

Approved  
4-25-74

## BENTON COUNTY

### SHORELINE MANAGEMENT MASTER PLAN

#### PHASE I

#### GENERAL STATEMENT OF GOALS

It shall be the ultimate goal of the Benton County Shorelines Management Master Plan to provide regulations consistent with the Shoreline Management Act of 1971 (RCW 90.58) and with the Department of Ecology Guidelines (WAC 173-16), which will reflect the desires of the citizens of Benton County regarding the use of the shorelines of the county.

It is recognized that most of the shorelines in Benton County are shorelines of statewide significance and must be given consideration as a major resource from which all people derive benefit. For these areas, the goals of the Master Plan, consistent with WAC 173-16-040(5) shall:

1. Recognize and protect statewide interest over local interest.
2. Preserve the natural character of the shoreline.
3. Encourage uses which result in long-term over short-term benefit.
4. Protect the resources and ecology of the shorelines.
5. Increase public access to publicly owned areas of the shorelines.
6. Increase recreational opportunities for the public on the shorelines.

It shall further be the goal of the Shoreline Management Master Plan to recognize and protect private property rights and provide for the use and enjoyment of private property consistent with the intent of the Shorelines law.

The following statements of goals are directed to address the major plan elements as outlined in the Department of Ecology Guidelines. The major plan elements are: Economic development element, public access element, circulation element, recreational element, shoreline use element, conservation element, historical/cultural element.

#### Economic Development Goal

To encourage economic development along shorelines in a manner consistent with minimizing adverse effects on the shorelines.

#### Public Access Goal

To provide reasonable access to all shoreline areas available to the general public.

GENERAL STATEMENT OF GOALS (Cont.)

Circulation Goal

To encourage a circulation system which will efficiently and safely move people, goods and services with minimum disruption or adverse effect on the shoreline areas.

Recreation Goal

To develop and maintain a satisfactory level of recreational potential without damage to the shoreline resources.

Shoreline Use Goal

To foster and promote the best use of the water and shoreline areas of Benton County. To encourage development which is consistent with the physical limitations of the areas, which serves the needs and desires of the local citizens, and which protects the quality of our shorelines.

Conservation Goal

To encourage sound management of renewable shoreline resources and protection of non-renewable shoreline resources.

Historical/Cultural Goal

To encourage the protection and restoration of areas and sites having historic, cultural, educational or scientific value.

## POLICY STATEMENTS FOR SHORELINE USE ACTIVITIES

### Agriculture

1. Areas which are ideally suited for agriculture should be identified and agricultural usage encouraged.
2. Erosion control measures should be encouraged in accordance with standards and guidelines established by the Soil Conservation Service and the Department of Agriculture.
3. Livestock access to shoreline areas should be limited.
4. Irrigation runoff should be controlled to minimize discharge of toxic chemicals, fertilizer, silt, and organic materials into the stream flow, in accordance with standards established by the Department of Ecology.
5. Diversion of water for agriculture purposes shall be done in accordance with water right procedures.
6. Encourage maintenance of buffer zones or permanent vegetation between tilled areas and associated water bodies in order to retard surface runoff, reduce siltation, and promote valuable wildlife habitat and shade for fish habitat.

### Aquaculture

There are no known aquaculture activities in Benton County at this time. If aquaculture activities are started at some future time, they should be established in accordance with the intent of the Shoreline Management Act as stated in RCW 90.58.020.

### Forest Management Practices

There are no logging or forest product operations in Benton County. No Forest Product operations are expected in the foreseeable future.

### Commercial Development

1. Priority should be given to those commercial uses which are dependent upon the shoreline. Other commercial uses should be encouraged to locate upland.
2. New commercial development should be encouraged to locate in areas where current commercial uses exist.
3. An assessment should be made of the effect a commercial structure will have on a scenic view significant to a given area or enjoyed by a significant number of people.
4. Parking facilities should be located away from the water's edge and recreational beaches.
5. Commercial development should be encouraged to locate along shorelines having low potential for other uses.

### Marinas

1. Marinas should be designed, located and built in a manner that is aesthetically compatible with adjacent areas and will minimize damage to aquatic life.
2. In planning for marina location and design special consideration should be given to:
  - a. Fuel handling and storage facilities to minimize accidental spillage.
  - b. Proper water depth and flushing action for any area considered for overnight or long-term moorage facilities.
  - c. Adequate facilities to properly handle wastes from holding tanks.
  - d. Necessary facilities such as adequate access, parking, restroom facilities for the public.
3. All marinas should be developed in accordance with all state and local guidelines and with the guidelines established by the Washington State Department of Fisheries, and Washington State Department of Game.

### Mining and Dredging

1. Mining of sand or gravel from within the shorelines area should be prohibited unless a substantial need can be shown.
2. When material is mined from within or adjacent to the shoreline area, steps should be taken to protect the waters from detrimental effects of silt and sediment.
3. Excavations for the production of sand, gravel and minerals should be done in conformance with the Washington State Surface Mining Act.
4. Land reclamation should be initiated in conjunction with mining operations.
5. Dredging for the single purpose of obtaining fill should be discouraged.
6. Any dredging for the purposes of constructing new channels should weigh the need for the new channels against the potential damage to the environment.
7. Where dredging is done (including dredging which is allowable as an exemption) necessary steps should be taken to minimize environmental damage while dredging or depositing the spoil.
8. All dredging operations should be subject to the regulations of the Corps of Engineers, the Department of Natural Resources, the Department of Ecology, the Department of Fisheries and Game in addition to any local regulations.

### Outdoor Advertising Signs and Billboards

1. Outdoor advertising signs should be discouraged along shoreline areas except in commercial or industrial areas.
2. Where allowed, outdoor advertising structures should be placed in such a way that the obstruction to view or public enjoyment of the shoreline is kept to a minimum.

### Residential Development

1. Subdivisions in the shoreline areas should be designed to be compatible with the physical limitations of the shoreline and water and to adequately protect the shoreline aesthetics.
2. Subdividers should be encouraged to provide pedestrian access along the shoreline through the subdivision.
3. New residential development should be encouraged to locate in areas of similar development.
4. Residential development should make adequate provisions for sanitary facilities, water supply and drainage in such a way as to not endanger the water or shoreline.
5. Residential development should be restricted in areas subject to flooding.

### Utilities

1. Utilities should be located where possible along road and existing utility rights of way.
2. Utilities should be designed and installed in such a way as to minimize damage to the shoreline or water and to minimize damage to the view or aesthetic qualities of the shoreline.
3. After location of utilities, the area should be returned to its natural state as much as possible.
4. To the extent practicable residential development, commercial development, marinas, and industrial development should utilize available public sewer and water facilities.

### Ports and Water Related Industry

1. Preference should be given to those industries dependent on location on or near shorelines.
2. Port facilities should be designed and constructed so that they are compatible with other uses of the shoreline area, so they disrupt public enjoyment of the shorelines to the least degree possible; and do not endanger public health or safety.

Ports and Water Related Industry (Cont.)

