

## Attachment B: Ecology Required Changes to Benton County’s proposed SMP (6/26/2014, Ordinance 2014-440)

The following changes are required to comply with the SMA (RCW 90.58) and the SMP Guidelines (WAC 173-26, Part III):

ITEM	SMP Submittal provision	BILL FORMAT CHANGES (underline = additions; strikethrough = deletions)	RATIONALE
1.	<p><b>15.01.030</b> Applicability</p>	<p>(a) Except as described in Subsections (b) <u>and (c)</u>, all proposed uses and developments occurring within shoreline jurisdiction must conform to the intent and requirements of the laws and rules cited in Section 15.01.010 and this SMP.</p> <p>(b) <del>This SMP does not apply to the following activities</del> <u>The following are examples of activities that are not considered development and are therefore not subject to this SMP:</u></p> <p>(1) Interior building improvements that do not change the use or occupancy;</p> <p><del>(12)</del> Exterior structure maintenance activities, including painting and roofing, as long as it does not expand the existing footprint of the structure; <u>and</u></p> <p><del>(23)</del> Routine landscape maintenance of established, ornamental landscaping, such as lawn mowing, pruning, and weeding; <del>and.</del></p> <p><del>(3c)</del> Consistent with Section 15.02 (Definitions), WAC 173-26-020 (Definitions), and WAC 173-26-241(3)(a), as amended, <u>this SMP shall not require modifications of or limit</u> agricultural activities on agricultural lands <del>as of the date of adoption of the SMP (June 3, 2014).</del></p> <p><del>(4)</del> <del>As of the effective date of the SMP [insert date], legal pre-existing residential uses and structures where no change or new activity is proposed.</del></p> <p><del>(ed)</del> Activities that are exempt from the permit system in Section 15.09.040 shall comply with this SMP whether or not a permit or other form of authorization is required.</p> <p><del>(de)</del> The shoreline permit procedures, policies and regulations established in this SMP shall apply countywide to all nonfederal uses, activities, and development.</p> <p><del>(ef)</del> This SMP applies to lands subject to nonfederal ownership, lease or easement, even though such lands may fall within the external boundaries of a federal ownership.</p>	<p>Changes to 15.01.030 are required for clarity and consistency as follows:</p> <p><b>Item (a)</b> is amended to reflect changes in formatting to section 15.01.030(b).</p> <p><b>Item (b)</b> is modified for clarity to remove duplicate numbering.</p> <p><b>Item (b)(3)</b> is renumbered as item (c) because the provisions are fundamentally different. While this SMP does not apply to the activities in (b)(1) – (3) because they are not considered development, this SMP does not apply to agricultural activities on agricultural lands because they have been specifically addressed in the WAC Guidelines and in statute. Under RCW 90.58.065 and WAC 173-26-241(3)(a), Master Programs shall not require modifications of or limit agricultural activities occurring on agricultural lands. The language in item (c) was revised to match this statutory language exactly. The reference to the local date of adoption is deleted because the effective date of the SMP is fourteen days from Ecology’s final letter indicating approval, rather than the June 3, 2014 local adoption date.</p> <p><b>Item (b)(4)</b> is already included in Section 15.08.010, it is unnecessary to repeat it here. The statement reads as if this SMP does not apply to legal pre-existing uses and structures. It is more accurate to state that legal pre-existing uses and</p>

						structures can be considered conforming as included in Section 15.08.010 and WAC 173-26-191(2)(a)(iii)(A).  <b>Items (c) – (e)</b> are amended to reflect the change in citation sequence noted above.	
2.	15.02 Definitions	<p>“Shorelines Hearings Board”, <del>a quasi-judicial body within the state Environmental and Land Use Hearings Office for the purpose of the local SMP administration by Benton County, means up to a six member quasi-judicial body, created by the SMA, or the Hearings Examiner,</del> which hears appeals by any aggrieved party on the issuance of a shoreline permit. See RCW 90.58.170 et seq. for the role of the Washington State Shorelines Hearings Board.</p>				<p>The Shorelines Hearings Board is a state level board created by the SMA. It is confusing to include the Hearings Examiner in this definition, as the Hearings Examiner would never be referred to as a Shorelines Hearings Board. References to Shorelines Hearings Board within this document seem to be referring to the state level board expect when included together with Hearing Examiner as ‘Shoreline Hearings Board/Hearing Examiner.’ In the Required Change below, these have all been changed to just ‘Hearing Examiner.’</p>	
3.	15.06.020 Wetlands (d)	<p>(d) Categories. Criteria for categorizing a wetland are those specified in the Washington State Department of Ecology’s Washington State Wetland Rating System for Eastern Washington, <del>March 2007</del> or as revised (Publication #<del>04-06-15</del><u>14-06-030</u>).</p> <p>(1) Category I Wetlands are: 1) alkali wetlands; 2) wetlands that are identified by scientists of the Washington Natural Heritage Program/DNR as <del>high quality wetlands</del><u>wetlands of high conservation value</u>; 3) bogs; 4) mature and old-growth forested wetlands over ¼ acre with slow-growing trees; 5) forests with stands of aspen; and 6) wetlands that perform many functions very well. These wetlands are those that 1) represent a unique or rare wetland type; or 2) are more sensitive to disturbance than most wetlands; or 3) are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; or 4) provide a high level of function.</p>				<p>Ecology’s wetland rating system was updated in October 2014 and will become effective January 1, 2015. This reference as well as the terminology to refer to Category I wetlands needs to be updated to reflect the most current Ecology guidance and terminology.</p>	
4.	Table 06.020-1. Wetland Buffers	<b>Wetland Category</b>	<b>Standard Buffer Width</b> <u>Scores 3-4 habitat points</u>	<b>Additional Buffer width if wetland scores 21-255 habitat points</b>	<b>Additional buffer width if wetland scores 26-296-7 habitat points</b>	<b>Additional buffer width if wetland scores 30-368-9 habitat points</b>	The habitat points have been updated to reflect the most recent Ecology wetland rating system which was updated in October 2014 and will become effective January 1, 2015.
		Category 1: Based on total	75 ft	Add 15 ft	Add 45 ft	Add 75 ft	

