

Appendix B

This appendix includes the following guidance for Shoreline Master Program updates:

- SMP model language for cultural resources
- Forest practices in shoreline jurisdiction

Cultural Resources Model Language for Shoreline Master Programs

Developed by the Departments of Archaeology & Historic Preservation and Ecology

ARCHAEOLOGICAL – HISTORICAL - CULTURAL

The archaeological-historical-cultural element provides for protection and restoration of buildings, structures, sites, and areas having archaeological, historical, cultural, or scientific value or significance.

Goal Statement

Shoreline features of historic, cultural, archaeological, or scientific value as determined by the Washington Department of Archaeology and Historic Preservation should be protected to prevent the destruction of, or damage to, any site having archaeological, historical, cultural, or scientific value through coordination and consultation with the appropriate local, state and federal authorities, including affected Indian tribes.

Objectives

1. Sites should be protected in collaboration with appropriate tribal, state, federal, and local governments. Cooperation among public and private parties is to be encouraged in the identification, protection, and management of cultural resources.
2. Where appropriate, access to such sites should be made available to parties of interest. Access to such sites must be designed and managed in a manner that gives maximum protection to the resource.
3. Opportunities for education related to archaeological, historical and cultural features should be provided where appropriate and incorporated into public and private programs and development.

ARCHAEOLOGICAL-HISTORIC-CULTURAL SITES

Historic, cultural, and archaeological site activity in shoreline areas shall be subject to the policies and regulations of this section and (*insert other appropriate sections*).

ARCHAEOLOGICAL- HISTORIC - CULTURAL SITES -- POLICIES

1. The (jurisdiction) should work with tribal, state, federal and local governments as appropriate to maintain an inventory of all known significant local historic, cultural and archaeological sites in observance of applicable state and federal laws protecting such information from public disclosure. As appropriate, such sites should be preserved and/or restored for study, education and/or public enjoyment to the maximum possible extent.
2. Provisions for historic, cultural and archaeological site preservation, restoration and education should be incorporated with open space or recreation areas in site development plans whenever compatible and possible.

3. Cooperation among involved private and public parties should be encouraged to achieve this Program's Archaeological, Historical and Cultural Element Goals and Objectives.
4. Private and public owners of historic sites should be encouraged to provide public access and educational opportunities at levels consistent with long term protection of both historic values and shoreline ecological functions. Site specific conditions may require public site access to be restricted at times, but educational means should be provided whenever possible.
5. Historic, cultural and archaeological site development should be planned and carried out so as to prevent impacts to the resource. Impacts to neighboring properties and other shore uses should be limited to temporary or reasonable levels.
6. Owners of property containing identified historic, cultural or archaeological sites are encouraged to make substantial development plans known well in advance of application, so that appropriate agencies such as, the (affected Tribe), (affected Tribe), Washington Department of Archaeology and Historic Preservation, and others may have ample time to assess the site and make arrangements to preserve historical, cultural and archaeological values as applicable.
7. If development is proposed adjacent to an identified historic, cultural or archaeological site, then the proposed development should be designed and operated so as to be compatible with continued protection of the historic, cultural or archaeological site.

ARCHAEOLOGICAL - HISTORIC - CULTURAL SITES -- REGULATIONS

1. Known Historic, Cultural or Archaeological Sites

- a. Upon receipt of application for a shoreline permit or request for a statement of exemption for development on properties within 500 feet of a site known to contain a historic, cultural or archaeological resource(s), the (jurisdiction) shall require a cultural resource site assessment. The site assessment shall be conducted by a professional archaeologist or historic preservation professional, as applicable, to determine the presence of historic or archaeological resources. The fee for the services of the professional archaeologist or historic preservation professional shall be paid by the landowner or responsible party.
- b. If the cultural resource site assessment identifies the presence of significant historic, cultural or archaeological resources, a Cultural Resource Management Plan (CRMP) shall be prepared by a professional archaeologist or historic preservation professional, as applicable. The fee for the services of the professional archaeologist or historic preservation professional shall be paid by the landowner or responsible party. In the preparation of such plans, the professional archaeologist or historic preservation professional shall solicit comments from the Washington Department of Archaeology and Historic Preservation, the (affected Tribe) and (affected Tribe). Comments received shall be incorporated into the conclusions and recommended conditions of the CRMP to the maximum extent practicable.