3. The cooperative planning of water related industrial facilities to best serve the region should be encouraged.
4. Land transportation and utilities serving port facilities should be located upland as much as possible.
5. The major expansion of existing facilities or location of new port facilities must be given careful consideration to determine the potential effects on the shoreline and surrounding area.
6. Sewage treatment, water reclamation plants, power plants and other water related industry should be located where they provide minimum interference to surrounding uses of water and shorelines. Such facilities should be designed to be aesthetically attractive and compatible with the surroundings.
7. Since industrial docks and piers are often longer and greater in bulk than recreational or residential piers, careful planning must be undertaken to reduce the adverse impact of such facilities on other water-dependent uses and shoreline resources. Because heavy industrial activities are associated with industrial piers and docks, the location of these facilities must be considered a major factor determining the environmental compatibility of such facilities.

Shoreline Structures (Including bulkheads, breakwaters, jetties and groins, piers, riprap, dikes, levees, docks, shoreline protective works, etc..)

1. Shoreline structures should be designed and constructed in such a way that they:
  - a. Cause minimum adverse affect to fish or other wildlife;
  - b. Do not endanger life or property;
  - c. Cause minimum adverse effect to the natural shoreline;
  - d. Blend in aesthetically with the natural shoreline where practical;
  - e. Do not interfere with navigation or adversely affect public access.
2. Where practical, floating structures or open piling causing a minimum disruption to natural water flow shall be preferred for docks and piers and similar structures.
3. Shoreline structures shall be encouraged to locate near existing structures if the desired purpose can still be met. Also, joint structures shall be encouraged over a proliferation of individual structures.

### Landfill

1. Landfill for the single purpose of creating residential property should be discouraged.
2. Priority should be given for landfills serving an area wide need or purpose such as facilities for water dependent industry or increasing public recreation potential.
3. When allowed, landfill should be designed and constructed in such a way as to cause minimum damage to the shoreline resource.
4. In evaluating landfill projects or in designating areas suitable for fill, such factors as water surface reduction, flood plain impact, navigation restriction, impediment to water flow and circulation, restriction of water quality, and destruction of habitat should be considered.
5. Fill materials should be of such quality that they will not cause problems with water quality.

### Solid Waste Disposal

1. Disposal of solid waste should not be allowed within the shorelines areas or wetland areas.
2. Local government must regulate sanitary landfills and solid waste handling in accordance with regulations for solid waste handling when adopted by the Department of Ecology. New regulations restricting sanitary landfills within any water course and within flood plans of any water course have been proposed for adoption by the Department.

### Roads and Railroads

1. Wherever possible, major roads and railroads should be located away from shorelands except in port and heavy industrial areas, so that shoreland roads may be reserved for slower moving traffic generally associated with shoreline uses.
2. Design and construction of road and railroad facilities should recognize the need to:
  - a. Prevent erosion and permit the natural movement of water.
  - b. Prevent the entry of pollutants, soil erosion or waste materials into the water body.
  - c. Use existing topography to maximum advantage and preserve natural conditions to the greatest practical extent.
  - d. Provide to the degree practical scenic corridors, rest areas, view points and other public oriented facilities along the shoreline areas.

### Archaeological Areas and Historic Sites

1. Wherever possible, areas of historical or archaeological significance should be preserved for scientific study and public observation or possible restoration.

### Recreation

1. Recreational development and use of the shorelines shall be encouraged. While encouraging recreational use, care shall be taken to see that policies and practices do not infringe upon private property rights or encourage use to a degree which would destroy or significantly damage desirable shoreline characteristics.
2. Plans for recreational locations and accesses shall be encouraged to avoid concentrations of use which would detrimentally affect the shoreline.
3. Recreational developments shall be encouraged to save shoreline lands for people and locate parking, storage and other similar activities upland from the shorelines where possible.
4. Areas of recreational use shall be equipped with adequate facilities to meet the sewage, water and waste disposal needs generated by the use. Such facilities shall be designed and constructed in such a way that they do not adversely affect the shoreline.
5. Encourage the acquisition of shoreline locations for water related recreational use.
6. State and local health agencies have broad regulations which apply to recreation facilities and recreation watercraft which should be consulted by the county in preparing use regulations and issuing permits.
7. Recreational developments should be of such a variety as to consider the diversity of demands from groups in nearby population centers.

BENTON COUNTY

SHORELINE MANAGEMENT MASTER PLAN

PHASE II

MASTER PROGRAM REGULATIONS

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE CREATING SHORELINE MANAGEMENT REGULATIONS INTENDED TO IMPLEMENT THE FINDINGS AND RECOMMENDATIONS OF PHASE I OF THE SHORELINE MANAGEMENT MASTER PROGRAM, AND FURTHER CREATING: RULES, REGULATIONS, PROCEDURES, AND ENVIRONMENT DESIGNATIONS TO EFFECTUATE THE GENERAL POLICIES OF THE MASTER PROGRAM: PRESCRIBING BOUNDARIES, LIMITATIONS OF LAND AND WATER USE AND DEVELOPMENT, ASSIGNING RESPONSIBILITY AND AUTHORITY: ESTABLISHING A PERMIT SYSTEM, VIOLATIONS AND PENALTIES: AND FURTHER ESTABLISHING DEVELOPMENT STANDARDS FOR DEVELOPMENT: AND GENERALLY PROVIDING ALL THE MACHINERY NEEDED TO FULLY IMPLEMENT THE MASTER PROGRAM.

WHEREAS, the Shoreline Management Act of 1971 is now law in the State of Washington, and

WHEREAS, certain duties, obligations and responsibilities have thus become incumbent upon certain political subdivisions of the state, and

WHEREAS, the County of Benton through the Benton County Shoreline Management Advisory Committee has performed the required preliminary steps for the preparation of the Shoreline Management Master Program, held hearings, done research, established goals and policies, and

WHEREAS, the particular nature of the requirements of the Shoreline Management Act of 1971 involves the tools of both ordinance and resolution, to create a proper Master Program,

NOW, THEREFORE, the County of Benton does ordain as follows:

- 1.00 Title. This Ordinance shall be known and may be cited as "The Shoreline Management Master Program Regulations," Ordinance No. \_\_\_\_\_
- 2.00 Short Title. This Ordinance may refer to itself internally as "These Regulations."
- 3.00 Purpose. This Ordinance is intended to carry out the responsibilities imposed on the County of Benton by the Shoreline Management Act of 1971 insofar as regulations can, and the adoption of this Ordinance does not remove other responsibilities imposed by the Act. The actual purpose of these regulations is thus the same as the purpose of the Act itself.
- 4.00 Authority. The authority for the passage of this Ordinance is that granted and required by the Act.

5.00 Definitions and Concepts. As used in this Ordinance, unless context requires otherwise, the following definitions and concepts will apply.

(1) Administration:

(a) "Local government" means the County of Benton which contains within its boundaries lands and waters subject to this Ordinance and the Shoreline Management Act of 1971.

(b) "Person" means an individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, or agency of the state or local governmental unit however designated.

(c) "Hearing Board" means the local shoreline hearings board established by this Ordinance.

(d) "Legislative Body" means the Board of County Commissioners of Benton County.

(2) Geographical:

(a) "Ordinary highwater mark" on all lakes and streams is that mark that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition exists on June 1, 1971 or as it may naturally change thereafter: Provided that in any area where the ordinary highwater mark cannot be found, the ordinary high water mark adjoining freshwater shall be the line of mean high water.

(b) "Shorelines of the State" are the total of all "shorelines" and "shorelines of state-wide significance" within the state.

