

ADMINISTRATION

Requirements for applications, administration, fees, notice, technical committee, duties of the planning department, duties of the Board, notification, applicability, appeals, penalties, and other procedural matters of administration of this Plan shall be enacted. Should any conflicts arise between this Shoreline Management Plan and any procedural or other enactments of Klickitat County, this Plan shall govern.

Klickitat County shall issue no other permit prior to approval pursuant to the requirements of the Shoreline Management Act, nor take any action contrary to the goals, policies, objectives and regulations of the Klickitat County Shoreline Management Plan when property under jurisdiction of the Shoreline Management Act is involved in a request for a decision in any of the following:

1. Building permit;
2. Right-of-Way construction permit;
3. Subdivision;
4. Grading permit;
5. Site plan approval;
6. Planned unit development approval;
7. Mobile home park permit;
8. Mobile home placement permit;
9. Recreational vehicle park permit;
10. Access permit;
11. Trail permit;
12. State flood control zone permit;
13. Zoning variance;
14. Conditional use permit;

15. Comprehensive plan amendment or addition;
16. Zone reclassification;
17. Forest Practice Permit; or
18. Any other applicable permits or approvals.

ENFORCEMENT AND PENALTIES

(RCW - means based on RCW 90.58)
(WAC - means based on Chapter 173-27 WAC)

Policy:

The choice of enforcement action and the severity of any penalty should be based on the nature of the violation and the damage or risk to the public or to public resources. The existence or degree of bad faith of the persons subject to the enforcement action, the benefits that accrue to the violator, and the cost of obtaining compliance may also be considered. (WAC)

Civil Penalty:

1. Action: The prosecuting attorney for Klickitat County shall bring such injunctive, declaratory, or other actions as are necessary to insure that no uses are made of the shorelines of the state in conflict with the provisions of the Act and/or of this Master Plan, and to otherwise enforce the provisions of both. (RCW)
2. Non-compliance: Any person who fails to conform to the terms of a permit issued under this Master Program or who undertakes a development or use on the shorelines of the state without first obtaining a permit required under this Master Plan or who fails to comply with a cease and desist order issued under these regulations shall also be subject to a civil penalty not to exceed one thousand dollars for each violation. Each permit violation and/or each day of continued use or development without a required permit shall constitute a separate violation. (RCW)

3. Aiding or abetting: Any person who, through an act of commission or omission procures, aids or abets in the violation shall be considered to have committed a violation for the purposes of the civil penalty. (WAC)
4. Notice of Penalty: The penalty provided for in this chapter shall be imposed by a notice in writing, either by certified mail with return receipt requested or by personal service, to the person incurring the same from the Klickitat County Prosecuting Attorney. The notice shall include the "content of order" specified in Section (I)(6) Regulatory Order. (RCW)
5. Remission: Within thirty days after the notice is received, the person incurring the penalty may apply in writing to the Klickitat County Planning Department for remission or mitigation of such penalty. Upon receipt of the application, the Klickitat County Commissioners may remit or mitigate the penalty only upon a demonstration of extraordinary circumstances, such as the presence of information or factors not considered in setting the original penalty. Any penalty imposed pursuant to this plan by the Commissioners shall be subject to review by the Klickitat County Prosecuting Attorney.
6. Joint Order with Department of Ecology (RCW): In accordance with RCW 90.58.050 and RCW 90.58.210(4), any disputed penalty jointly imposed by the Department and the County Commissioners shall be appealed to the Shorelines Hearing Board. When a penalty is imposed jointly by the Department and County Commissioners, it may be remitted or mitigated only upon such terms as both the Department and the Commissioners agree.
7. Regulatory Order: (WAC)
 - a. Content of order. The order shall set forth and contain:
 - (1) A description of the specific nature, location, extent, and time of violation and the damage or potential damage; and
 - (2) A notice that the violation or the potential violation cease and desist or, in appropriate cases, the specific corrective action to be

taken within a given time. A civil penalty under this chapter may be issued with the order and same shall specify a date certain or schedule by which payment will be complete.

