
Chapter 7 Administrative Procedures

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7.1 Introduction

1. An administrative system is hereby established to assign responsibilities for implementing the Town of La Conner Shoreline Master Program (SMP) and shoreline permit review, to prescribe an orderly process by which to review proposals and permit applications, to ensure that the Town's duties under Chapter 90.58 RCW are met, and to ensure that all persons affected by this SMP are treated in a fair and equitable manner.

7.2 General Compliance

1. Unless specifically exempted by statute, all proposed uses and development occurring within shoreline jurisdiction must conform to chapter 90.58 RCW, the Shoreline Management Act and this shoreline master program (SMP) whether or not a permit is required.
2. This SMP shall ensure permit procedures and enforcement are conducted in a manner consistent with relevant constitutional limitations on regulation of private property.
3. The Town shall not issue any permit for development within shoreline jurisdiction until approval has been granted pursuant to this adopted SMP.
4. A development or use that does not comply with the bulk, dimensional and/or performance standards of this SMP shall require a shoreline variance even if the development or use does not require a substantial development permit.
5. Issuance of a shoreline substantial development permit, shoreline variance or shoreline conditional use permit does not constitute approval pursuant to any other federal, state or Town laws or regulations.
6. All shoreline permits or statements of exemption issued for development or use within shoreline jurisdiction shall include written findings prepared by the Shoreline

Administrator, documenting compliance with bulk and dimensional policies and regulations of this SMP. The Shoreline Administrator may attach conditions to the approval as necessary to assure consistency with the RCW 90.58 and this SMP.

7. The Planning Department will catalogue and monitor shoreline development for periodic analysis of “no net loss” policy per the methodology used in 2013 Cumulative Impact Report.

7.3 Applicability

1. Maps indicating the extent of shoreline jurisdiction and shoreline designations are guidance only. They are to be used in conjunction with field investigations and on-site surveys to accurately establish the location and extent of shoreline jurisdiction when a project is proposed. All areas meeting the definition of a shoreline of the state or a shoreline of statewide significance, whether mapped or not, are subject to the provisions of this SMP.
2. Shoreline development occurring in or over navigable waters may require a shoreline permit in addition to other approvals required from state and federal agencies.
3. The policies and provisions of Chapter 90.58 RCW and this SMP shall be applied to federal lands and agencies as provided by the Coastal Zone Management Act (Title 16 United States Code §1451 et seq.) and Washington Administrative Code (WAC) 173-27-060(1) and (3).

7.4 Administrative Authority and Responsibility

1. The Planning Director of the Town of La Conner is designated as the Shoreline Administrator and shall be responsible for the administration, interpretation and enforcement of the provisions of this SMP as designated.
2. The Shoreline Administrator shall have the authority to act upon the following matters:
 - a. Interpretation, enforcement, and administration of the Town’s SMP as prescribed in this title;
 - b. Applications for Shoreline Management Substantial Development Permits as prescribed in this title;
 - c. Modifications or revisions to any of the above approvals.
3. The Town Hearing Examiner is responsible for reviewing the following permits at an open record public hearing:
 - a. Shoreline Conditional Use Permits;
 - b. Permits involving greater than 1,000 square feet of new overwater structure;
 - c. Shoreline variance requests.

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4. The Planning Commission is vested with authority to review and make recommendations on any proposed amendments or revisions to this SMP for consideration by the Town Council.
 5. The Town Council is vested with authority to:
 - a. Review any proposed revisions or amendments to this SMP in accordance with the requirements of Chapter 90.58 RCW.
 - b. Act upon any recommendations of the Shoreline Administrator and Planning Commission for amendments to or revisions of this SMP. The Town Council shall enter findings and conclusions setting forth the factors it considered in reaching its decision. To become effective, any amendments to the program must be reviewed and approved by the Washington State Department of Ecology (Ecology), pursuant to RCW 90.58.190 and Chapter 173-26 WAC.