(c) "Shorelines" means all of the water areas of the state, including reservoirs, and their associated wetlands, together with lands underlying them, except:

(i) Shorelines of state-wide significance;

(ii) Shorelines on segments of streams upstream of a point where the mean annual flow is twenty (20) cubic feet per second or less and the wetlands associated with such upstream segments; and

(iii) Shorelines on lakes less than twenty (20) acres in size and wetlands associated with such small lakes.

(d) "Shorelines of state-wide significance" means the following shorelines of the state:

(i) Those lakes, whether natural, artificial or a combination thereof, with a surface acreage of one thousand (1,000) acres or more measured at the ordinary high water mark;

(ii) Those natural rivers or segments thereof east of the crest of the Cascade Range downstream of a point where the mean annual flow is measured at two hundred (200) cubic feet per second or more; or those portions of rivers downstream from the first three hundred (300) square miles of drainage area;

(iii) And all wetlands associated with any of "d."

(3) Procedural terms:

(a) "Master Program" shall mean the comprehensive use plan for a described area, and the use regulations together with maps, diagrams, charts or other descriptive material and text, a statement of desired goals and standards developed in accordance with the policies enunciated in RCW 90.58.020.

(b) "Development" means a use consisting of the construction or exterior alteration of structures; dredging, drilling; dumping; filling; removal of any sand, gravel or minerals; bulkheading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters overlying lands subject to this chapter at any state of water level.

(c) "Substantial Development" shall mean any development which the total cost of fair market value exceeds one thousand (\$1,000.00) dollars, or any development which materially interferes with the normal public use of the water or shorelines of the state; except that the following shall not be considered substantial developments for the purpose of this chapter:

(i) Normal maintenance or repair of existing structures or developments, including damage by accident, fire or elements;

(ii) Construction of the normal protective bulkhead common to single family residences;

(iii) Emergency construction necessary to protect property from damage by the elements;

(iv) Construction of a barn or similar agricultural structure on wetlands;

(v) Construction or modification of navigational aids such as channel markers and anchor buoys;

(vi) Construction on wetlands by an owner, lessee or contract purchaser of a single family residence for his own use or for the use of his family, which residence does not exceed a height of thirty-five feet above average grade level and which meets all requirements of the state agency or local government having jurisdiction thereof, other than requirements imposed pursuant to this chapter.

(vii) Construction of a dock, designed for pleasure craft only, for the private noncommercial use of the owner, lessee or contract purchaser of a single family residence, the cost of which does not exceed two-thousand five-hundred (2,500) dollars.

6.00 Application of Regulations. These regulations shall apply to all the lands and water in the unincorporated area of the County of Benton which are deemed by the Department of Ecology to be under the jurisdiction of the Shorelines Management Act of 1971. Except as provided hereafter, each regulation shall apply to all the areas subject to shorelines jurisdiction. The only exceptions will be the regulations found in Section 8.00 which shall apply to only the areas specified in that section.

These regulations shall apply to every person, firm, corporation, local and state governmental agency and other non-federal entities which would develop, use and/or own lands, wetlands, or waters under the control of this Master Program. Further, these regulations shall apply except as provided in Sections 5.00 and 15.00 to all present and future situations found within the area of jurisdiction.

#### USES PERMITTED OUTRIGHT

#### NO SHORELINE PERMIT IS NEEDED

- IF your development costs less than one thousand (\$1,000.00) dollars and/or does not interfere with normal public use of the water or shorelines.
- IF you maintain or repair an existing structure.
- IF you build a normal protective bulkhead for a single-family residence.
- IF you do emergency construction necessary to protect your property from damage by the elements.
- IF you build a barn or similar agricultural structure on wetlands if under thirty-five (35) feet in height.
- IF you intend to construct or modify navigational aids.
- IF you build or repair a single-family residence for your own use if under thirty-five (35) feet in height on the wetlands.
- IF you build a private, non-commercial dock for a single-family residence which costs less than two-thousand five-hundred (\$2,500.00).

## 7.00 Environments.

### THE URBAN ENVIRONMENT

#### Purpose

The purpose of assigning an area to an URBAN ENVIRONMENT is to ensure optimum utilization of shorelines occurring within urbanized areas by providing for intensive public use and by managing development so that it enhances and maintains shorelines for a multiplicity of urban uses.

#### Definition

The urban environment is an area of high intensity land-use including residential, commercial, recreational and industrial development. It is particularly suitable to those areas presently subjected to extremely intensive use pressure, as well as areas planned to accommodate urban expansion. Shorelines planned for future urban expansion should present few bio-physical limitations for urban activities and not have a high priority for designation as an alternative environment.

7.00 Environments. (Cont.)

THE RURAL ENVIRONMENT

Purpose

The purpose of assigning an area to a RURAL ENVIRONMENT is to protect agricultural land from urban expansion, restrict intensive development along undeveloped shorelines, function as a buffer between urban areas, and maintain open spaces and opportunities for recreational uses compatible with agricultural activities.

Definition

The rural environment is intended for those areas characterized by intensive agricultural and outdoor recreational uses and those areas having a high capability to support active agricultural practices and intensive outdoor recreational development. Hence, those areas that are already used for agricultural purpose, or which have agricultural potential should be maintained for present and future agricultural needs. Designation of rural environments should also seek to alleviate pressures of urban expansion on prime farming areas.

## 7.00 Environments. (Cont.)

### THE CONSERVANCY ENVIRONMENT

#### Purpose

The purpose of assigning an area to a conservancy environment is to protect, conserve and manage existing natural resources and valuable historic and cultural areas in order to ensure a continuous flow of recreational benefits to the public and to achieve sustained resource utilization.

#### Definition

The conservancy environment is for those areas which are intended to maintain their existing character. The preferred uses are those which are nonconsumptive of the physical and biological resources of the area. Non-consumptive uses are those uses which can utilize resources on a sustained basis while minimally reducing opportunities for other future uses of the resources in the area. Activities and uses of a non-permanent nature which do not substantially degrade the existing character of an area are appropriate uses for a conservancy environment. Examples of uses that might be predominant in a conservancy environment include diffuse outdoor recreation activities, passive agricultural uses such as pasture and range lands, and other related uses and activities.

7.00 Environments. (Cont.)

THE NATURAL ENVIRONMENT

Purpose

The purpose of assigning an area the NATURAL ENVIRONMENT is to preserve and restore those natural resource systems existing relatively free of human influence. Local policies to achieve this objective should aim to regulate all potential developments degrading or changing the natural characteristics which make these areas unique and valuable.

Definition

The primary determinant for designating an area as a natural environment is the actual presence of some unique natural or cultural features considered valuable in their natural or original condition which are relatively intolerant of intensive human use. Such features should be defined, identified and quantified in the shoreline inventory. The relative value of the resources is to be based on local citizen opinion and the needs and desires of other people in the rest of the state.

