

CHAPTER 1: INTRODUCTION

Background: Shoreline Management in Washington State

The Shoreline Management Act

In 1971, in response to a citizens' initiative, the Washington State Legislature passed the Shoreline Management Act (the "SMA" or "Act"). The SMA was adopted by the public in a 1972 referendum. Its purpose is to manage the shorelines of the state in order to protect the public interest in shoreline resources.

Some of the key provisions of the SMA are summarized in this chapter and in other parts of this SMP. You can view the entire SMA (RCW 90.58) on the Washington State Legislature's web site at <http://apps.leg.wa.gov/RCW/default.aspx?cite=90.58>. The sites listed below also offer information about the SMA and shoreline management in the State of Washington.

- Municipal Research and Services Center of Washington (MRSC):
<http://www.mrsc.org/Subjects/Environment/shorelin.aspx>.
- Washington Department of Ecology:
http://www.ecy.wa.gov/programs/sea/SMA/st_guide/SMP/index.html.

The SMA applies to cities and counties throughout Washington that have "Shorelines of the State" within their jurisdictional boundaries.

Shoreline Master Programs

Water is one of Okanogan County and the town of Winthrop's most important natural resources. Whether it is for domestic consumption, municipal use, irrigation, recreation or habitat for myriad fish and wildlife species, water and the many beneficial uses it supports are the basis for life and the economy in the town of Winthrop.

The goal of shoreline management planning is "to prevent the inherent harm from uncoordinated and piecemeal development of the state's shorelines." One of the ways in which Okanogan County and the cities and towns within the county protect shoreline resources is through the preparation, adoption, implementation and updating of Shoreline Master Programs.

Under the SMA each city and county that includes "Shorelines of the State" must adopt a Shoreline Master Program (SMP) that is based on state laws and rules but may be tailored to the specific needs of the community. The SMP is essentially a shoreline comprehensive plan (that is, a planning document) and zoning ordinance (that is, a regulatory document) applicable to shoreline areas and customized to local circumstances.

SMPs are developed and administered by local jurisdictions in partnership with the Washington State Department of Ecology (Ecology). Local governments—in this case, the town of Winthrop—develop SMPs that reflect local conditions and meet local needs. Ecology reviews the programs prior to final adoption. In reviewing master programs, Ecology is limited to a

decision on whether or not the proposed changes are consistent with the policy and provisions of the Act and the SMP guidelines (see below for a discussion of the SMP guidelines).

Local governments also administer SMPs—that is, review project proposals, issue permits, and enforce the SMP regulations. Ecology reviews Shoreline Conditional Use Permits and Variances and may review some of the local governments' other permit decisions.

Shorelines of the State

Shorelines of the State can be divided into two categories: “*Shorelines*” and “*Shorelines of Statewide Significance*.” In Okanogan County,

Shorelines include:

- All streams and associated shorelands, together with the lands underlying them, beginning at the point where mean annual flow is 20 cubic feet per second (cfs) or more
- All lakes over 20 acres in size
- Shorelands (also called Shoreline Jurisdiction see diagram), as follows:
 - Upland areas that extend 200 feet from the ordinary high water mark from the waters listed above measured on the horizontal; and
 - The following areas when they are associated with those waters:
 - Wetlands and river deltas; and
 - 100-year floodplains; or
 - In areas where the floodway has been mapped and delineated, the area is limited to 200 feet from the floodway.

Shorelines of Statewide Significance are those that have importance beyond the region; they are afforded special consideration. In Okanogan County (and throughout Eastern Washington), shorelines of statewide significance include:

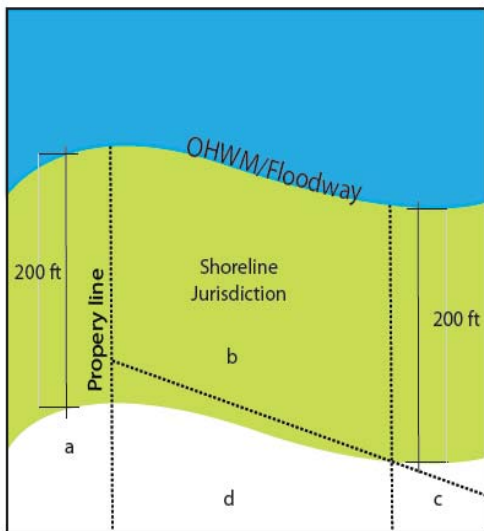
- Lakes with a surface acreage of one thousand acres or more (measured at the ordinary high water mark);
- Streams downstream of a point where the annual flow is measured at two hundred cubic feet per second (200 cfs) or more, *or*, those portions of rivers downstream from the first three hundred square miles of drainage area, whichever is longer; and
- Shorelands associated with the lakes and rivers described in the two preceding bullets

