

City of Bainbridge Island
SHORELINE MANAGEMENT MASTER PROGRAM
November 26, 1996
Corrected January 1998

*Updated by Ordinance 2003-25 relating to appeals to the
City Council of Hearing Examiner decisions*

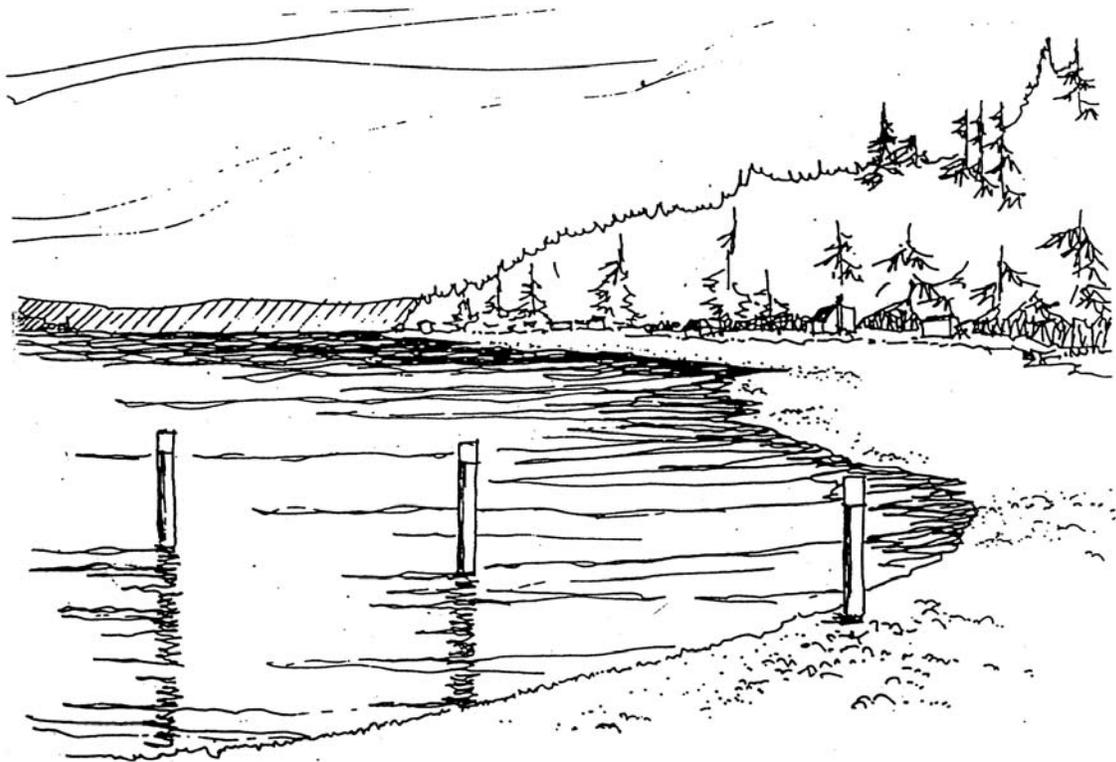
Ordinance 2003-25, relating to appeals to the City Council of Hearing Examiner decisions, became effective June 23, 2003. As a result, there were a few changes to the City of Bainbridge Island Shoreline Management Master Program. Please remove and replace the pages as indicated below.

Remove these pages	Insert these pages	Changes to pages
Cover	Cover	Cover
111-112	111-112	112-C(1a)
113-114	113-114	113-D(a)
121-122	121-122	122-J(5e)
123-124	123-124	123-Figure 7-2

CITY OF BAINBRIDGE ISLAND

GRANT No. G9200008

SHORELINE MANAGEMENT MASTER PROGRAM



This Shoreline Management Master Program was funded in part through a cooperative agreement with the National Oceanic Atmospheric Administration.

The views expressed herein are those of the City of Bainbridge Island and do not necessarily reflect the view of NOAA or any of its sub-agencies.

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Including Ordinance 2003-25

- h. Conducting a thorough review and analysis of permit applications and related materials, and making written findings and conclusions.
- I. Making decisions pursuant to paragraph 1 above.
- j. Referring applications to the Planning Commission for recommendations when requested by the applicant or when the Director deems appropriate.
- k. Submitting applications and all relevant information and materials along with written findings and recommendations to the Hearing Examiner pursuant to paragraph 1 above.
- l. Providing technical and administrative assistance to the Council, as needed, for effective and equitable implementation of this program and the Act.
- m. Providing a summary report of shoreline management permits issued during the past calendar year to the Council in February of each year. The report should include findings and conclusions on significant administrative determinations and appeals, identification of problem areas, and recommendations on how the Master Program can be improved.
- n. Proposing amendments to this program as deemed necessary to more effectively and equitably achieve its goals and policies.
- o. Seeking remedies for alleged violations of this program, the provisions of the Act, or of conditions of any approved shoreline permit.
- p. Coordinating information with affected agencies.
- q. Forwarding shoreline permits to Ecology for filing or appropriate action.
- r. Deciding whether to require any applicant granted a shoreline permit to post a bond or other acceptable security to assure that the applicant and/or the applicant's successors in interest shall adhere to the approved plans and all conditions attached to the shoreline permit. Such bonds or securities shall have a face value of at least one hundred (100) percent of the estimated development cost, including attached conditions. Such bonds or securities shall be approved as to form by the City Attorney.