8.00 Use Activity Regulations.

- 8.01 Agriculture
- 8.02 Aquaculture
- 8.03 Forest Management
- 8.04 Commercial
- 8.05 Marinas
- 8.06 Mining and Dredging
- 8.07 Outdoor Advertising Signs and Billboards
- 8.08 Residential Development
- 8.09 Utilities
- 8.10 Ports and Water Related Industry
- 8.11 Shoreline Structures
- 8.12 Landfill
- 8.13 Solid Waste Disposal
- 8.14 Roads and Railroads
- 8.15 Archaeological Area and Historical Sites
- 8.16 Recreation

**8.01 AGRICULTURE**

USES PERMITTED OUTRIGHT WITH SHORELINE PERMIT		CONDITIONAL USES Permitted with Shoreline Permit and Special Permit
Water Dependent Uses	Water Oriented Uses	
<b>U R B A N      E N V I R O N M E N T</b>		
Pumping plants drainage outfalls for waste water	Grain elevators	
<b>R U R A L      E N V I R O N M E N T</b>		
Same as above	Same as above	
<b>C O N S E R V A N C Y      E N V I R O N M E N T</b>		
Same as above	Same as above	
<b>N A T U R A L      E N V I R O N M E N T</b>		

**AGRICULTURAL USE REGULATIONS**

**I. General Regulations**

- A. Feed lots and stockyards shall be prohibited.
- B. Cultivated land shall be prepared in such a fashion as to minimize wind and water erosion.
- C. Agricultural practices that would endanger wild life shall meet existing State and Federal regulations.
- D. Vegetative buffers will be maintained between shorelines and cultivated ground. These buffers are for erosion protection and the preservation of foliage along the shorelines, and need be no wider than necessary to accomplish that purpose.
- E. Diversion of water for agricultural purposes shall be done in accordance with federal and state water right procedures.
- F. No equipment or material shall be abandoned or disposed of in the area of jurisdiction.

## 8.02 AQUACULTURE USE REGULATIONS

There are no known aquaculture activities in Benton County at this time. If aquaculture activities are started at some future time, they shall be established in accordance with the intent of the Shorelines Management Act as stated in RCW 90.58.020.

## 8.03 FOREST MANAGEMENT USE REGULATIONS

There are no logging or forest product operations in Benton County. No forest product operations are expected in the foreseeable future.

8.04 COMMERCIAL

USES PERMITTED OUTRIGHT WITH SHORELINE PERMIT		CONDITIONAL USES Permitted with Shoreline Permit & Special Permit
Water Dependent Uses	Water Oriented Uses	
U R B A N    E N V I R O N M E N T		
Marinas Marine fueling facilities Barge slips Seaplane Moorage	Boating/fishing supplies Water front parks and recreation areas, Grain elevators, Boat rentals Petroleum unloading facilities	Parking facilities Motels, Boatels, Hotels Restaurants and Taverns Other public oriented uses, Offices and apartments above first floor, Commer- cial parks and recreational activities
R U R A L    E N V I R O N M E N T		
Marinas	Grain elevators Boat rentals Water front parks and recreation areas Petroleum unloading facilities	Parking
C O N S E R V A N C Y    E N V I R O N M E N T		
	Water front parks and Recreation areas	Parking
N A T U R A L    E N V I R O N M E N T		

COMMERCIAL USE REGULATIONS

I. General Regulations

- A. Commercial uses, except those listed, which are not dependent upon a shoreline location shall be prohibited.
- B. Commercial development along shorelines without sewage treatment facilities is prohibited.
- C. Parking areas shall be located upland of the uses they serve.

8.05 MARINAS

USES PERMITTED OUTRIGHT WITH SHORELINE PERMIT		CONDITIONAL USES Permitted with Shoreline Permit and Special Permit
Water Dependent Uses	Water Oriented Uses	
<b>U R B A N   E N V I R O N M E N T</b>		
Floating breakwater Open pile work Docks Marine fueling facilities Moorage facilities Boat launching facilities Seaplane moorage	Boating and fishing supplies Boat rentals	Restaurants Parking
<b>R U R A L   E N V I R O N M E N T</b>		
Same as above	Same as above	Parking
<b>C O N S E R V A N C Y   E N V I R O N M E N T</b>		
Boat launching facilities		Parking
<b>N A T U R A L   E N V I R O N M E N T</b>		

MARINA USE REGULATIONS

I. General Regulations

- A. All marinas shall be developed in accordance with all federal, state, and local guidelines.
- B. All fuel and chemicals shall be kept, stored, handled, and used in a fashion which assures that there will be no opportunity for entry of such fuel and chemicals into the water.
- C. Floating equipment is allowed in the bodies of water.
- D. All areas considered for overnight or long-term moorage facilities shall have sufficient water depth and flushing action.
- E. Adequate facilities to properly handle wastes from holding tanks shall be required.

**8.06 MINING AND DREDGING**

USES PERMITTED OUTRIGHT WITH SHORELINE PERMIT		CONDITIONAL USES Permitted with Shore- line Permit & Special Permit
Water Dependent Uses	Water Oriented Uses	
<b>U R B A N    E N V I R O N M E N T</b>		
		All mining and dredging activities allowed by conditional use permit only, EXCEPT to maintain water flow and navigability
<b>R U R A L    E N V I R O N M E N T</b>		
<b>C O N S E R V A N C Y    E N V I R O N M E N T</b>		
<b>N A T U R A L    E N V I R O N M E N T</b>		

**MINING AND DREDGING USE REGULATIONS**

**I. General Regulations**

A. All mining and dredging activities require a conditional use permit, except dredging to maintain water flow and navigability.

B. All applications for a conditional use permit shall be reviewed to determine if the proposed activities are consistent with the goals and policies of the Benton County Shorelines Management Master Plan.

8.07 OUTDOOR ADVERTISING SIGNS AND BILLBOARDS

USES PERMITTED OUTRIGHT WITH SHORELINE PERMIT		CONDITIONAL USES Permitted with Shoreline Permit & Special Permit
Water Dependent Uses	Water Oriented Uses	
<b>U R B A N   E N V I R O N M E N T</b>		
	Outdoor advertising signs mounted flush to buildings they represent	Off premise signs Illuminated or free standing signs Signs extending above roof line Non-appurtenant signs
<b>R U R A L   E N V I R O N M E N T</b>		
	Same as above	Same as above
<b>C O N S E R V A N C Y   E N V I R O N M E N T</b>		
	Same as above	Same as above
<b>N A T U R A L   E N V I R O N M E N T</b>		

OUTDOOR ADVERTISING SIGNS AND BILLBOARDS USE REGULATIONS

I. General Regulations

A. Outdoor advertising signs shall be mounted flush to the buildings they represent, and shall not rise higher than the buildings they are affixed to.

B. All signs in the shoreline area shall conform to the Benton County Zoning Ordinance.

C. All off premise signs, illuminated signs, free-standing signs, signs extending above the roof line, and non-appurtenant signs shall require a conditional use permit.

D. No signs shall be of the flashing or animated type, except those required by law or necessary for the safety of land, water, or air navigation and circulation.