Within this SMP, you can learn more about which lakes and streams are considered Shorelines of the State in the places listed below:

- Chapter 5, “Shorelines of Statewide Significance”, discusses the additional

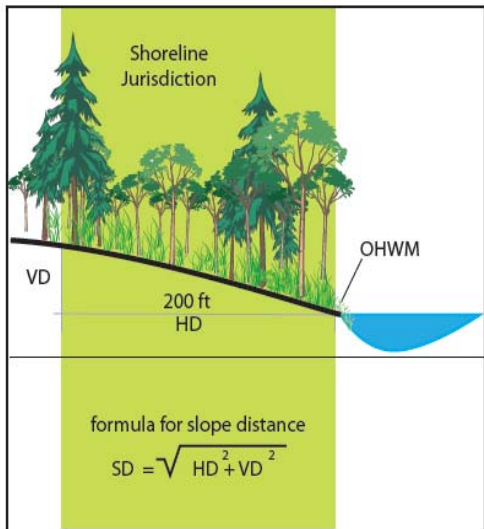
considerations that apply to development on Shorelines of Statewide Significance. It also includes a list of those shorelines

- The Methow and Chewuch Rivers are both Shorelines of State-wide Significance (See chapter 5)

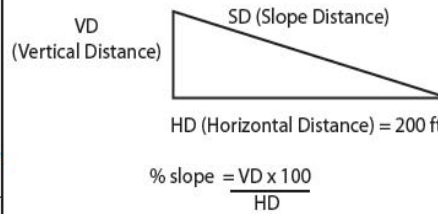


Shoreline Jurisdiction

- a & d. Parcels partially within Shoreline Jurisdiction
- b. Parcel wholly within Shoreline Jurisdiction
- c. Parcel outside Shoreline Jurisdiction



Shoreline jurisdiction as measured on the horizontal from the ordinary high watermark



slope distance is the measurement on the ground where the shoreline jurisdiction, setback and buffer are established

Department of Ecology's Role

Since the SMA requires a cooperative effort between state and local governments in the protection of shoreline resources, the Department of Ecology has a significant role in the development and implementation of this Master Program. Most of Ecology's work involves providing technical assistance *prior* to a local decision and is focused in the following areas:

- Ecology shoreline specialists work with local planners on the phone, at pre-application meetings, and through site visits
- Ecology works with applicants to make sure the project does not harm shorelines—in many cases the project can be redesigned so that it meets the policies and regulations of the local master program
- Ecology often receives early notice of a project through SEPA, and works with applicants and local governments before the permit is issued.
- After a local government issues its permits, Ecology has 21 days to review Substantial Development Permits and 30 days to review Conditional Use and Variance permits.
- Ecology's role is to determine if the local action is consistent with the local Master Program and the policies of the Act
- If Ecology disagrees with a local decision on a Substantial Development Permit, Ecology must appeal the decision to the Shoreline Hearings Board
- Ecology must approve, approve with conditions or deny all Conditional Use or Variance permits
- Ecology's decisions on Conditional Use or Variance permits may be appealed to the Shorelines Hearings Board
- While the primary responsibility to enforce the SMA rests with local governments, there exists a cooperative program between the local governments and Ecology. The cooperative program is to fulfill the duty to “ensure compliance.” Enforcement is done through a variety of means, including technical assistance visits, notices of correction, orders, and penalties and permit rescission.

SMP Guidelines

Department of Ecology issues Shoreline Master Program Guidelines in WAC 173.26. Information regarding Shoreline Master Program updates. Procedures and policies including new guidelines and updates can be found at the following URLs:

History and links. Include link to history:

http://www.ecy.wa.gov/programs/sea/sma/guidelines/downloads/SMA_History.pdf.