C. Hearing Examiner

- 1. The City of Bainbridge Island Hearing Examiner is vested with authority to:
 - a. Approve, approve with conditions, or deny Shoreline variance and shoreline conditional use permit applications after a public hearing and after considering the findings and recommendations of the Director, which shall be given substantial weight, provided that decisions may be appealed in accordance with Section I(2) below.
 - b. Affirm, affirm with modifications, or reverse decisions on shoreline substantial development permit applications, minor Shoreline variance applications, and shoreline exemptions on appeal.
- 2. Further duties and responsibilities of the Hearing Examiner shall include:
 - a. Ensuring that proper notice is given to appropriate persons and the public for all hearings before the Hearing Examiner.
 - b. Referring applications to the Planning Commission for recommendations, when appropriate.
 - c. Considering recommendations of the Planning Commission when requested by the applicant or the Director.
 - d. Basing all decisions on shoreline permits and administrative appeals on the criteria established in the Act and the Master Program.
 - e. Deciding whether to require any applicant granted a shoreline permit to post a

bond or other acceptable security to assure that the applicant and/or the applicant's successors in interest shall adhere to the approved plans and all conditions attached to the shoreline permit. Such bonds or securities shall have a face value of at least one hundred (100) percent of the estimated development cost, including attached conditions. Such bonds or securities shall be approved as to form by the City Attorney.

D. City Council

1. The City Council is vested with authority to:
 - a. Review and act upon any recommendations of the Director for amendments or revisions of the Master Program. To become effective any amendments to the Program must be reviewed and approved by the Department of Ecology, pursuant to RCW 90.58.190 or its successor and Chapter 173-19 WAC or its successor.

E. Permit or Exemption Required Before Undertaking Development or Activity

1. Permits Required
 - a. A development, use, or activity shall not be undertaken within the jurisdiction of the Shoreline Management Act (Chapter 90.58 RCW or its successor) and the Shoreline Master Program, unless it is consistent with the policy and procedures of the Shoreline Management Act, applicable State regulations and the Shoreline Master Program.
 - b. A substantial development shall not be undertaken within the jurisdiction of the Shoreline Management Act (Chapter 90.58 RCW or its successor) and the Shoreline Master Program, unless an appropriate shoreline permit has been obtained, the appeal period has been completed, any appeals have been resolved, and/or the applicant has been given permission by the proper authority to proceed.
 - c. Any person wishing to undertake substantial development or exempt development on shorelines shall apply to the Director for an appropriate shoreline permit or a Statement of Exemption.
 - d. If a development, use or activity is listed as a conditional use by the Shoreline Master Program, such development, use, or activity shall not be undertaken within the jurisdiction of the Shoreline Management Act (Chapter 90.58 RCW or its successor) and the Master Program, unless a Shoreline conditional use permit has been obtained, the appeal period has been completed, any appeals have been resolved, and/or the applicant given permission to proceed by the proper authority.
 - e. If a development, use, or activity cannot comply with the regulations of the Master Program, a Shoreline variance must be obtained before commencement of development or construction, or beginning the use or activity.
 - f. If a project includes uses or activities that include both permitted and conditional uses, or a regular (major rather than minor) shoreline variance is required, the permit shall be heard and decided by the Hearing Examiner using

- recommendations which the Director believes are appropriate. The Director shall send a copy of the staff report to the applicant and the Hearing Examiner.
- b. The Director may refer the application to the Planning Commission for a recommendation.
 - c. In making the decision, the Hearing Examiner shall consider the applicable criteria in 1 and 2 above. The applicant has the burden of proof to show that the proposal complies with the decision criteria and all applicable requirements. [RCW 90.58.140(7) or its successor].
 - d. The Hearing Examiner may refer the application to the Planning Commission for a recommendation.
 - e. The decision of the Hearing Examiner shall be the final City decision, and may be appealed in accordance with paragraphs 6-8 below.
6. The Director shall mail the final City decision to the applicant, the State Department of Ecology, and the State Attorney General. The permit must be received by Ecology within eight (8) days of the date of the decision. Within eight (8) days of the date of the decision, the Director shall also mail the decision to any person who requested notice of the decision.
 7. The State Department of Ecology shall approve, approve with conditions, or deny all Shoreline variance and shoreline conditional use permits approved by the City. Ecology's decision must be made within thirty (30) days of the date the permit and other information required by WAC 173-14-090 or its successor are received by Ecology and the Washington State Attorney General. Ecology will send a letter to the applicant and the City informing them of the decision. Upon receipt of the Ecology decision, the Director shall notify those interested persons who requested notification.
 8. **Twenty-one Day Appeal Period**
 - a. If the permit or shoreline variance was denied by the City, the twenty-one (21) day appeal period begins on the day the denied permit or shoreline variance and other information required by WAC 173-14-090 or its successor are received by Ecology and the Attorney General. Ecology usually sends a letter to the Director and the applicant informing them of the date the application was received.
 - b. If the permit or shoreline variance was approved by the local government, the twenty-one (21) day appeal period begins on the day the permit or shoreline variance was approved or denied by Ecology.
 - c. During the appeal period, the local government and/or Ecology decision on the permit may be appealed to the Washington State Shorelines Hearings Board as provided by RCW 90.58.180 or its successor. The applicant or any other party authorized to conduct activities or uses by the decision shall not begin construction, development, or any authorized use or activity until after the twenty-one (21) day appeal period. Construction or use may occur during the time a court appeal is underway provided 1) the permit was approved by the local government and the State Shorelines Hearings Board, and 2) permission is granted for the construction, use or activity under RCW 90.58.140(5)(9) or its successor.