8.08 RESIDENTIAL DEVELOPMENT

USES PERMITTED OUTRIGHT WITH SHORELINE PERMIT		CONDITIONAL USES Permitted with Shoreline Permit & Special Permit
Water Dependent Uses	Water Oriented Uses	
U R B A N   E N V I R O N M E N T		
Docks with permits, if necessary, from other agencies. Launching ramps	Multiple family dwellings and planned unit developments with public access to the shorelines	Parking
R U R A L   E N V I R O N M E N T		
Same as above		Multiple family dwellings and planned unit developments with public access to the shorelines. Parking
C O N S E R V A N C Y   E N V I R O N M E N T		
Same as above		Parking
N A T U R A L   E N V I R O N M E N T		

RESIDENTIAL DEVELOPMENT USE REGULATIONS

I. General Regulations

A. Residential developments shall provide public pedestrian access to the shorelines, subject to Section 9.00.

B. Parking areas shall be located upland of the uses they serve.

8.09 UTILITIES

USES PERMITTED OUTRIGHT WITH SHORELINE PERMIT		CONDITIONAL USES Permitted with Shoreline Permit & Special Permit
Water Dependent Uses	Water Oriented Uses	
<b>U R B A N    E N V I R O N M E N T</b>		
	Poles necessary for illumination of area Structures necessary for utilities to cross rivers (towers, etc.)	All transmission lines, unless physically impossible, for power, gas, sewage, communication, oil, water, etc. shall be underground. Public utilities such as substations, telephone exchanges, etc. Power generation plants
<b>R U R A L    E N V I R O N M E N T</b>		
	Same as above	Same as above
<b>C O N S E R V A N C Y    E N V I R O N M E N T</b>		
	Same as above	Same as above
<b>N A T U R A L    E N V I R O N M E N T</b>		

UTILITIES USE REGULATIONS

I. General Regulations

A. All transmission lines for power, gas, sewage, communications, oil, water, etc. shall be underground, whenever feasible.

B. After location of utilities, the area shall be returned to its natural state as much as possible.

C. Utilities shall be designed and installed in such a way as to minimize damage to the scenic view or aesthetic qualities of the shoreline area.

**8.10 PORTS AND WATER RELATED INDUSTRY**

USES PERMITTED OUTRIGHT WITH SHORELINE PERMIT		CONDITIONAL USES Permitted with Shoreline Permit & Special Permit
Water Dependent Uses	Water Oriented Uses	
<b>U R B A N    E N V I R O N M E N T</b>		
Pumping plants Marinas Marine fueling facilities Barge slips Seaplane moorage	Grain elevators Viewpoints Petroleum unloading facilities Cargo handling facilities	Warehousing (within 50 feet of shoreline) Landfill for industrial use
<b>R U R A L    E N V I R O N M E N T</b>		
Pumping plants Marinas	Grain elevators Petroleum unloading facilities Cargo handling facilities Viewpoints	Warehousing (Within 50 feet of shoreline)
<b>C O N S E R V A N C Y    E N V I R O N M E N T</b>		
Pumping plants	Viewpoints Grain elevators	
<b>N A T U R A L    E N V I R O N M E N T</b>		

**PORTS AND WATER RELATED INDUSTRY USE REGULATIONS**

- I. General Regulations
  - A. Floating equipment is allowed in the bodies of water.
  - B. Waste treatment ponds for water related industry shall not be located in the Shoreline Management jurisdiction area.
  - C. All fuel, chemicals, and toxic substances shall be kept, stored, handled, and used in a fashion which assures that there will be no opportunity for entry into the water.
  - D. Warehousing and storage facilities located within the first fifty (50) feet from the shoreline shall be allowed by conditional use permit only.

**8.11 SHORELINE STRUCTURES**

USES PERMITTED OUTRIGHT WITH SHORELINE PERMIT		CONDITIONAL USES Permitted with Shoreline Permit & Special Permit
Water Dependent Uses	Water Oriented Uses	
<b>U R B A N    E N V I R O N M E N T</b>		
Floating or pile piers and docks in zones allowed when necessary permits, if required, are obtained	Watershed and flood plain management measures designed, located, and constructed so to preserve and protect the natural character of the shoreline	Earth changes that interfere with free passage of water. Dikes, levees, riprapping, jetties, groins, breakwaters, bulkheads, seawalls, etc.
<b>R U R A L    E N V I R O N M E N T</b>		
Same as above	Same as above	Same as above
<b>C O N S E R V A N C Y    E N V I R O N M E N T</b>		
Same as above	Same as above	Same as above
<b>N A T U R A L    E N V I R O N M E N T</b>		

**SHORELINE STRUCTURES USE REGULATIONS**

**I. General Regulations**

- A. Earth changes shall not interfere with free passage of river and flood water except where such is specifically intended and authorized.
- B. All applications for a conditional use permit shall be reviewed to determine if the proposed activities are consistent with the goals and policies of the Benton County Shorelines Management Master Plan.
- C. Shoreline structures shall be constructed so as not to constitute a hazard to river navigation.

8.12 LANDFILL

USES PERMITTED OUTRIGHT WITH SHORELINE PERMIT		CONDITIONAL USES Permitted with Shoreline Permit & Special Permit
Water Dependent Uses	Water Oriented Uses	
U R B A N    E N V I R O N M E N T		
		Landfills for industrial and recreation uses. Landfill for the purpose of constructing transportation routes.
R U R A L    E N V I R O N M E N T		
		Same as above except landfill for industrial use.
C O N S E R V A N C Y    E N V I R O N M E N T		
		Same as above
N A T U R A L    E N V I R O N M E N T		

LANDFILL USE REGULATIONS

I. General Regulations

- A. Land shall not be filled for the sole purpose of making it available for development.
- B. Where landfill does occur, the fill material used shall be such that the leachate resulting from it will cause no more serious a degradation in water quality than naturally occurring leachate from surrounding lands.
- C. Dredging for fill material only is prohibited.

8.13 SOLID WASTE DISPOSAL

USES PERMITTED OUTRIGHT WITH SHORELINE PERMIT		CONDITIONAL USES Permitted with Shoreline Permit & Special Permit
Water Dependent Uses	Water Oriented Uses	
U R B A N    E N V I R O N M E N T		
		Sewage and waste treatment plants and pumping facilities All outfalls of non-naturally occurring solid or liquid waste water treatment plants and intake
R U R A L    E N V I R O N M E N T		
		Same as above
C O N S E R V A N C Y    E N V I R O N M E N T		
N A T U R A L    E N V I R O N M E N T		

SOLID WASTE DISPOSAL USE REGULATIONS

I. General Regulations

A. No non-naturally occurring solid or liquid substances shall be allowed to enter any body of water except from approved outfalls.

B. Sewage and waste treatment plants and pumping facilities; water treatment plants and intake valves shall be allowed by conditional use permit only.

C. Sanitary landfills shall be prohibited.

8.14 ROADS AND RAILROADS

USES PERMITTED OUTRIGHT WITH SPECIAL PERMIT		CONDITIONAL USES Permitted with Special Permit & Shoreline Permit
Water Dependent Uses	Water Oriented Uses	
U R B A N   E N V I R O N M E N T		
		Roadways Railroads Causeways Bridges Tunnels Roadside attraction areas
R U R A L   E N V I R O N M E N T		
		Same as above
C O N S E R V A N C Y   E N V I R O N M E N T		
		Same as above
N A T U R A L   E N V I R O N M E N T		

ROADS AND RAILROADS USE REGULATIONS

I. General Regulations

A. All bridges and other water crossing structures shall be designed to not impede the normal annual high water. Bridge approaches and side slopes shall be planted with a suitable ground cover.

B. All changes in contour, for roads or any other purpose, shall account for drainage by proper channeling and culverts. No culverts shall be less than twelve (12) inches in diameter and shall be installed in a manner to permit drainage onto rock or other non-erodible material.