7.5 Processing of Permits

1. The Town's shoreline administrative procedures shall be consistent with all provisions, criteria, application requirements, and local or state review procedures set forth in WAC 173-27, Shoreline Management Permit and Enforcement Procedures. In the event of any inconsistencies between this SMP and WAC 173-27, the WAC shall govern.
2. Permits processed under this SMP shall be administered according to the standards and criteria in RCW 90.58 and WAC 173-27.
3. When a Substantial Development Permit and either Conditional Use or Variance Permit are required for a development, the submittal of the permits shall be made concurrently.
4. The Shoreline Administrator shall assign a file number and date received to the application and plans submittal and payment of fees. A fee set by the Town Council shall be payable to the Town Clerk at the time of application. There is no fee for maintenance and repair of existing structures.
5. Shoreline variances shall be processed in the same manner as variance from the Town's zoning code and shall be subject to all applicable provisions of LCMC 15.125.
6. The effective date of the Town's decision shall be the date of filing with the Department of Ecology as defined in RCW 90.58.140.
7. Figure 7-1 provides an overview of the Town's Shoreline Permit Process.

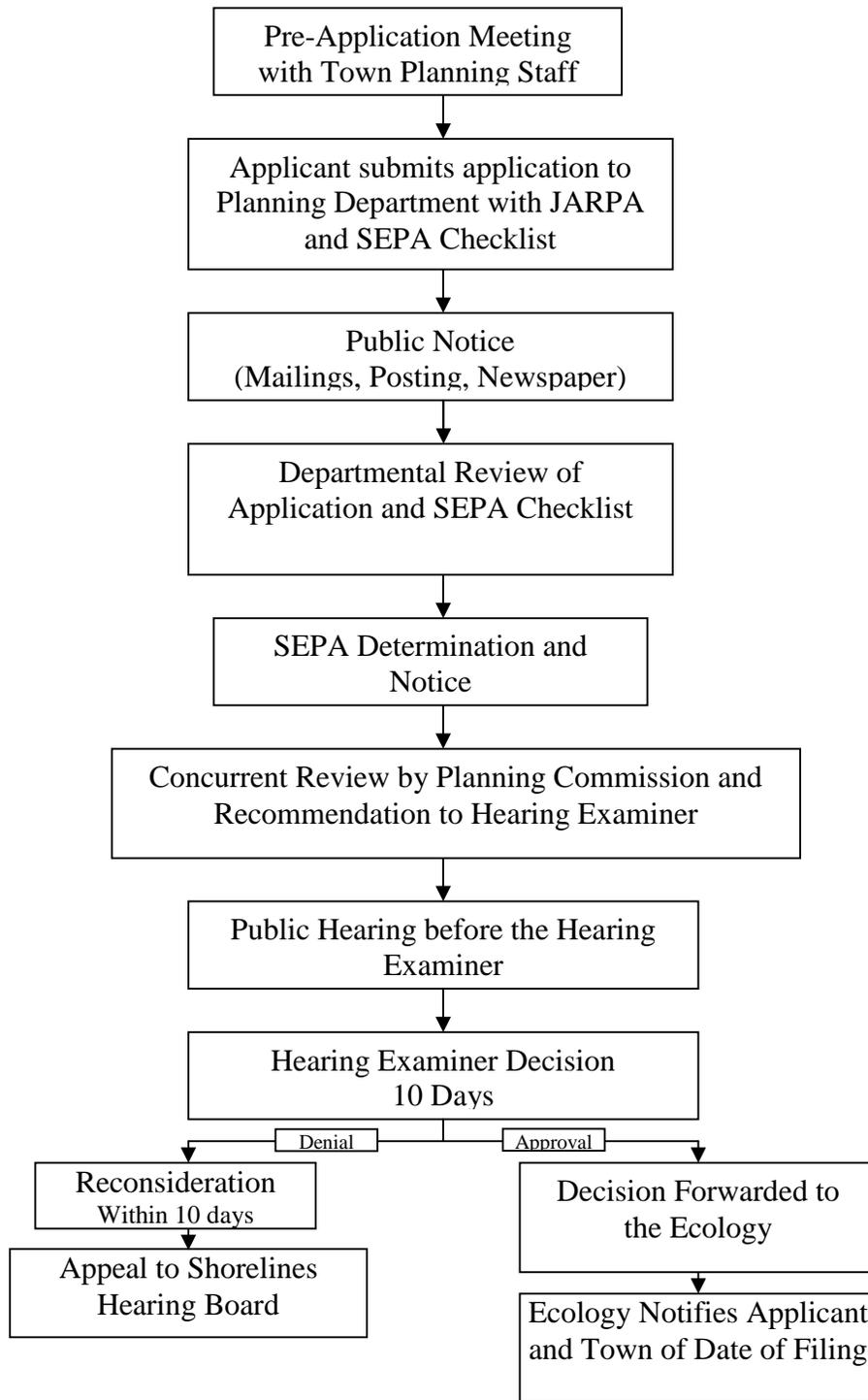


Figure 7-1 Shoreline Permit Process Flow Chart
 (Substantial Development, Conditional Use or Variance Permits)

7.6 Enforcement, Violations and Penalties

1. The Shoreline Administrator is authorized to enforce the provisions of this SMP, the ordinances and resolutions codified in it, and any rules and regulations promulgated there under pursuant to the enforcement and penalty provisions of WAC 173-27-270, 280, and 290.
2. The Town and Ecology may issue regulatory orders to enforce the SMA, consistent with RCW 90.58.210 thru 230 and WAC 173-27-270 & 280. The regulatory order may notify the violator to: (1) stop the project; (2) obtain the required shoreline permit(s); (3) pay a penalty; (4) mitigate the impact of the action or project; (5) remove the project and restore the site to its prior condition; and/or (6) rescind the existing shoreline permit(s). Shoreline Management Act enforcement regulations are codified at Chapter 173-27 WAC.

7.7 Shoreline Permits and Exemptions

7.7.1 Shoreline Substantial Development Permit Required

