



## Permitting Factsheet #3

# GROWTH & SHORELINES MANAGEMENT ACTS (Whatcom County Critical Areas Ordinance)

### Shorelines Management Act 90.58 RCW

Recognizing that the shorelines of the state are among our most valuable and fragile natural resources, the State Legislature passed the Washington State Shoreline Management Act (SMA) in June 1971. The SMA was overwhelmingly passed by public initiative in 1972. Under the SMA, each county and city was required to prepare a shoreline “master program” in accordance with the shoreline guidelines issued by the State Department of Ecology in 1972.

The Whatcom County Shoreline Management Program (SMP), WCC Title 23, is the document that implements the goals and policies of the SMA at the local level. It was adopted in 1976. Under the provisions of the SMA, all development within shorelines of the state is required to comply with the provisions of local shoreline master programs. Drainage maintenance activities may be considered “development” or may be exempt under some circumstances. Whatcom County jurisdiction includes stream channels and all associated wetlands, floodways and upland areas within 200 feet of the Ordinary High Water Mark (OHWM).

Whatcom County Planning and Development Services (PDS) and the Washington State Department of Ecology (DOE) share joint authority and responsibility for the Whatcom County SMP. PDS is the primary agency responsible for implementation of the Whatcom County SMP. DOE is responsible for supervising the administration of the code, ensuring proper implementation, and assuring consistency with the SMA. Because the Whatcom County master program is approved and adopted by DOE, it has the authority of state law.

### Growth Management Act 36.70A RCW

In 1990, the Growth Management Act (“GMA”) was enacted by the State legislature in response to rapid population growth and concerns with suburban sprawl, environmental protection, quality of life, and related issues. Whatcom, along with twenty-six other counties, was required to adopt county-wide planning policies

that protect “critical areas” and existing “shoreline values”. Critical areas that may be impacted by drainage maintenance activities include wetlands and Habitat Conservation Areas (“HCAs”). The standard protection for wetlands range from 25 feet to 300 feet depending upon the type of activity and level of function of the wetland. The buffer widths for streams range from 50 feet for non-fish bearing streams, to 100 feet for fish bearing streams and 150 feet for shoreline streams. These standard buffer widths may be reduced with a Farm Conservation Plan or for Drainage Improvement Districts a Drainage Maintenance Plan. Failure to comply with the County’s CAO can result in an stop work order and a civil offense punishable by \$1,000 fine for each offense. Each day of work constitutes a separate offense.

Drainage maintenance activities are allowed only after Notification to the Whatcom County critical areas Technical Administrator 10 days prior to initiating work provided that all the following are met:

1. The maintenance is necessary to support ongoing agricultural operations;
2. The maintenance activity does not expand the dimensions of the drainage channel beyond the original, lawfully established dimensions;
3. The agricultural activities are conducted pursuant to an approved farm conservation plan or drainage management plan;
4. The project proponent or landowner obtains a Hydraulic Project Approval (HPA), if required from the Washington Department of Fish and Wildlife (WDFW), prior to the maintenance activity;
5. The project proponent or landowner provides a copy of the HPA to the Technical Administrator as part of the written notification. No other written notification is needed.

Whatcom County permit applications and notices necessary to perform drainage maintenance are likely to include:

- State Environmental Policy Act checklist
- Natural Resource Notification of Activity
- Endangered Species Act (ESA) Checklist for Development within the ESA Potential Impact Area

**WHATCOM COUNTY**

Planning & Development Services  
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**David Stalheim**  
Director

**J.E. "Sam" Ryan**  
Assistant Director

**NATURAL RESOURCE NOTIFICATION OF ACTIVITY**

Date \_\_\_\_\_

Notice of work to be performed in or near a Critical Area or Water Resource Special Management Area in compliance of the Whatcom County Code 16.16.235 and 20.80.735. This Notification should be submitted to the Whatcom County Planning and Development Services at least 10 working days before proposed starting date. No work shall be initiated until after 10 days of submittal of form. Review of this proposed activity may result in the requirement for a permit such as land disturbance, shoreline, etc. You will be notified if permits will be required for the proposed activity.

Contractor \_\_\_\_\_ Phone \_\_\_\_\_

Address \_\_\_\_\_

Property owner \_\_\_\_\_ Phone \_\_\_\_\_

Address \_\_\_\_\_

Property Address and Tax Parcel Number \_\_\_\_\_

Proposed start date \_\_\_\_\_ Proposed finish date \_\_\_\_\_

Type of affected Critical Area and/or watershed \_\_\_\_\_

Describe activity to be conducted (if more space is needed attach additional information sheets). Provide a site plan with this notification. Clearly identify location of proposed activity on the site.

I / We understand this work and/or activity may have adverse effects on the Critical Area and/or watershed processes, and acknowledge that special care must be taken to reduce or eliminate adverse effects. Effective sediment and erosion control measures must be installed and disturbed areas shall be restored as near as possible to the previous condition.

Description of sediment erosion control measures and/or restoration \_\_\_\_\_

I / We the undersigned acknowledge and except the responsibility for the progress and completion of this project. Any unforeseen problems or plan changes will immediately be brought to the attention of the County Technical Administrator.

Signed \_\_\_\_\_ Date \_\_\_\_\_ Signed \_\_\_\_\_ Date \_\_\_\_\_

**FOR AGENCY USE**

Approved \_\_\_\_\_ Date \_\_\_\_\_

Additional Information/permits required \_\_\_\_\_