C. Side casting of excess road building material within the area of jurisdiction shall be prohibited.

D. Roads and railroads shall be constructed so as not to constitute a hazard to river navigation.

8.15 ARCHAEOLOGICAL AREA AND HISTORICAL SITES

USES PERMITTED OUTRIGHT WITH SHORELINE PERMIT		CONDITIONAL USES Permitted with Shoreline Permit and Special Permit
Water Dependent Uses	Water Oriented Uses	
<b>U R B A N    E N V I R O N M E N T</b>		
Any archaeological restoration or historical preservation activities	Any archaeological restoration or historical preservation activities	Any development in, on or near an area designated or considered an archaeological or historical site shall apply for a conditional use permit. This applies to all uses in all environments.
<b>R U R A L    E N V I R O N M E N T</b>		
Same as above	Same as above	Same as above
<b>C O N S E R V A N C Y    E N V I R O N M E N T</b>		
Same as above	Same as above	Same as above
<b>N A T U R A L    E N V I R O N M E N T</b>		

ARCHAEOLOGICAL AREA AND HISTORICAL SITES USE REGULATIONS

I. General Regulations

A. Any project which would disturb an area designated or considered an archaeological or historical site shall apply for a conditional use permit.

B. Denial of a permit shall be based only upon:

1. Other alternatives are economically available to the applicant, or,
2. Objecting parties have made a bona fide offer which results in no economic loss to the applicant, by means of an offer to acquire the site or structure, or similar means.

8.16 RECREATION

USES PERMITTED OUTRIGHT WITH SHORELINE PERMIT		CONDITIONAL USES Permitted with Shoreline Permit and Special Permit
Water Dependent Uses	Water Oriented Uses	
U R B A N   E N V I R O N M E N T		
Development of facilities for: Boating, swimming, fishing, water skiing, hunting, public camping, Marinas Launching sites, Docks, Sanctioned events	Parks Bicycling paths Pedestrian paths Viewpoints	Commercial recreational activities  Parking Landfill for recreational uses.
R U R A L   E N V I R O N M E N T		
Same as above	Same as above	Same as above
C O N S E R V A N C Y   E N V I R O N M E N T		
Same as above Except Marinas	Same as above	Parking
N A T U R A L   E N V I R O N M E N T		

RECREATIONAL USE ACTIVITIES

I. General Regulations

A. Public recreation uses of shorelines shall be considered before issuing a shorelines permit for any use of the shorelines.

B. Commercial Recreational Activities shall require a conditional use permit.

C. Application for Commercial Recreational Activities shall be submitted by the Administrator of this ordinance to the Benton County Parks and Recreation Board for their recommendations.

D. Areas of recreational use shall be equipped with adequate facilities to meet the sewage, water and waste disposal needs generated by the use. Such facilities shall be designed and constructed in such a way that they do not adversely affect the shoreline.

E. Events and temporary uses involving public interest, sanctioned by the Board of County Commissioners, and not substantially or permanently impairing water quality or fragile areas do not require a shorelines permit.

## 9.00 Miscellaneous Use Regulations

This section applies to all environments and to all use activity regulations; other applicable ordinances must also be followed and may be more restrictive.

1. Parking areas shall be located upland of the uses they serve.
2. Public access rights of way and improvements shall be required in large developments if the shorelines or waters are of an appropriate nature and can withstand the access. Access will be restricted if the development could pose a hazard by its very nature.
3. All developments shall prepare the land to prevent wind and water erosion.
4. Protection from siltation and erosion shall be provided for all earth changing acts.
5. No debris shall be allowed to enter the water. Accidentally injected debris shall be immediately removed.
6. No equipment or machinery of any kind shall enter any body of water or wetland, except when authorized under the terms of a substantial development permit. This prohibition shall not apply to floating equipment.
7. Vegetation along the water's edge shall be returned or left in the original condition unless permit stipulations allow or require otherwise.
8. Any permit in, on or near an area designated or considered an archaeological or historical site shall apply for a conditional use permit. This applies to all uses in all environments.
9. Shoreline structures and roads and railroads shall be constructed so as not to constitute a hazard to river navigation.

10.00 Development Standards

1. Uses: All the uses permitted outright in the designated environments listed in Section 8.00. All other uses are conditional uses. Uses are also subject to the underlying regulations.
2. Minimum Building Site: As determined by underlying regulations.
3. Minimum Yard Requirements: As determined by underlying regulations, except no structures or buildings shall be closer than twenty-five (25) feet to the water's edge. A variance must be obtained for all structures or buildings closer than twenty-five (25) feet to the water's edge.
4. Building Heights: Maximum allowable heights for all buildings and structures shall be thirty-five (35) feet. A variance must be obtained for all buildings and structures over thirty-five (35) feet in height.  

Building and structure heights can be restricted to less than thirty-five (35) feet in height by the permit authority as a condition of the permit if there is a possibility that they might interfere with the views of upland properties or a scenic vista.
5. Parking: Off-street parking shall be as provided in the zoning ordinance.

## 11.00 Shoreline Environment Designation Map - Adoption of - Regulation for

There is hereby made a part of this program, a map which shall be officially known as the "Shoreline Environment Designation Map," but which, for the purpose of brevity shall be referred to in this program as "The Map." There shall be only one official copy of this map which shall reside in the custody of Benton County Planning Director. There may be unofficial copies of this map prepared for administrative purposes. The lines and information displayed on the map shall not be altered except through the procedure presented in Section 20.00 of these regulations.

The map will show the area of Benton County which is under the jurisdiction of this Master Program. Further, the map will show the four shoreline environments as they affect the various lands and waters of Benton County.

Where uncertainty or conflict may occur in the exact location of a jurisdiction boundary line, or environment boundary line, the official designations prepared by the Department of Ecology will be used. Where this does not resolve the conflict, the following rules will apply:

1. Boundaries indicated as approximately following the center lines of streets, highways or alleys shall be construed to follow such lines.
2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
3. Boundaries indicated as approximately following the corporate limits shall be construed as following such corporate limits.
4. Boundaries indicated as following railroad lines shall be construed to be half way between railroad right-of-way lines.
5. Boundaries indicated as following shorelines or lakes or rivers shall be construed to follow such shorelines two-hundred (200) feet to the upland side, and in the event of change in a shoreline shall be construed as moving with the actual shoreline.
6. Boundaries indicated as parallel to or extension of features indicated in subsections 1 through 5 shall be so construed.
7. Where physical or cultural features existing on the ground are at variance with those shown on the map or in other circumstances not covered by 1 through 6 of the above, the Administrator shall interpret the boundaries.

## 12.00 Nonconformities.

1. **Structures:** All structures, lawfully erected and maintained in lawful condition prior to the effective date of this ordinance and all structures in the process of being lawfully erected prior to the effective date of this ordinance but which do not conform to the regulations contained herein, may continue to exist or be completed according to the following provisions.

- a. No nonconforming structure may be expanded except in conformity to these regulations.
  - b. Nonconforming structures which are destroyed beyond 50% of their value shall not be restored.
  - c. Nonconforming structures may be maintained however such maintenance shall not have the effect of expanding the size of bulk of the structure.
  - d. Uses within nonconforming structures may be changed to other uses allowable in that zone.
2. Uses: Uses or activities that do not conform to these regulations but which are on-going prior to the effective date of these regulations may continue under the following provisions:
- a. No nonconforming use or activity may be expanded or intensified except in conformity to these regulations.
  - b. If a nonconforming use is discontinued for a period of one (1) year or more, any further use of the lands or premise shall be in conformity to these regulations.