1. Substantial development, as defined by this SMP and RCW 90.58.030, shall not be undertaken by any person on the shorelines of the state without first obtaining a substantial development permit from the Shoreline Administrator. A shoreline substantial development permit shall be required for all proposed use and development of shorelines unless the use or development is specifically identified as exempt from a substantial development permit, in which case a letter of exemption is required.
2. The Shoreline Administrator is authorized to grant a shoreline substantial development permit when all of the criteria enumerated in WAC 173-27-150 are met.
3. All new over-water developments and uses that exceed 1000 square feet, including those allowed as a substantial development, shall require a public hearing and be reviewed and approved by the Town Hearing Examiner consistent with LCMC 15.12.

7.7.2 Exemptions from a Substantial Development Permit

1. Uses and developments that are not considered substantial developments pursuant to RCW 90.58.030(3)(e), WAC 173-27-040 (List of Exemptions), and SMP Section 7.7.3 shall not require a substantial development permit but shall conform to the policies and regulations of this SMP.
2. If any part of a proposed development is not eligible for exemption as defined in RCW 90.58.030(3)(e), WAC 173-27-040 and SMP Section 7.7.3, then a substantial development permit is required for the entire proposed development project.
3. Exemptions shall be construed narrowly. Only those developments that meet precise

terms of one or more of the listed exemptions may be granted exemptions from the substantial development permit process.

4. The burden of proof that a development or use is exempt is on the applicant or proponent of the development action.
5. All exempt actions are subject to review for consistency with the goals, policies and regulations of the Shoreline Management Act, this SMP and other applicable City regulations. Development shall not commence until the Shoreline Administrator issues a written letter of exemption and shall be carried out in compliance with any conditions accompanying the exemption letter.
6. Whenever an exempt development is subject to the U.S. Army Corps of Engineers Section 10 Permit or a Section 404 Permit, the Shoreline Administrator shall prepare a letter addressed to the applicant and the Washington State Department of Ecology, exempting the development from the substantial development permit requirements of the Shoreline Management Act.