SHORELINE VARIANCE/ CONDITIONAL USE PERMIT

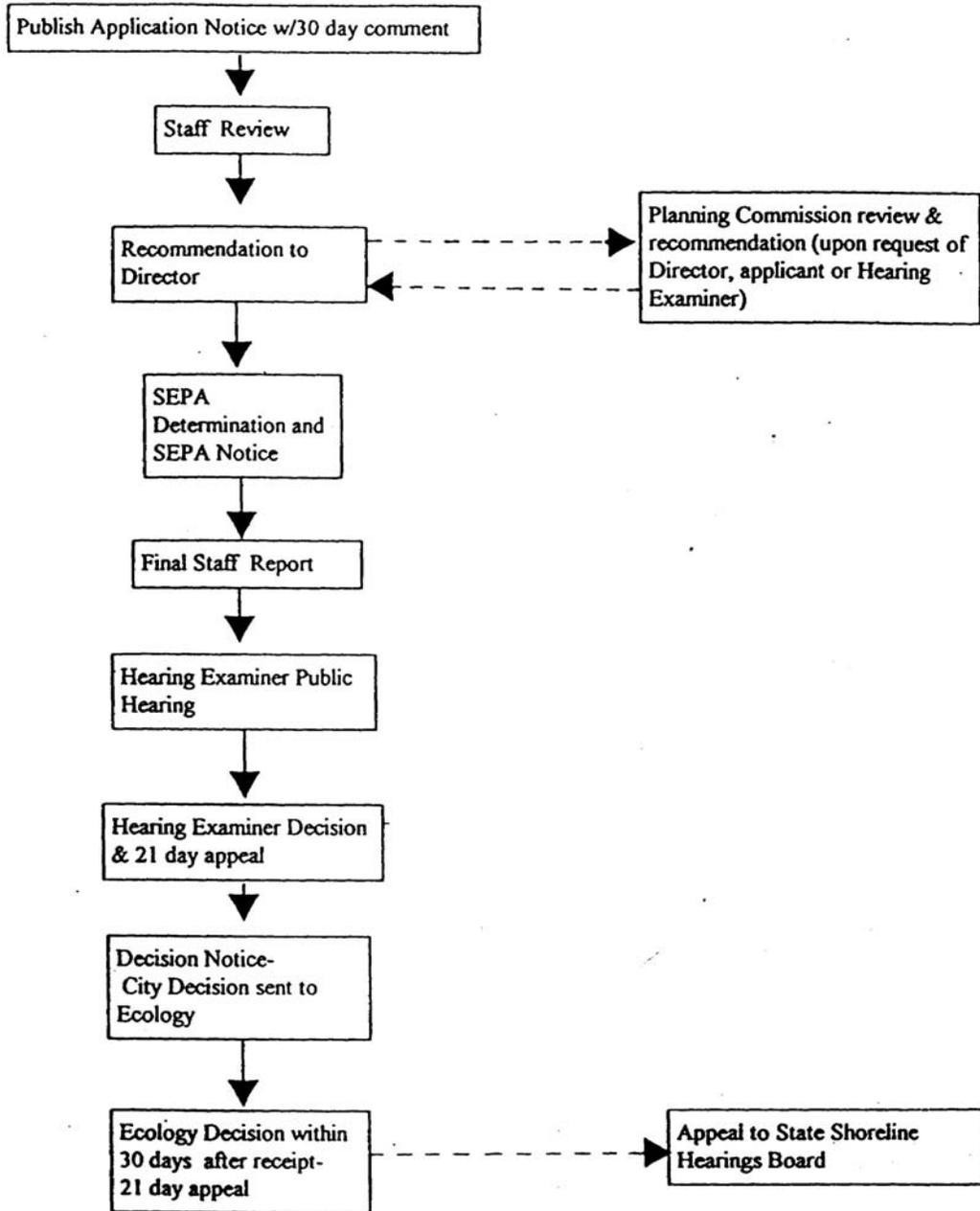


Figure 7-2