13.00 Administrator. The Benton County Planning Director shall be the Administrator of this Ordinance, and shall perform all the duties ascribed to the Administrator in this ordinance. The Administrator shall also serve as secretary and staff to the local hearing board, and shall operate the permit system.

The Administrator shall also be the person responsible for making the judgments called for in these regulations. Whenever phrases like "wherever feasible" or "reasonably assure" or other similar phrases appear in these regulations, a determination must be made for specific cases involving the particular regulations. These determinations shall be made by the Administrator.

14.00 Hearing Board. There is hereby created a local hearing board to perform the duties ascribed to such a board in this ordinance. The County of Benton may create a new board or assign the duties to an existing board or commission which is felt to be capable of performing the duties required of it herein. The hearing board may adopt rules and regulations governing the administrative practice and procedure in and before the board.

The local hearing board shall establish a regular meeting date monthly or at whatever interval is seen to be appropriate. The local hearing board may call special meetings and such meetings may be held anywhere within the County of Benton provided that free public access to the meeting place is provided, and further that all such special meetings are given at least forty-eight (48) hours public notice in the official newspaper and any other appropriate means. Special meetings may be called by the Chairman or Administrator at any time, or by the motion of the local hearing board during a regular or earlier special meeting.

15.00 Permits. Certain forms of development or activity occurring within the area of jurisdiction must be granted permits, termed Substantial Development Permits, prior to commencement of construction or beginning the activity. The permit procedure shall be as explained in RCW 98.50 and amendments to that procedure shall automatically cause a similar amendment to this ordinance.

Those forms of development for which permits must be obtained are termed "Substantial Developments" and are defined by the act as follows:

"Substantial Development" shall mean any development of which the total cost or fair market value exceed one-thousand (\$1,000.00) dollars, or any development which materially interferes with the normal public use of the water or shorelines of the state; except the following shall not be considered substantial development for the purpose of this ordinance:

- a. Normal maintenance or repair of existing structures or developments, including damage by accident, fire or elements.
- b. Construction of the normal protective bulkhead common to single family residences.
- c. Emergency construction necessary to protect property from the damage by the elements.
- d. Construction of a barn or similar agricultural structure on wetlands.
- e. Construction or modification of navigational aids such as channel markers and anchor buoys.
- f. Construction on wetlands by an owner, lessee or contract purchaser of a single family residence for his own use or for the use of his family, which residence does not exceed a height of thirty-five (35) feet above average grade level and which meets all requirements of the state agency or local government having jurisdiction thereof, other than requirements imposed pursuant to this ordinance.
- g. Construction of a dock, designed for pleasure craft only, for the private noncommercial use of the owner, lessee or contract purchaser of a single family residence, the cost of which does not exceed two-thousand five-hundred (\$2,500.00) dollars.

1. Permit Procedure: Once a potential applicant has determined that he must obtain a permit for a contemplated project, he shall apply for the same on forms provided by the Administrator. On the day the applicant submits the completed form along with the application fee and other information, the official permit procedure begins. The Administrator shall not accept permit applications containing inadequate completion of the application form or lacking any required material.

2. Required Information for Application: Each application for permit shall contain

- a. Name, address, telephone number of applicant.
- b. Name, address, telephone number of property owner.
- c. Legal description of property.
- d. Common description of property.
- e. Name of associated shoreline or wetland.
- f. Detailed drawings or text sufficient to fully explain the intended project, which information must include:
  - (i) Indication of size and placement of all structures including bulkheads.
  - (ii) Indication of size, grade, profile of all roads or other vehicular passageways.
  - (iii) Indication of any and all water supplies, sewage disposal facilities and solid waste handling facilities.
  - (iv) Relation of all physical development to the associated shoreline or wetlands.
  - (v) Scale drawings of all bridges or other structures to be built in, on or over streams, marshes, swamps or lakes.
- g. The intended starting and completion dates.
- h. The reason, if any, why this project requires a shoreline location as opposed to a non-shoreline location.
- i. If a variance is being requested, the application shall contain the applicant's reasons why the variance should be granted.
- j. If a conditional use is being requested, the application shall contain the applicant's explanation of why the conditional use should be granted, including notation of any special features of the proposed project that supports the request.

3. Review and Approval Sequence:

Step One - After the Administrator has accepted the application, the applicant shall cause two (2) public notices of the application to appear in the official newspaper. These notices shall appear one (1) week apart and on the same day of the week and contain

the information required by the Administrator (WAC 173-14-070.)

At the same time, the Administrator shall mail notice of the application to all the property owners of record within three hundred (300) feet of the boundaries of the property involved in the application.

Step Two - Starting from the day of the second notice by the applicant, a thirty (30) day review period will commence during which the Administrator shall evaluate the application and collect all relevant data, and communications from persons and agencies wishing to express view on the application.

Step Three - At the end of the thirty (30) day review period, the Administrator shall make a decision to approve or deny the application. This decision will include decisions on any requests for variance or conditional uses made as a part of the application.

Step Four - The Administrator will then transmit the decision(s) by letter to the applicant, the Department of Ecology and the Attorney General.

Step Five - When the Department of Ecology receives the letter of decision, a forty-five (45) day review period will commence, during which appeals to the decision can be made.

Step Six - Should there be no appeal to the decision, either by the Department of Ecology, or by others, the Department of Ecology will allow the decision of the local government to stand, and at the end of the forty-five (45) day period, if the local government decision was to approve, and if no other permits are needed or have been granted, the project may proceed. Should there be an appeal, the project applied for may not begin until all appeals are settled by the State Hearings Board.

4. Revocation of Permit: The Administrator may revoke the permit and halt the project if conditions written on the permit are not fulfilled or are violated or if other of these regulations are violated. Any such revocation shall be in the form of a "Cease" or "Desist" order from the Prosecuting Attorney obtained at the request of the Administrator and served to the permittee.

16.00 Conditional Uses. Conditional uses are those uses which may be permitted to locate in shoreline areas, but are usually seen as uses which either do not need, or depending on the environment, considered not to be suitable for siting in shoreline locations. It is understood however that there may be special circumstances or a special type or style of conditional use that would make shoreline siting of special cases acceptable to the goals, policies, and intentions of the Master Program.

The procedure for obtaining permission to create or conduct a conditional use is the same as the Substantial Development permit procedure, except that certain additional information will be required.

The applicant must supply whatever evidence, information, or agreements to assure the local hearing board that the following conditions will be met:

1. That there is some necessity for a shoreline site for the proposed use, or that the particular site applied for is essential for this use, and that denial of the conditional use request would create a hardship on the applicant to locate the proposed use anywhere outside the shoreline jurisdiction area.
2. That the design of the proposed use will make it compatible with the environment it will be placed in.
3. That water, air, noise, and other classes of pollution will not be more severe than the pollution that would result from the uses which are permitted in the particular environment.
4. That none of the Goals, Policy Statements or specific aims of the particular environment would be violated, abrogated, or ignored.
5. That no other applicable regulations will be violated.

Should the local hearing board find insufficient evidence, explanation, or guarantees that the above conditions will be met, they may deny the request or indicate to the applicant what changes he could make that would cause the local hearing board to reconsider.

Should the local hearing board approve the request, the specific conditions of approval, i.e., any specific required structures, designs, or actions of the applicant shall be written on the permit issued to the applicant.