Ecology site with link, background:

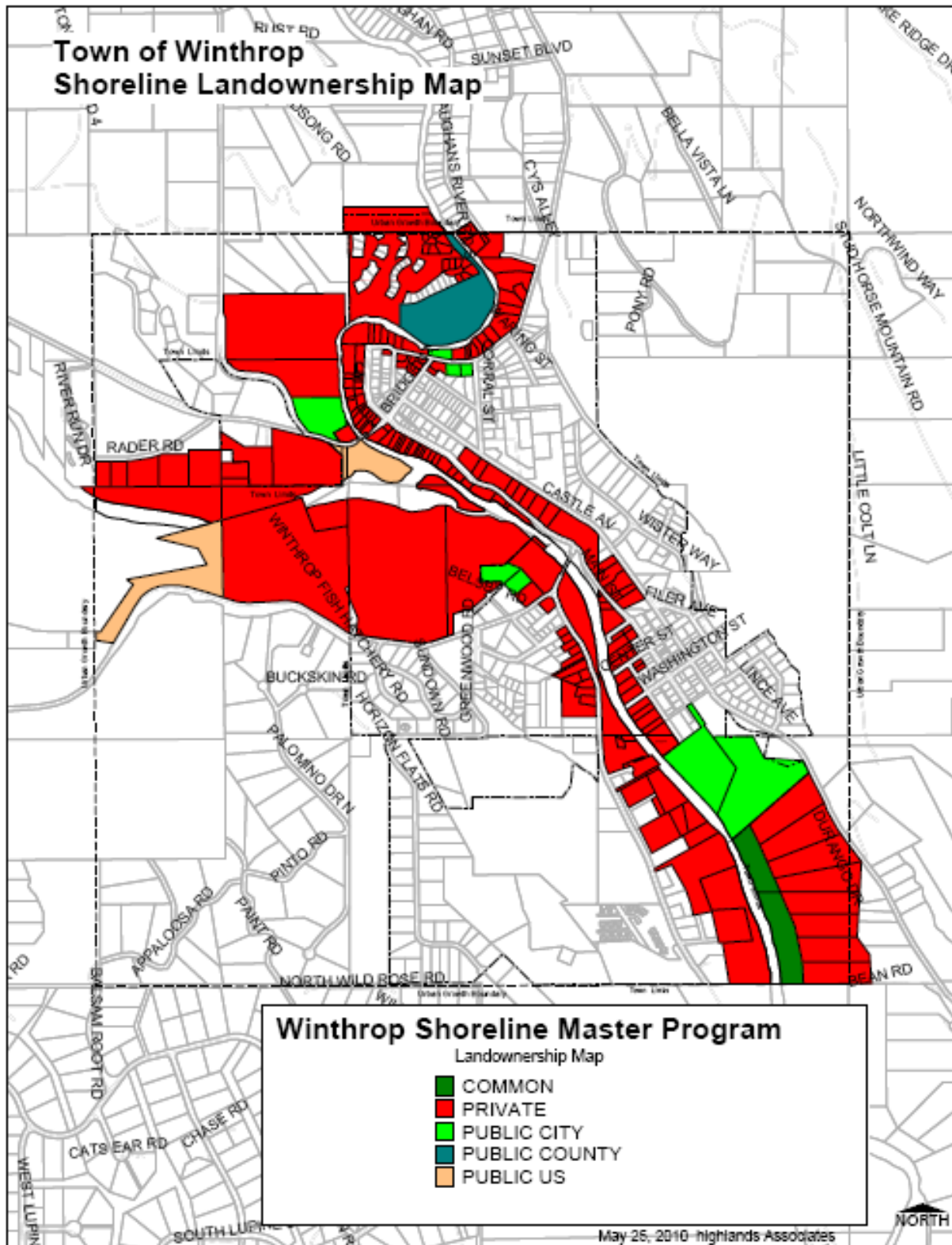
<http://www.ecy.wa.gov/programs/sea/SMA/guidelines/index.html>

State master program approval/amendment procedures and master program guidelines (WAC 173-26): <http://apps.leg.wa.gov/WAC/default.aspx?cite=173-26>.

Land Ownership in the Town of Winthrop

Public Lands

This SMP applies to all private property and land owned by public agencies including, but not limited to, Federal, State, County, and Municipal lands within the incorporated boundaries of the town of Winthrop and is subject to administrative review for any development activities owned by public agencies within the town limits.



The Okanogan County Cities and Towns Regional SMP

This regional SMP was developed for the incorporated cities within Okanogan County. Each jurisdiction has tailored individual Goals and Policies (Chapter 6), Shoreline Designations (Chapter 7) and development regulations (Chapter 8) to address local needs and public input from each jurisdiction.