(1) A CRMP shall contain the following minimum elements:

- (a) The purpose of the project; a site plan for proposed on-site development; depth and location of all ground disturbing activities including, but not limited to, utilities, driveways, clearing and grading; an

examination of project on-site design alternatives; and an explanation of why the proposed activity requires a location on, or access across and/or through, an historic or significant archaeological resource; and

(b) A description of the historic/archaeological resources affected by the proposal; and

(c) An evaluation of the historic/archaeological resource and an analysis of the potential adverse impacts as a result of the activity;

(d) An analysis of how these impacts have been avoided; or

(e) Where avoidance is not possible, how these impacts have been or will be mitigated/minimized; and

(f) A recommendation of appropriate mitigation measures, which may include but are not limited to the following:

(i) Recording the site with the Washington Department of Archaeology and Historic Preservation, or listing the site in the National Register of Historic Places, Washington Heritage Register, as applicable, or any locally developed historic registry formally adopted by the (jurisdiction);

(ii) Preservation in place;

(iii) Reinterment in the case of grave sites;

(iv) Covering an archaeological site with a nonstructural surface to discourage pilferage (e.g., maintained grass or pavement);

(v) Excavation and recovery of archaeological resources;

(vi) Inventorying prior to covering of archaeological resources with structures or development; and

(vii) Monitoring of construction excavation.

(2) The recommendations and conclusions of the CRMP shall be used to assist the (jurisdiction) administrator in making final administrative decisions concerning the presence and extent of historic/archaeological resources and appropriate mitigating measures. The administrator shall consult with the Washington Department of Archaeology and Historic Preservation, (affected Tribe), and (affected Tribe) prior to approval of the CRMP.

(3) The (jurisdiction) administrator may reject or request revision of the conclusions reached in a CRMP when the administrator can demonstrate that the assessment is inaccurate or does not fully address the historic/archaeological resource management concerns involved.

c. Within 15 days of receipt of a complete application for a shoreline permit or request for an exemption in an area of known historic/archaeological resources, the (jurisdiction) shall notify and request a recommendation from appropriate agencies such as the Washington Department of Archaeology and Historic Preservation, the (affected Tribe), and (affected Tribe). Recommendations of such agencies and other affected persons shall be duly considered and adhered to whenever possible and reasonable. Notification shall include the following information:

- (1) The date of application, the date of notice of completion for the application, and the date of the notice of application;
 - (2) The date, time, place, and type of the hearing, if applicable;
 - (3) A site map including the street address, tax parcel number, township, range, and section of the proposed project area;
 - (4) A description of the proposed project action and a list of the project permits included in the application, and, if applicable, a list of any studies requested by the (jurisdiction);
 - (5) The identification of other permits not included in the application to the extent known by the (jurisdiction);
 - (6) The identification of existing environmental documents that evaluate the proposed project and, if not otherwise stated on the document providing notice of application, the location where the application and any studies can be reviewed;
 - (7) Any other information determined appropriate by the (jurisdiction);
 - (8) A statement indicating those development regulations that will be used for project mitigation if they have been identified at the time of notice;
 - (9) A statement of the limits of the comment period, the right of each agency to comment on the application within a 30-day time period, receive notice of and participate in any hearings, request a copy of the decision once made, and to appeal a decision when allowed by law. In addition, the statement shall indicate that any agency wishing to receive personal notice of any hearings must notify the hearing examiner's office within 30 days of the date of the notice of application.
- d. In granting shoreline permits or statements of exemption for such development, the (jurisdiction) may attach conditions to require consultation with the Washington Department of Archaeology and Historic Preservation, (affected Tribe) and (affected Tribe), and to assure that historic/archaeological resources are properly protected, or for appropriate agencies to contact property owners regarding purchase or other long-term arrangements. Provision for the protection and preservation of historic/archaeological sites shall be incorporated to the maximum extent practicable.

2. Inadvertent Discovery

- a. Whenever historic, cultural or archaeological sites or artifacts of potential significance are discovered in the process of development on shorelines, work on that portion of the development site shall be stopped immediately and the find reported as soon as possible to the (jurisdiction) administrator.
- b. The (jurisdiction) administrator shall then notify the Washington Department of Archaeology and Historic Preservation, (affected Tribe), (affected Tribe) and other appropriate agencies and shall require that an immediate site assessment be conducted by a professional archaeologist or historic preservation professional, as applicable, pursuant to subsection 1.a of this section to determine the significance of the discovery and the extent of damage to the resource. The site assessment shall be distributed to the Washington Department of Archaeology and Historic Preservation, the (affected Tribe), and (affected

Tribe) for a 15-day review period or, in the case of inadvertent discovery of human remains, a 30-day review period to determine the significance of the discovery. If the site has been determined not to be significant by the above listed agencies or governments, or if the above listed agencies or governments have failed to respond within the applicable review period following receipt of the site assessment, such stopped work may resume.

c. Upon receipt of a positive determination of a site's significance, the (jurisdiction) administrator may invoke the provisions of 1.b through d above if such action is reasonable and necessary to implement related program objectives.