7.7.3 Exemptions Listed

The following activities shall be considered exempt from the requirement to obtain a shoreline substantial development permit but shall obtain a statement of exemption, as provided for in Section 7.7.2.

1. Any development of which the total cost or fair market value, whichever is higher, does not exceed the value as defined in RCW 90.58.030(2)(c) , if such development does not materially interfere with the normal public use of the water or shorelines of the state. For purposes of determining whether or not a permit is required, the total cost or fair market value shall be based on the value of development that is occurring on shorelines of the state as defined in RCW 90.58.030(2)(c). The total cost or fair market value of the development shall include the fair market value of any donated, contributed or found labor, equipment, or materials.
2. Normal maintenance or repair of existing structures or developments, including damage by accident, fire or elements. "Normal maintenance" includes those usual acts to prevent a decline, lapse, or cessation from a lawfully established condition. "Normal repair" means to restore a development to a state comparable to its original condition, including but not limited to its size, shape, configuration, location and external appearance, within a reasonable period after decay or partial destruction, except where repair causes substantial adverse effects to shoreline resource or environment.
3. Replacement of a structure or development may be authorized as repair where such replacement is the common method of repair for the type of structure or development and the replacement structure or development is comparable to the original structure or development including but not limited to its size, shape, configuration, location

and external appearance and the replacement does not cause substantial adverse effects to shoreline resources or environment.

4. Emergency construction necessary to protect property from damage by the elements. An "emergency" is an unanticipated and imminent threat to public health, safety, or the environment which requires immediate action within a time too short to allow full compliance with this chapter. Emergency construction does not include development of new permanent protective structures where none previously existed.
5. Where new protective structures are deemed by the Town Administrator to be the appropriate means to address an emergency situation, upon abatement of the emergency situation the new structure shall be removed or any permit which would have been required, absent an emergency, pursuant to chapter 90.58 RCW, these regulations, or this SMP, shall be obtained. All emergency construction shall be consistent with the policies of chapter 90.58 RCW and this SMP. As a general matter, flooding or other seasonal events that can be anticipated and may occur but that are not imminent are not an emergency;
6. Construction or modification of navigational aids such as channel markers and anchor buoys;
7. Any project with a certification from the governor pursuant to chapter 80.50 RCW (certification from EFSEC);
8. The process of removing or controlling aquatic noxious weeds, as defined in RCW 17.26.020, through the use of an herbicide or other treatment methods applicable to weed control that are recommended by a final environmental impact statement published by the department of agriculture or the department of ecology jointly with other state agencies under chapter 43.21C RCW.
9. Watershed restoration projects which are defined in Chapter 8 and specifically identified in Chapter 4 of this SMP. The Town shall review the projects for consistency with this SMP in an expeditious manner and shall issue its decision along with any conditions within forty-five days of receiving all materials necessary to review the request for exemption from the applicant. No fee may be charged for accepting and processing requests for exemption for watershed restoration projects as used in this section.
10. A public or private project that is designed to improve fish or wildlife habitat or fish passage, when all of the following apply:
 - a. The project has been approved in writing by the Washington State Department of Fish and Wildlife (WDFW);
 - b. The project has received hydraulic project approval by WDFW pursuant to chapter 77.55 RCW;
 - c. The Shoreline Administrator has determined that the project is substantially consistent with the SMP.

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11. Hazardous substance remedial actions. The procedural requirements of chapter 90.58 RCW shall not apply to a project for which a consent decree, order or agreed order has been issued pursuant to chapter 70.105D RCW or to Ecology when it conducts a remedial action under chapter 70.105D RCW. Ecology shall, in consultant with the Town, assure that such projects comply with the substantive requirements of chapter 90.58 RCW, chapter 173-26 WAC and this SMP.