- b. Effective date: The cease and desist order issued under this section shall become effective immediately upon receipt of the person to whom the order is directed.
- c. Compliance: Failure to comply with the terms of a cease and desist order can result in enforcement actions including, but not limited to, the issuance of a civil penalty.

Delinquent Permit Penalty:

A person applying for a permit after commencement of the use or activity may, at the discretion of the Klickitat County Planning Department be required, in addition, to pay a delinquent permit penalty not to exceed three times the appropriate permit fee: Provided, that a person who has caused, aided or abetted a violation within two (2) years after the issuance of a regulatory order, notice of violation or penalty by the Department or (local jurisdiction) against said person may be subject to a delinquent permit penalty not to exceed ten (10) times the appropriate permit fee. Delinquent permit penalties shall be paid in full prior to resuming the use or activity.

Property Lien:

Any person who fails to pay the prescribed penalty as authorized in this chapter shall be subject to a lien upon the affected property until such time as the penalty is paid in full. The Prosecuting Attorney shall file said lien against the affected property at the office of the County Assessor.

Mandatory Civil Penalties:

Issuance of civil penalties is mandatory in the following instances:

1. The violator has ignored the issuance of an order or notice of violation.

2. The violation causes or contributes to significant environmental damage to shorelines of the state as determined by the Planning Department.
3. A person causes, aids or abets in a violation within two (2) years after issuance of a similar regulatory order, notice of violation or penalty by the Department or (local jurisdiction) against said person.

Minimum Penalty Levels:

1. Regarding all violations that are mandatory penalties, the minimum penalty is \$250.00.
2. For all other penalties, the minimum penalty is \$100.00.

General Criminal Penalty: (RCW)

In addition to incurring civil liability under Section I, any person found to have willfully engaged in activities on the shorelines of the state in violation of the provisions of the Act or of this Shorelines Plan shall be guilty of a gross misdemeanor, and shall be punished by a fine of not less than twenty-five dollars (\$100.00 recommended) nor more than one thousand dollars or by imprisonment in the county jail for not more than ninety days for each separate offense, or by both such fine and imprisonment: Provided, that the fine for such separate offense for the third and all subsequent violations in any five-year period shall be not less than five hundred nor more than ten thousand dollars.

Violator's Liability - Damages, Attorney's fees/costs:

Any person subject to the regulatory program of the Act or of this Plan who violates any provision thereof or permit issued pursuant thereto shall be liable for all damage to public or private property arising from such violation, including the cost of restoring the affected area to its condition prior to violation. The prosecuting attorney shall bring suit for damages under this section on behalf of the Klickitat County. Private persons shall have the right to bring suit for damages under this section on their own behalf and on the behalf of all persons similarly situated. If liability has been established for the cost of restoring an area affected by a violation the court shall make provision to assure that restoration will be accomplished within reasonable time at the expense of the violator. In addition to such relief, including monetary damages, the court in its

discretion may award attorney's fees and costs of the suit to the Prevailing Party.

Development and Building Permits:

No building permit, septic tank permit, or other development permit shall be issued for any parcel of land developed or divided in violation of this Plan. All purchasers or transferees of property shall comply with provisions of the Act and this Plan and each purchaser or transferee may recover damages from any person, firm, corporation, or agent selling, transferring, or leasing land in violation of the Act or this Plan including any amount reasonably spent as a result of inability to obtain any development permit and spent to conform to the requirements of the Act or this Plan as well as cost of investigation, suit, and reasonable attorney's fees occasioned thereby. Such purchaser, transferee, or lessor may, as an alternative to conforming their property to these requirements, rescind the sale, transfer or lease and recover cost of investigation, and reasonable attorney's fees occasioned thereby from the violator.

Technical Review of Permit Applications:

There shall be established by the Klickitat County Planning Department an administrative procedure wherein applications for permits under this plan are routed to various departments and agencies for technical review and comment. These departments and agencies shall include, but not necessarily be limited to, the County Public Works Department, the County Planning Department, the County Building Department, the Health District, the Klickitat County Shorelines Advisory Committees, WA State Departments of Ecology, Fisheries, Natural Resources, and other appropriate agencies.