3. Public Access

a. If a private or publicly owned building or structure of historic significance is identified, public access shall be encouraged as appropriate for purposes of public education; provided that:

(1) The type and/or level of public access is consistent with the long term protection of both historic resource values and shoreline ecological functions; and

(2) An access management plan is developed in accordance with site- and resource-specific conditions in consultation with the Washington Department of Archaeology and Historic Preservation, (affected Tribe), (affected Tribe) and/or other agencies, as appropriate, to address the following:

(a) Hours of operation;

(b) Interpretive and/or directional signage;

(c) Lighting;

(d) Pedestrian access; and/or

(e) Traffic and parking.

b. For archaeological and cultural resource sites, the Washington Department of Archaeology and Historic Preservation, (affected Tribe), (affected Tribe) and/or other agencies, as appropriate, shall be in agreement prior to providing public access to a site. An access and resource management plan shall be developed in consultation with the Washington Department of Archaeology and Historic Preservation, the (affected Tribe), and the (affected Tribe).

DEFINITIONS

1. Archaeology means systematic, scientific study of the human past through material remains.

2. Archaeological Object means an object that comprises the physical evidence of an indigenous and subsequent culture including material remains of past human life including monuments, symbols, tools, facilities, graves, skeletal remains and technological by-products.

3. Archaeological Resource/Site means a geographic locality in Washington, including, but not limited to, submerged and submersible lands and the bed of the sea within the state's jurisdiction, that contains archaeological objects.

4. Significant is that quality in American history, architecture, archaeology, engineering, and culture that is present in districts, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feeling, and association, and:

a. That are associated with events that have made a significant contribution to the broad patterns of our history; or

b. That are associated with the lives of significant persons in our past; or

c. That embody the distinctive characteristics of a type, period or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or

d. That have yielded or may be likely to yield, information important in history or prehistory.

5. Historic Preservation Professional means those individuals who hold a graduate degree in architectural history, art history, historic preservation, or closely related field, with coursework in American architectural history, or a bachelor's degree in architectural history, art history, historic preservation or closely related field plus one of the following:

a. At least two years of full-time experience in research, writing, or teaching in American architectural history or restoration architecture with an academic institution, historical organization or agency, museum, or other professional institution; or

b. Substantial contribution through research and publication to the body of scholarly knowledge in the field of American architectural history.

6. Historic Site means those sites that are eligible or listed on the Washington Heritage Register, National Register of Historic Places or any locally developed historic registry formally adopted by the (jurisdiction).

7. Professional archaeologist means a person with qualifications meeting the federal secretary of the interior's standards for a professional archaeologist. Archaeologists not meeting this standard may be conditionally employed by working under the supervision of a professional archaeologist for a period of four years provided the employee is pursuing qualifications necessary to meet the federal secretary of the interior's standards for a professional archaeologist. During this four-year period, the professional archaeologist is responsible for all findings. The four-year period is not subject to renewal.

Forest practices in shoreline jurisdiction

Are shoreline permits required for forest practices?

A forest practice consisting of timber cutting only is not considered development under the Shoreline Management Act (SMA) and does not require a shoreline Substantial Development Permit.

Forest practices such as building roads, trails and bridges and placing culverts are considered development under the SMA and are regulated under local Shoreline Master Programs as well as the Forest Practices Act (RCW 76.09). The SMA does not exempt these forest practices from the requirement for a Substantial Development Permit (SDP). If the costs of these activities will exceed the substantial development dollar threshold (currently \$6,416), an SDP will be required.

What other shoreline requirements apply to forest practices?

Shoreline Master Program standards, including buffers and setbacks, will apply to forest practices that are considered development, as discussed above. These forest practices are not exempt from local master program standards.

Along shorelines of statewide significance, SMA (RCW 90.58.150) requirements regarding selective timber cutting continue to apply to forest practices. “The department or local government shall allow only selective commercial timber cutting, so that no more than thirty percent of the merchantable trees may be harvested in any ten year period of time.” Enforcing this requirement is up to local governments and Ecology.

The SMA provides for other timber harvesting methods “in those limited instances where the topography, soil conditions or silviculture practices necessary for regeneration render selective logging ecologically detrimental.” Clear cutting timber for land clearing purposes to prepare the land for other uses may be permitted. In this case, the SMA and local SMP may also apply.

Does the Forest Practices Act apply in shoreline jurisdiction?

The SMP Guidelines state that master programs should rely on the Forest Practices Act, its implementing rules and Forest and Fish Reports to manage commercial forests. SMPs also should apply the Guidelines standards to forest practices where forest land is being converted to non-forest uses.

As part of a forest practices application with the Department of Natural Resources (DNR), applicants must report if the project is within 200 feet of the ordinary high water mark or floodway of a Type S water and whether it requires an SDP. Required SDPs should be included with the application.

Local governments should review these applications and send a comment to DNR if the

applicant has not provided a required SDP or is not complying with conditions of the SDP. DNR would either disapprove the forest practices application or ask the applicant to withdraw the application and resubmit it with the SDP issued by the local government.