7.7.4 Shoreline Variance

1. The purpose of a variance is to grant relief to specific bulk or dimensional requirements set forth in this SMP where there are extraordinary or unique circumstances relating to the property such that the strict implementation of this SMP would impose unnecessary hardships on the applicant/proponent or thwart the policies set forth in RCW 90.58.020 and this SMP.
2. Shoreline variance permits should be granted in circumstances where denial of the permit would result in a thwarting of the policy enumerated in the SMA (RCW 90.58.020). In all instances extraordinary circumstances shall be shown and the public interest shall suffer no substantial detrimental effect.
3. Variance permits for development and/or uses that will be located landward of the ordinary high water mark (OHWM), as defined in RCW 90.58.030(2)(b), and/or landward of any wetland as defined in RCW 90.58.030(2)(h), may be authorized provided the applicant can demonstrate all of the following:
 - a. That the strict application of the bulk, dimensional or performance standards set forth in this SMP precludes, or significantly interferes with, reasonable use of the property;
 - b. That the hardship described in (a) of this subsection is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size, or natural features.
 - c. That the hardship is not the result of the applicant's own actions;
 - d. That the design of the project is compatible with other authorized uses within the area and with uses planned for the area under the Town's Comprehensive Plan and this SMP and will not cause adverse impacts to the shoreline environment;
 - e. That the variance will not constitute a grant of special privilege not enjoyed by the other properties in the area;
 - f. That the variance requested is the minimum necessary to afford relief; and
 - g. That the public interest will suffer no substantial detrimental effect.
4. Variance permits for development and/or uses that will be located waterward of the ordinary high water mark (OHWM), as defined in RCW 90.58.030 (2)(b), or within any wetland as defined in RCW 90.58.030 (2)(h), may be authorized provided the applicant can demonstrate all of the following:
 - (a) That the strict application of the bulk, dimensional or performance standards set forth in the applicable master program precludes all reasonable use of the property

(b) That the proposal is consistent with the criteria established under subsection (2)(b) through (f) of this section; and

(c) That the public rights of navigation and use of the shorelines will not be adversely affected.

5. 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.
6. Variances from the use regulations of this SMP are prohibited.

7.7.5 Shoreline Conditional Use Permit

1. The purpose of the conditional use permit is to provide greater flexibility in varying the application of the use regulations of this SMP in a manner that will be consistent with the policies of RCW 90.58, particularly where denial of the application would thwart the policies of the Shoreline Management Act.
2. When a conditional use is requested, the Shoreline Administrator or Hearing Examiner as designated shall be the final approval authority for the Town. However, shoreline conditional uses must have approval from the state. The Department of Ecology shall be the final approval authority under the authority of WAC 173-27-200.
3. Conditional use permits shall be authorized only when they are consistent with all of the following criteria:
 - a. The proposed use is consistent with the policies of RCW 90.58.020, WAC 173-27-160 and all provisions of this SMP;
 - b. The use will not interfere with normal public use of public shorelines;
 - c. 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 this SMP;
 - d. That the proposed use will cause no significant adverse effects to the shoreline environment in which it is located;
 - e. The public interest will suffer no substantial detrimental effect.
4. 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.

5. Other uses not specifically set forth in the SMP may be authorized through a conditional use permit if the applicant can demonstrate that other uses are consistent with the purpose of the shoreline environmental designation and compatible with existing shoreline improvements or that extraordinary circumstances preclude reasonable use of the property; however, uses specifically prohibited by this SMP shall not be authorized.
6. The Town is authorized to impose conditions and standards to enable a proposed shoreline conditional use to satisfy the conditional use criteria.

