1,600 feet of the shoreline is within the historic preservation district.
- (3) The Town of La Conner finds that its shorelines are a valuable resource having statewide significance that should be protected and used in the best interest of private and public entities while protecting private property rights and allowing public access to the greatest extent feasible.
- (4) Ordinance 705, adopting the La Conner Shoreline Master Program, was adopted on November 18, 1997.
- (5) Ordinance 792, amending Ordinance 705 was adopted on November 14, 2000.
- (6) Ordinance 828, amending Ordinance 792 was adopted on October 9, 2001.

### 1.4 Key Shoreline Concepts and Terms

The Washington Shoreline Management Act (SMA) has three broad, overarching policies:

- (1) **Preferred shoreline uses:** "uses shall be preferred which are consistent with control of pollution and prevention of damage to the natural environment, or are unique to or dependent upon use of the states' shorelines...."
- (2) **Promote public access:** "the public's opportunity to enjoy the physical and aesthetic qualities of natural shorelines of the state shall be preserved to the greatest extent feasible consistent with the overall best interest of the state and the people generally."
- (3) **Protect shoreline natural resources,** including "...the land and its vegetation and wildlife, and the water of the state and their aquatic life...."

### 1.5 Preferred Uses

In establishing preferred uses of the state's shorelines, the SMA defines "water-dependent", "water-related", and "water-enjoyment" uses. These terms are officially defined in Section 8 of the SMP. General descriptions and examples are included below:

"**Water-dependent use**" means a use that requires direct access to the water to accomplish its primary function. In other words, a use or portion of a use, which cannot exist in a location that is not adjacent to the water and which is dependent on the water by reason of the intrinsic nature of its operations. Examples may include commercial fishing, marinas, aquaculture, shipbuilding, and ferry terminals.

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**"Water-related use"** means a use that does not require direct access to the water, but provides goods or services associated with water dependent uses. In other words, a use or portion of a use which is not intrinsically dependent on a waterfront location but whose economic viability is dependent upon a waterfront location. Examples include boat supply and repair services, and kayak rentals.

**"Water-enjoyment use"** means a use that does not require access to the water, but is enhanced by a waterfront location. This includes uses that facilitate public access to the shoreline as a primary characteristic of the use; or uses that provide for recreational use or aesthetic enjoyment of the shoreline for a substantial number of people. The use must be open to the general public and the shoreline-oriented space within the project must be devoted to the specific aspects of the use that fosters shoreline enjoyment. Examples include restaurants and aquariums.

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## **1.6 Public Access**

In preserving and promoting public access, the SMA and state shoreline guidelines (WAC 173-26) recognize that shorelines of the state are a resource to be used and enjoyed by all citizens of Washington State. While balancing the rights of privacy and private property, the SMA promotes public access as a "preferred use" in terms of water-oriented recreation, and requires public access amenities to be incorporated into certain waterfront development. In this context, public access can mean many things, including physical access to the water and beach, public access to piers and docks, or development of overlooks providing visual access to the shoreline.

## **1.7 No Net Loss of Ecological Functions**

The state shoreline guidelines (WAC 173-26), updated and adopted in 2003, emphasize the protection and restoration of shoreline natural resources. The guidelines refer to the protection of shoreline ecological processes (such as hydrology and sediment transport) and shoreline ecological functions (provided by water quality, vegetation, and habitat). A major concept in the protection of ecological functions is termed "no net loss."

**"No Net Loss"** – means the maintenance of the aggregate total of the Town's shoreline ecological functions. The no net loss standard requires that the impacts of each shoreline development and/or use, whether permitted or exempt, be identified and mitigated such that there are no resulting adverse impacts on ecological functions or processes. The concept of "net" as used herein, recognizes that any development has potential or actual, short-term or long-term impacts and that by applying appropriate development standards and mitigation measures (including avoiding impacts), implementing the SMP will not diminish the shoreline resources and values as they currently exist.

## **1.8 Shoreline Jurisdiction**

Concepts and terms related to the Town's shoreline jurisdiction are specific to those described in RCW 90.58.030, WAC 173-26-020, WAC 173-27-030, and WAC 173-22-

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030. Definitions and significant terms related to the Shoreline Management Act and the Town's SMP are included within Section 8 of this document. Under the SMA, the shoreline jurisdiction includes all water areas of the state, the lands underlying them, and areas that are 200 feet landward of the ordinary high water mark (OHWM) of waters that have been designated as "shorelines of statewide significance" or "shorelines." "Shorelines of the state" include all "shorelines of statewide significance" and "shorelines". The upland areas are referred to as "shorelands". These designations were established in 1971, and are described in RCW 90.58.030.

Generally, "shorelines of statewide significance" include designated portions of Puget Sound and other marine water bodies, rivers west of the Cascade Range that have a mean annual flow of 1,000 cubic feet per second (cfs) or greater, rivers east of the Cascade Range that have a mean annual flow of 200 cfs or greater, and freshwater lakes with a surface area of 1,000 acres or more. The area seaward of the extreme low tide in La Conner is considered a shoreline of statewide significance. "Shorelines" are generally described as all other marine waters and all other streams or rivers having a mean annual flow greater than 20 cfs and lakes with a surface area 20 acres and greater. The Town of La Conner does not have any stream, river or lake shoreline areas.

The La Conner shoreline jurisdiction extends to the middle of the Swinomish Channel, an offshore boundary shared with Skagit County, as RCW 35.21.160 extends jurisdiction to the middle of water bodies, such as bays, sounds, lakes and rivers. The actual seaward and landward extent of shoreline jurisdiction will be determined on a case-by-case basis. Appendix A, illustrates the shoreline designations and the *approximate* location of the upland extent of the shoreline jurisdiction in La Conner. Given that the Shoreline Designation Map is an integral part of this Master Program, no part of the map may be altered or revised unless a Master Program amendment has been approved by the Town Council and the Washington State Department of Ecology (RCW 90.58.090).

## **1.9 Document Organization**

Chapter 1 - Introduction: provides purpose, findings, key concepts and terms, preferred uses, public access, jurisdiction and the "No Net Loss" imperative.

Chapter 2 - Shoreline Inventory and Characterization – provides purpose of the inventory, a regulatory overview, definitions and an explanation of relationship to other plans, methods, ecosystem profile, existing land use and cover, physical and biological features, conclusions and recommendations.

Chapter 3 - Shoreline Vision, Goals and Policies – provides a high-level summary of how the Town's local circumstances and priorities shape the degree and manner in which the SMP embodies key SMA goals, sets forth general goals and policies for all SMP Elements, as well as Shoreline Goals and Policies by Element.

Chapter 4 - Restoration Planning - provides an overview of the opportunities for shoreline restoration, goals, policies, plans and programs, and a discussion of funding, implementation and monitoring of restoration efforts.

Chapter 5 - Shoreline Environment Designations – explains the purpose, location, land use and policy framework for the creation of the six Environment Designations: Historic Commercial Environment (HCE); Commercial Environment (CE); Industrial Environment (IE); Residential Environment (RE); Public Use Environment (PUE); and

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Aquatic Environment (AE).

Chapter 6 - Shoreline Development Policies, Standards and Use Regulations – provides general regulations and standards that apply to all Shoreline Environments, as well as detailed regulations and tables, specific standards and performance regulations for use and modification of shorelines.

Chapter 7 - Administrative Procedures - provides procedures and process for permit applications associated with shoreline development.

Chapter 8 – Definitions – provides definitions of terms used throughout the SMP.