The application must then go on to the Department of Ecology as with the regular permit procedure.

17.00 Variance. It is understood that these regulations may cause unnecessary hardships in particular situations, or that these regulations might be unreasonable in light of new evidence, technology, or other special circumstances, and that the goals and policies of the Master Program may not necessarily be served by the strict application of these regulations. Therefore, when a person feels that such special conditions apply to him, he can request a variance from these regulations.

The variance procedure is the same as the Substantial Development procedure, and it is intended that an applicant may make a joint application for a particular project, as he would have to in most cases anyway, and for variance to any of these regulations which he deems unreasonable, or provoke an unnecessary hardship in his case. Should a conditional use also be applied for, then all three actions: (a) Substantial Development, (b) conditional use, and (c) variance, may be applied for in the same application.

In addition to the other material required in the application, the applicant must identify each of the provisions in this ordinance that he wishes a variance for. Further, the applicant must supply evidence, information and his rationale for each variance sought. This additional material must be, at least from the viewpoint of the applicant, sufficient to satisfy the local hearing board that:

1. There are conditions or circumstances involved with the particular project that make strict application of these regulations unnecessary or unreasonable for the applicant's proposal.
2. That the specific provision or provisions to be relaxed clearly did not foresee or consider the particular situation the applicant is facing.
3. That granting of the variance(s) will not violate, abrogate, or ignore the goals, policies, or individual environment purposes spelled out in the Master Program.
4. That no other applicable regulations will be violated, abrogated, or ignored.
5. That the public health, safety and welfare will not be adversely affected.
6. That the proposed project will still be compatible with the surrounding uses, structures, and environment.

Failure to satisfy any one of the above will result in denial of the variance. The medium of variance is to be used only for the relaxation of these regulations as they apply to a permitted use, or in conjunction with an application for a conditional use.

The remainder of the variance procedure is identical to that for a conditional use.

18.00 Interpretation. Where the provisions of this ordinance may be unclear in special circumstances, or where judgments must be made because of the nature of the language use, the Administrator shall make such interpretations and judgments. A separate record of all such actions taken shall be kept. To avoid arbitrariness, an earlier interpretation of judgment which may relate to a pending action shall be examined by the decision-maker for its effect or influence on the pending action, and a finding shall be made indicating whether or not the earlier action was considered relevant to the pending decision and if not so considered, why not, and if so considered, the fashion it was used shall be made public record and kept.

19.00 Appeal. All of the various actions which may be taken during the administration and enforcement of these regulations may be appealed. The appeal procedure contained in the Act itself provides for an avenue of appeal for all state reviewable actions. For the non-state review actions, appeals shall be filed with the legislative body of the County of Benton within thirty (30) days of the date of the action being appealed. Such actions may include judgments or interpretations made by the Administrator. The appellant shall file his appeal with the secretary of the local hearing board. The legislative body shall render its decision on the appeal within thirty (30) days of the date of the appeal filed with the secretary of the local hearing board. The Planning Department shall prepare forms for use by the appellants. The administrator shall keep careful record of the date and nature of each decision. The success or failure of each appeal effort shall be made public record and shall be used in future decisions of a similar nature. The decision-maker shall note such use or shall record the explanation as to why an earlier appeal action was not used.

Appeals to the action of legislative bodies shall be made to Superior Court within thirty (30) days of the date of the action to be appealed.

20.00 Amendments and Boundary Changes. Any of the provisions of this ordinance or the entire Master Program, or Shoreline Management Jurisdiction Boundary lines, or Environment Boundary lines may be amended. Such amendment shall first occur in the form of a regular ordinance amendment according to the regular legislative rules of the legislative body, except that before the legislative body may entertain any amendments, there shall first be a public hearing held by the local hearing board at which the matter of the amendment is presented to the public and their comment entertained.

When the legislative body has acted, the proposed amendment shall be sent to the Department of Ecology for its review. If the Department of Ecology approves the change it shall become effective thirty (30) days from the date of official Department of Ecology approval.

21.00 Annual Review and Update. The Planning Department, the hearing board and a citizens' advisory committee shall annually review the Shoreline Management Master Plan of Benton County, Washington during the month of January each year. After the review, if it is determined by the majority of the review body, at a public hearing, that amendments should be made in the Master Plan, said amendments shall follow the procedure outlined in Section 20.00.

22.00 Public Hearing Rules. Any public hearing conducted as an action of these regulations shall be held according to these rules. The date, time, place and matter of the hearing shall be advertised in the official newspaper at least ten (10) days but not more than twenty (20) days in advance of the date of the hearing. No such advertisement is needed if at the initial hearing it is decided to hold a subsequent hearing on the same, but no additional matter or matters at hand. Where specific pieces of property are involved, hearing notice containing the same information as the newspaper notice shall be sent to recorded owners of property involved, plus the owners of record of all properties within three hundred (300) feet of the specific piece or pieces of property involved in the hearing. In addition, notice for all hearings involving specific properties shall contain a common, and a legal description of the properties involved.

Records will be kept for all hearings, and Roberts' Rules of Order shall apply in the absence of locally adopted hearing rules.

23.00 Violations and Penalties. In addition to incurring civil liability under RCW 90.58.210, any person found to have willfully engaged in violation of the provisions of the Master Program rules, or regulations adopted pursuant thereto shall be guilty of a gross misdemeanor, and shall be punished by a fine of not less than twenty-five (\$25.00) dollars nor more than one-thousand (\$1,000.00) dollars or by imprisonment in the county jail for not more than ninety (90) days, or both such fine and imprisonment: Provided, that the fine for the third and all subsequent violations in any five (5) year period shall be not less than five-hundred (\$500.00) dollars nor more than ten-thousand (\$10,000.00) dollars. Each day of violation shall be considered a separate, and separately punishable offense.

24.00 Court Actions to Insure Against Conflicting Use and to Enforce. The Prosecuting Attorney for Benton County shall bring such injunctive, declaratory, or other actions as are necessary to insure that no uses are made of the shorelines of the county in conflict with the provisions and programs of this ordinance, and to otherwise enforce the provisions of this ordinance.

25.00 Existing Requirements for Permits, Certificates, etc., not obviated. Nothing in this ordinance shall obviate any requirement to obtain any permit, certificate, license, or approval from any state agency or local government.

26.00 Provisions not Limited by Titles and Headings. The specific provisions of this ordinance shall not be construed or limited by the wording or phrasing of the section titles or headings under which they fall.

27.00 Fees. A fee in the amount of \$ \_\_\_\_\_ shall be paid to the Benton County Planning Department at the time an application for a Shoreline Permit is submitted to cover the cost of Administration. A fee will not be charged for conditional use or variance permits.

28.00 Severability. If any provision of this ordinance, or its application to any person or legal entity or circumstances, is held invalid, the remainder of the ordinance or the application of the provision to other persons or legal entities or circumstances, shall not be affected.

29.00 Adoption and Effective Date. This ordinance is hereby declared necessary to meet the obligations and responsibilities now upon the County of Benton and is hereby adopted and shall take effect on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_ County, Washington

By \_\_\_\_\_

Chairman

\_\_\_\_\_  
Board of County Commissioners

Attest:

\_\_\_\_\_  
County Auditor,  
Clerk of the Board of  
County Commissioners

Approved as to form:

\_\_\_\_\_  
Prosecuting Attorney of  
County