Adoption of this SMP by the town of Winthrop will repeal the existing SMP and bring the Town into compliance with the requirements of SMA and the critical areas requirements of GMA. The conditions of the grant awarded for the updated SMP require adoption by the end of June 2010.

Jurisdiction

This SMP will regulate shorelines within the incorporated limits of the town of Winthrop. Shoreline Areas in adopted Urban Growth/Future Service Areas are “pre-designated” with the shoreline designation that will apply upon annexation of the area. However, until such time, those areas will be designated and regulated under the Okanogan County SMP as it exists or is amended.

Relationships to other plans

The Okanogan County Cities and Towns Regional Shoreline Master program, as tailored by the town of Winthrop will be adopted by reference into the Winthrop Comprehensive Plan.

The jurisdiction’s critical area regulations will protect those critical areas that are located outside of the shoreline jurisdiction.

Technical information for the characterization of the County’s shorelines was undertaken as part of the regional SMP update and included information from the following plans:

- The Okanogan Basin Watershed Plan Wira 49
- The Methow Basin Watershed Plan Wira 48
- The Spring Chinook Salmon and Steelhead Recovery Plan
- Methow and Okanogan Sub Basin Plans

General Policies and Concepts Used in this SMP

Basic policies

The SMA establishes three basic policies, described below.

1) Protect shoreline natural resources

...including “...the land and its vegetation and wildlife, and the water of the state and their aquatic life... ”

2) Encourage water-dependent uses

Accommodate reasonable and appropriate 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...”

3) 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. ”

Concepts

Property rights

RCW 90.58.020: “It is the policy of the state to provide for the management of the shorelines of the state by planning for and fostering all reasonable and appropriate uses. This policy is designed to insure the development of these shorelines in a manner which, while allowing for limited reduction of rights of the public in the navigable waters, will promote and enhance the public interest. This policy contemplates protecting against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life, while protecting generally public rights of navigation and corollary rights incidental thereto.”

No net loss

“The point of the no net loss requirement is that local governments need to show that everything permitted under the new SMP, both on a project-by-project and cumulative basis, won't create a net loss of [ecological] functions. It's not that the SMP has to fix everything that happened before (including ongoing impacts), just that it can't create any NEW loss of [ecological] function.”

On a project specific basis the Town will require mitigation measures to achieve the no net loss standards under the shoreline master program. The mitigation measures will be considered as outlined below in order of descending preference:

1. Avoiding the impact altogether by not taking a certain action or parts of an action;
2. Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts;
3. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;
4. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action; and/or
5. Compensating for the impact by replacing, enhancing, or providing substitute resources or environments;

Critical Areas

Local jurisdictions are required to designate critical areas as required by the Growth Management Act, RCW 36.70A. Critical Areas include the following areas and ecosystems, as designated by the County, city, town or Tribe with jurisdiction:

- wetlands;
- areas with a critical recharging effect on aquifers used for potable water;
- aquatic, riparian, upland and wetland Fish and Wildlife habitat conservation areas;
- frequently flooded areas; Channel Migration Zones;
- Geologically hazardous areas.

Critical areas within shoreline jurisdiction will have critical area protections within the Shoreline Master Program. Those areas outside shoreline jurisdiction will be regulated under the Critical Area Ordinance for each individual jurisdiction. Critical Areas regulations for shoreline areas can be found in Chapter 8.

Channel Migration Zones

River channels can move, or migrate, laterally across their floodplains. Channel migration can occur gradually, as a river erodes one bank and deposits sediment along the other. Channel migration also can occur as an abrupt shift of the channel to a new location, called an avulsion, which may happen during a single flood event. The highest rates of channel migration occur in zones of rapid sediment deposition, e.g., where steep rivers flow out of foothills onto flatter floodplains. Channel migration represents a different type of flood hazard than inundation by overbank flow, and can endanger properties located outside of the regulatory floodplain. The channel migration zone (CMZ) refers to the geographic area where a stream or river has been and will be susceptible to channel erosion and/or channel occupation. Winthrop's 2002 *Comprehensive Flood Hazard Management Plan* identifies and presents some guidance for channel migration zones of the Methow and Chewuch rivers within the town. Winthrop Municipal Code section 18.06.170 designates and sets standards for development within channel migration zones.