7.7.6 Permit Time Requirements

1. The following time limits shall apply to all substantial development, conditional use or variance permits along with others listed in WAC 173-27-170:
 - a. Construction shall be commenced or, where no construction is involved, the use or activity shall be commenced within two years of the effective date of the shoreline permit.
 - b. Within one (1) year of the Town's approval of the local permit, the permit holder shall provide to the Town evidence that he/she has made substantial progress on the permit, including documentation of the application for any additional state or federal permits required prior to the commencement of construction. Failure to do so may result in a waiver of the ability to request the one-year extension noted in subparagraph c below.
 - c. The Town may for good cause, with prior notice to parties of record and the Department of Ecology, extend the two-year time period for up to one year. An extension may be considered based on the inability of the permit holder to expeditiously obtain other government permits that are required prior to the commencement of construction.
 - d. To qualify for a one-year extension the permit holder must provide the Town with documentation from the appropriate state and/or federal agency indicating that a complete application has been made and that no further action is required from the permit applicant for the state or federal agency to continue its processing of the permit application.
 - e. Authorization to conduct development activities shall terminate five years after the effective date of the shoreline permit; provided, that the town may authorize a single extension for a period not to exceed one year based on reasonable factors, if a request for extension has been filed before the expiration date and notice of the proposed extension is given to parties of record and the Department of Ecology.
2. The effective date of a shoreline permit shall be the date of the last action required on the shoreline permit and all other government permits and approvals that authorize the development to proceed, including all administrative and legal actions on any

such permit or approval.

3. It is the responsibility of the applicant to inform the Town of the pendency of permit applications filed with agencies other than the Town and of any related administrative and legal actions on any permit or approval. If no notice of the pendency of other permits or approvals is given to the Town prior to the date established by the shoreline permit or the provisions of this section, the expiration of a permit shall be based on the date of the shoreline permit.
4. When permit approval is based on conditions, such conditions shall be satisfied prior to occupancy or use of the structure or prior to commencement of a nonstructural activity; provided, that an alternative compliance limit may be specified in the permit.
5. Revisions to permits under WAC 173-27-100 may be authorized after the original permit authorization has expired under subsection (1) of this section; provided, that this procedure shall not be used to extend the original permit time requirements or to authorize substantial development after the time limits of the original permit.
6. The Town shall notify the Department of Ecology in writing of any change to the effective date of a permit, as authorized by this section, with an explanation of the basis for approval of the change. Any change to the time limits of a permit other than those authorized by this section shall require consideration of a new permit application.

7.7.7 Permit Revisions

1. A permit revision is required whenever the applicant proposes substantive changes to the design, terms or conditions of a project from that which is approved in the permit. A permit revision shall be consistent with provisions of WAC 173-27-100.
2. Changes are substantive if they materially alter the project in a manner that relates to its conformance to the terms and conditions of the permit, this SMP and the policies and provisions of chapter 90.58 RCW. Changes that are not substantive in effect do not require approval of a revision.

7.7.8 SEPA Review

1. At the time of the submittal of any application for a Substantial Development Permit, Conditional Use Permit or Variance Permit, the applicant shall also submit an environmental checklist pursuant to the requirements of Chapter 43.21C RCW. The Shoreline Administrator, acting as the Town's SEPA Responsible Official, may require additional information to assist in reaching a threshold determination, and may require said information to be prepared at the applicant's expense.
2. The Shoreline Administrator, as the Town's SEPA Responsible Official, shall make a threshold determination, prepare, and publish notice of said determination in

accordance with the SEPA goals, policies and regulations as set forth in Chapter 197-11 WAC, the SEPA Rules.

3. A proposal which is SEPA exempt may still require a shoreline permit under this SMP.

7.7.9 Technical Review Shoreline Administrator

1. For all submitted applications for Shoreline Substantial Development Permits, the Shoreline Administrator shall make a decision on the permit application based on the information provided in the application.
2. Upon a finding of compliance with the criteria listed in this SMP, the Shoreline Administrator shall issue the permit, or issue the permit with conditions. Should the Shoreline Administrator find that any application does not substantially comply with the criteria, he/she may deny such application or attach any terms or condition that are deemed suitable and reasonable given the purpose and objectives of this SMP.

7.7.10 Appeals

The appeals of any final permit decision are governed by the procedures established in RCW 90.58.180, RCW 90.58.140(6), and WAC 461-08, the rules and procedures of the Shorelines Hearing Board. All appeals to any final permit decision must be made to the Shoreline Hearing Board within twenty-one (21) days after the date of filing of the permit or l to revisions of the permit consistent with WAC 173-27-100(8).