See http://www.ecy.wa.gov/programs/sea/sma/st_guide/jurisdiction/CMZ.html for more information.

- Within incorporated municipalities and urban growth/future service areas, areas separated from the active river channel by legally existing artificial channel constraints that limit channel movement should not be considered within the channel migration zone.
- All areas separated from the active channel by existing artificial structure(s) that is likely to restrain channel migration, including transportation facilities, built above or constructed to remain intact through the one hundred-year flood, should not be considered to be in the channel

migration zone.

Preferred uses

The SMA establishes the concept of *preferred uses* of shoreline areas. In order to balance the public's enjoyment of shorelines with "the overall best interest of the state and the people generally", the SMA gives preference to uses that:

- Are consistent with control of pollution;
- Are consistent with prevention of damage to the natural environment; or
- Are unique to or dependent upon use of the state's shoreline

The Act goes on to say that "Preferred" uses include single family residences, ports, shoreline recreational uses, water dependent industrial and commercial developments and other developments that provide public access opportunities. To the maximum extent possible, the shorelines should be reserved in the order of preference as such, for 'water-oriented' uses, including 'water-dependent', 'water-related' and 'water-enjoyment' uses."

Water-oriented uses

Water oriented uses are water-dependent, water-related, or water-enjoyment, or a combination of such uses. Each of these types of water-oriented used are described in detail below.

Water-dependent uses

Water-dependent uses are uses or a portion of a use that 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, such as portions of a marina or a hydroelectric generation facility.

Water-related uses

Water-related uses are those that must be located in shoreline areas in order to be economically viable. "Water-related use" means 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 because:

- (a) The use has a functional requirement for a waterfront location such as the arrival or shipment of materials by water or the need for large quantities of water; or
- (b) The use provides a necessary service supportive of the water-dependent uses and the proximity of the use to its customers makes its services less expensive and/or more convenient.

Water-enjoyment uses

Water enjoyment uses such as a recreational use or other use that facilitates public access to the shoreline as a primary characteristic of the use; or a use that provides for recreational use or aesthetic enjoyment of the shoreline for a substantial number of people as a general characteristic of the use and which through location, design, and operation ensures the public's ability to enjoy the physical and aesthetic qualities of the shoreline. In order to qualify as a water-enjoyment use, 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.

Non-water-oriented

"Nonwater-oriented uses" means those uses that are not water-dependent, water-related, or water-enjoyment.

Exempt uses

Exempt activities are located in 11.12 of the shoreline master program. An exemption from the substantial development permit process is not an exemption from compliance with the Act or the shoreline master program, or from any other regulatory requirements. Exempt uses may require the issuance of a Statement of Exemption also known as a Shoreline Exemption Permit from the SMP administrator.

Conforming and non-conforming uses, structures and lots

A nonconforming structure is a lawful structure existing at the effective date of the adoption of this SMP that could not be built under the terms of this code or any amendment thereto. Nonconforming uses are uses and developments that were legally established and are nonconforming with regard to the use regulations of the SMP, and which may continue as legal nonconforming uses. A nonconforming lot is an undeveloped lot, tract, parcel, site, or division of land which was established in accordance with local and state subdivision requirements prior to the effective date of the Act or this SMP, but which does not conform to the present lot size standards; nonconforming lots may be developed if permitted by other land use regulations of the responsible local government and so long as such development conforms to all other requirements of this SMP and the Act. Refer to 11.17, 11.18, and 11.19 for further explanation.

Ecological Function and Value

As one of the guiding policies of this SMP, basic policy # 1 requires the protection of shoreline natural resources including the land and its vegetation and wildlife, and the water of the state and their aquatic life. Whenever the terms "shoreline functions and values" are used in this SMP, it shall refer to the ecological function and ecological value as described below. Similarly, this SMP is required to prevent no net loss in ecological function and value as established below:

Ecological Function

- Ecological Function encompasses the ecological processes and interactions that occur within an ecological community. Ecological function includes:

- Provision of habitat for native biota;
- Provision of food and other resources for native biota;
- Maintenance of interactions between species (e.g., pollination, dispersal, mutualism, competition, predation)
- Cycling, filtering and retention of nutrients;
- Carbon storage or sequestration;
- Maintenance of soil processes;
- Maintenance of catchment scale hydrological and geochemical processes; and
- Maintenance of landscape scale ecological processes.