7.8 Washington State Department of Ecology Review

1. Ecology shall be notified within eight (8) days of any Shoreline Substantial Development, Conditional Use, Variance or rescission or revision permit decisions made by the Shoreline Administrator. The notification shall occur after all local administrative appeals related to the permit have concluded or the opportunity to initiate such appeals has lapsed. The Shoreline Administrator shall file the following with the Department of Ecology and Attorney General:
 - a. A copy of the complete application per WAC 173-27-180;
 - b. Findings and conclusions that establish the basis for the decision including but not limited to identification of shoreline environment designation, applicable Master Program policies and regulations and the consistency of the project with appropriate review criteria for the type of permit(s);
 - c. The final decision of the Town;
 - d. The permit data sheet per WAC 173-27-190;
 - e. Affidavit of public notice; and
 - f. Where applicable, the Shoreline Administrator shall also file the applicable documents required by the State Environmental Policy Act (RCW 43.21C).
2. After Town approval of a conditional use or variance permit, the Town shall submit

the permit to the State Department of Ecology for the department's approval, approval with conditions, or denial. The department shall render and transmit to the Town and the applicant its final decision approving, approving with conditions, or disapproving the permit within thirty days of the date of submittal by the Town pursuant to WAC 173-27-110.

3. The department shall review the complete file submitted by the Town on conditional use and variance permits and any other information submitted or available that is relevant to the application. The department shall base its determination to approve, approve with conditions or deny a conditional use permit or variance on consistency with the policy and provisions of the act, the criteria listed in the SMP and, as provided in WAC 173-27-210, the criteria in WAC 173-27-160 and 173-27-170.
4. The Town shall provide timely notification of the department's final decision to those interested persons having requested notification from the Town pursuant to WAC 173-27-130.
5. When the project has been modified in the course of the local review process, plans or text shall be provided to Ecology that clearly indicates the final approved plan.
6. If Ecology determines that the submittal does not contain all of the documents and information required by this section, Ecology shall identify the deficiencies and notify the Town and the applicant in writing. Ecology will not take action on Conditional Use or Variance Permit submittals until the material requested in writing has been submitted to them.
7. Ecology shall base its determination to approve, approve with conditions or deny a Conditional Use Permit or Variance Permit on consistency with the policy and provisions of the SMA and the criteria listed in this SMP.

7.9 Minimum Permit Application Submittal Requirements

1. Pursuant to WAC 173-27-180, all applications for a shoreline substantial development permit, conditional use, or variance shall provide, at a minimum, the following information: The name, address and phone number of the applicant. The applicant should be the owner of the property or the primary proponent of the project and not the representative of the owner or primary proponent.
2. The name, physical address, email address, and phone number of the applicant's representative if other than the applicant.
3. The name, physical address, email address, and phone number of the property owner, if other than the applicant.
4. Location of the property. This shall, at a minimum, include the property address and identification of the section, township and range to the nearest quarter, quarter section

or latitude and longitude to the nearest minute. All applications for projects located in open water areas away from land shall provide a longitude and latitude location.