Ecological Value

Ecological Value: attributes include productivity, the ability to provide habitats for dependent species and the diversity of species and organization they support.

Riparian areas or zones: Riparian means “*streamside*.” Riparian areas include the land adjacent to lakes, rivers and streams, the vegetation above it, and the groundwater area beneath it. Riparian areas are three-dimensional ecotones of interaction that include terrestrial and aquatic ecosystems that extend into the groundwater, up above the canopy, outward across the floodplain, up the near-slopes that drain to the water, laterally into the terrestrial ecosystem, and along the water course at a variable width. Riparian areas are particularly important to shoreline health because they are ecotones—transition areas between different ecosystems. Ecotones tend to display higher diversity than either of the adjacent ecosystems because they have characteristics of both of them. Riparian areas are no exception. Because they are low-lying and close to the watertable, they offer damp, fertile soil that typically supports more vegetation than either the water or the land alongside it. That vegetation provides habitat elements such as food and cover for many species of animals. The zone as a whole provides important ecological function and values including streamside habitat that supports in stream function and values such as cool water via shade, organic matter, nutrient cycling, and habitat structure for terrestrial species.

In areas where no riparian vegetation exists due to shoreline modifications or development such as fill or levee-protected areas, riparian zones may not occur or may not exhibit the full suite of ecological functions and values as intact systems. Treatment of these highly altered riparian areas should consider both the potential for restoration or enhancement along with the community’s desire to utilize the shoreline for water-dependent and water-oriented uses.

Upland

Uplands are the portion of the landscape above the valley floor and/or any area that does not

qualify as a wetland because the associated hydrologic regime is not sufficiently wet to elicit development of vegetation, soils and/or hydrologic characteristics associated with wetlands. Such areas in floodplains are more appropriately termed non-wetlands. Uplands are also often used in relationship to streamside areas that do not have wetlands (see riparian definition above).

Upland Habitat

Upland Habitat: The dry habitat zones adjacent to and landward of bodies of water.

Ecological Value: attributes include productivity, the ability to provide habitats for dependent species and the diversity of species and organization they support.

SMP Contents

Definitions Chapter 2

This SMP provides definitions for terms and concepts intended to be used in the administration and interpretation of this SMP.

Public Participation Chapter 3

Development of the Okanogan County Regional and Okanogan County Cities and Towns Regional SMPs entailed a two-tier public participation process. The process included a Shoreline Advisory Group and a Technical Advisory Group. The groups met on a regular basis to review scientific findings, provide feedback and review document contents, including policies and regulations. Additionally the Department of Ecology provided comments and editorial oversight throughout the development of this SMP. The Draft Regional SMP was released for general public review in October 2009. The Draft Regional SMP was then distributed to each jurisdiction to tailor it to individual needs and develop their own public participation plan for the document. The public participation plan for the cities of Oroville, Tonasket, Omak, Okanogan, Brewster and Pateros and the towns of Twisp and Winthrop can be found in Chapter 3.

Inventory, analysis, and characterization Chapter 4

All of the shorelands potentially subject to regulation under the SMA have been inventoried to characterize the current shoreline function to develop a baseline for the no net loss standard. The inventory captured opportunities for restoration, public access, and shoreline use patterns. All of this information helped inform the environment designations that have been applied to the shorelines under the SMA. More information on the characterization is located in Chapter 4 with associated **appendices A and B**.

Shorelines of Statewide Significance Chapter 5

Special consideration of shorelines of statewide significance can be found in Chapter 5. Chapter 5 assembles a set of guidelines intended to establish uses best suited for the long-term benefit of shorelines of statewide significance.

Policies and Regulations Chapters 6 & 8

The SMA requires each SMP to develop Policies and Regulations to meet the intent of the Act, guided by local environments and public participation. The SMP guidelines require particular uses and their associated impacts be addressed through policies that are enacted through regulations. Policies for specific uses are provided in Chapter 6 of this SMP.

Regulations are derived in support of specific policies as well as for the protection of the functions and values reflected in the Shoreline Designations (SD) and “no net loss” requirement of SMA. Shoreline Regulations are categorized by SD and by specific uses. Chapter 8 provides regulations in the form of use and designation (SD) specific regulations.