5. A general description of the proposed project that includes the proposed use or uses and the activities necessary to accomplish the project.
6. A general description of the property as it now exists including its physical characteristics and improvements and structures.
7. A general description of the vicinity of the proposed project including identification of the adjacent uses, structures and improvements, intensity of development and physical characteristics.
8. A site development plan consisting of maps and elevation drawings, drawn to an appropriate scale to depict clearly all required information, photographs and text which shall include:
 - a. The boundary of the parcel(s) of land upon which the development is proposed.
 - b. The ordinary high water mark of the Swinomish Channel.
 - c. Existing and proposed land contours. The contours shall be at intervals sufficient to accurately determine the existing character of the property and the extent of proposed change to the land that is necessary for the development. Areas within the boundary that will not be altered by the development may be indicated as such and contours approximated for that area.
 - d. A general indication of the character of vegetation found on the site.
 - e. The dimensions and locations of all existing and proposed structures and improvements including but not limited to; buildings, paved or graveled areas, roads, utilities, septic tanks and drainfields, material stockpiles or surcharge, and stormwater management facilities.
 - f. Where applicable, a landscaping plan for the project.
 - g. Where applicable, plans for development of areas on or off the site as mitigation for impacts associated with the proposed project shall be included and contain information consistent with the requirements of this section.
 - h. Quantity, source and composition of any fill material that is placed on the site whether temporary or permanent.
 - i. Quantity, composition and destination of any excavated or dredged material.
 - j. A vicinity map showing the relationship of the property and proposed development or use to roads, utilities, existing developments and uses on adjacent properties.
 - k. Where applicable, a depiction of the impacts to views from all publicly owned property and rights of way.
 - l. On all variance applications the plans shall clearly indicate where development could occur without approval of a variance, the physical features and circumstances on the property that provide a basis for the request, and the location of adjacent structures and uses.
9. The Shoreline Administrator may accept a JARPA in lieu of these submittal

requirements where applicable.

7.10 Non-conforming Uses, Structures and Lots

A. Existing Uses and Developments

1. Existing uses, structures and lots legally established prior to the effective date of this SMP are allowed to continue. Where lawful uses, structures and lots exist that could not be established under the terms of this SMP, such uses, structures and lots are deemed nonconforming and are subject to the provisions of this section.
2. A use which is listed as a conditional use but which existed prior to adoption of the master program or any relevant amendment and for which a conditional use permit has not been obtained shall be considered a nonconforming use. A use which is listed as a conditional use but which existed prior to the applicability of the master program to the site and for which a conditional use permit has not been obtained shall be considered a nonconforming use.
3. A structure for which a variance has been issued shall be considered a legal nonconforming structure and the requirements of this section shall apply as they apply to preexisting nonconformities.

B. Nonconforming Uses

1. Additional development of any property on which a nonconforming use exists shall require that all new uses conform to this SMP and the Act.
2. Change of ownership, tenancy, or management of a nonconforming use shall not affect its nonconforming status, provided that the use does not change or intensify.
3. If a nonconforming use is converted to a conforming use, the nonconforming use may not be resumed.
4. When the operation of a nonconforming use is vacated or abandoned for a period of twelve (12) consecutive months, the nonconforming use rights shall be deemed extinguished and the future use of such property shall be in accordance with the permitted and conditional use regulations of this SMP.
5. If a conforming building housing a nonconforming use is damaged by fire, flood, explosion, or other natural disaster, such use may be resumed at the time the building is repaired; provided, such restoration shall be undertaken within six (6) months following said damage. Upon a showing of hardship or conditions causing delay, which are beyond the control of the applicant, the Shoreline Administrator may grant an extension of time for up to six additional months.

C. Nonconforming Structures

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1. A nonconforming building or structure may be maintained, repaired, altered or enlarged provided:
 - a. Improvements do not extend or expand the nonconformity of such building or structure;
 - b. Improvements are consistent with the provisions of this SMP; or
 - c. Alterations are necessary to meet city, state, or federal requirements.
 2. If a nonconforming structure is intentionally modified and the cost of the proposed development exceeds fifty (50) percent of the fair market value of the replacement cost of the original structure, it shall be required to meet all applicable standards in this SMP.
 3. A nonconforming structure may be restored, if damaged by fire, flood, explosion or similar natural hazard, in the same location and dimensions as existed before the damage occurred if restoration begins within six months of the date the damage occurred. Upon a showing of hardship or conditions causing delay, which are beyond the control of the applicant, the Shoreline Administrator may grant an extension of time for up to six additional months.

D. Nonconforming Lots

Legally established, nonconforming, undeveloped lots located landward of the ordinary high water mark are buildable, provided that all new structures or additions to structures on any nonconforming lot must meet all setback, height and other construction requirements of this SMP and the Act.