Shoreline Designations Chapter 7

Shoreline designations are analogous to zoning designations for shoreline areas and determine development regulations for different segments of shoreline. Shoreline designations reflect the existing and desired character of a shoreline and to be achieved through development regulations and standards set forth in Chapter 8. Shoreline character is based on a scientific inventory and analysis known as the Shoreline Characterization as well as land use planning factors described briefly above and in greater detail in Chapter 4). The following designations have been applied to shorelines in the town of Winthrop:

Shoreline Designations

High Intensity

Shoreline Residential

Shoreline Recreation

Urban Conservancy

Natural

Aquatic

Permit and development requirements vary between Shoreline Designations. The different types of shoreline permits are explained briefly below, under the heading “Administration and Compliance”, and in greater detail in Chapter 11. Shoreline Use Chart (Table 8.2) and development standards are used together to determine allowable uses and permit requirements.

Maps

Characterization map (see Chapter 4) and Designation Map (see Chapter 7) will be made available by the Shoreline Administrator for the town of Winthrop and online at <http://www.okanogancounty.org/planning>.

To find out whether a particular use is allowed on a given parcel of land, the Shoreline Designation needs to be established by finding the parcel on shoreline designation. Once the Designation has been determined, the use chart in Table 8.2 lists what activities are allowed and what permits will be required for a proposed development. Similarly, the development standards in Table 8.1 contain requirements such as bulk height, setbacks, and buffer widths.

Cumulative Impact Analysis Chapter 9

Chapter 9 includes an analysis of the cumulative impacts on the ecological function of the shoreline areas of Winthrop.

Restoration Plan Chapter 10

Chapter 10 includes the restoration plan. Restoration is encouraged to achieve a net gain in ecological function. Areas with a high potential for restoration have been mapped and are located in **Appendix D**.

Administration Chapter 11

The requirements for permitting shoreline uses and developments is presented in administrative guidelines described in Chapter 11.

Types of Shoreline Permits

There are four types of Shoreline Permits, issued either administratively (by the local jurisdiction) or requiring Ecology approval. Each permit is filed with the Department of Ecology:

- Shoreline Statement of Exemption (Administrative Approval)
- Shoreline Substantial Development Permit (Administrative Approval)
- Conditional Use Permits (local hearing, Ecology Approval)
- Variance (local hearing, Ecology Approval)

Conditional use permits and variance permits must go through a public hearing at the local level prior to submittal to Ecology. Once the local determination is made the application and supporting materials are sent to the Department of Ecology for their review. Ecology makes the

final decision as to whether the CUP or Variance is allowed or denied. More information on permit issuance can be found in Chapter 11.

Conditional Use Permits allow greater flexibility in applying use regulations of shoreline master program. A CUP is needed if a proposed use is listed as a conditional use in a local government's shoreline regulations, *or* if the SMP does not address the use.

Variance permits are used to allow a project to deviate from an SMP's dimensional standards (e.g., setback, height, or lot coverage requirements).

Applicability

What areas are regulated under this SMP?

This SMP applies to all shorelines of the state in the town of Winthrop.

Shorelines of the state include “Shorelines” and “Shorelines of Statewide Significance”, as defined above under the heading “Shorelines of the State.”

Does this SMP apply to existing development?

This SMP applies to new uses, new activities, and changes in use. Existing uses are generally “grandfathered”—that is, allowed to continue as legal uses—as long as they were legal at the time they began. An existing use that was legal when it began but would not be allowed as a new use under the current SMP is considered a legal nonconforming use. More information about changes in use, conforming and nonconforming uses, and how they are handled can be found in Chapter 11.

Permit exemptions

The SMA exempts certain developments from the need to obtain a Substantial Development Permit (SDP). Activities exempted from the requirement to acquire a SDP must comply with all substantive policies and regulations of the local master program and be issued a written Shoreline Exemption Permit by the administrator of this SMP. A complete list of all exemptions is provided in Section 11.12B of this SMP and WAC 173-27-040. In general a SDP, is not required for the following uses within the shorelines of (insert jurisdiction)

- Any project with a fair market value under \$5718 or amount amended by WAC 173.
- Single family residences
- Normal protective bulkheads for single family residences

- Normal maintenance and repair of existing structures
- Docks worth less than \$10,000 (fresh water)
- Normal farming activities including drainage structures such as dikes
- Emergency construction needed to protect property
- Scientific investigation as it relates to a development project
- Watershed restoration or fish and wildlife improvement projects

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