		score					
		Category I: Forested	75 ft	Add 15 ft	Add 45ft	Add 75 ft	
		Category I: Bogs	190 ft	N/A	N/A	N/A	
		Category I: Alkali	150 ft	N/A	N/A	N/A	
		Category I: Natural Heritage Wetlands	190 ft	N/A	N/A	N/A	
		Category II: Based on total score	75 ft	Add 15 ft	Add 45 ft	Add 75 ft	
		Category II: Vernal pool	150 ft	N/A	N/A	N/A	
		Category II: Forested	75 ft	Add 15 ft	Add 45 ft	Add 75 ft	
		Category III (all)	60 ft	Add 30 ft	Add 60 ft	N/A	
		Category IV (all)	40 ft	N/A	N/A	N/A	
<b>5.</b>	<b>15.09.020</b> Administrative Responsibilities	(a) The County shall designate a SMP Administrator. The SMP Administrator in Benton County is the Planning Manager and shall have overall administrative responsibility of this SMP. The SMP Administrator or his/her designee is hereby vested with the authority to: (1) Administrate this SMP. (2) Grant or deny exemptions from Shoreline Substantial Development Permit requirements of this SMP. (3) To grant, grant with conditions, or deny Shoreline Substantial Development Permits and time extensions to shoreline permits and their revisions. (4) Make field inspections as needed, and prepare or require reports on shoreline permit applications.				The language in reference to the 'Shorelines Hearing Board/Hearings Examiner' as well as the 'Board of Adjustment' is unclear.  The Shorelines Hearings Board is a state level review board while the Hearing Examiner works at the local level, therefore these two entities are not interchangeable. In provision (5) it is not clear why the first sentence references 'Shoreline Hearings Board/Hearing Examiner' and the following sentence references the 'Board of Adjustment.'	

		<p>(5) Make written recommendations to <del>the Shorelines Hearings Board</del>/Hearing Examiner, Planning Commission and Board of County Commissioners as appropriate. The SMP Administrator shall make recommendations to the <del>Board of Adjustment</del>Hearing Examiner regarding Shoreline Variances and Shoreline Conditional Use Permits. The SMP Administrator shall recommend SMP amendments to the Planning Commission and Board of County Commissioners.</p> <p>(6) Advise interested persons and prospective applicants as to the administrative procedures and related components of the SMP.</p> <p>(7) Determine and collect fees for all necessary permits as provided in County ordinances or resolutions. The determination of which fees are required shall be established by resolution of the Board of County Commissioners.</p> <p>(8) Make administrative decisions and interpretations of the policies and regulations of this SMP and the SMA.</p> <p>(b) The responsible SEPA official or his/her designee is authorized to conduct environmental review of all use and development activities to this SMP, pursuant to WAC 197-11 and RCW 43.21C. The responsible official is designated in accordance with the Benton County Code.</p> <p>(c) The <del>Shorelines Hearing/Board</del>/Hearing Examiner is authorized to:</p> <p>(1) Grant or deny Shoreline Variances, and Shoreline Conditional Use Permits under this SMP.</p> <p>(2) Decide on appeals of administrative decisions by the Administrator of this SMP.</p>	<p>For clarity and consistency, these references have all been changed to 'Hearing Examiner.'</p>
	<p><b>15.09.090</b> Procedures Applicable to Shoreline Conditional Use Permits</p>	<p>(a) Uses specifically classified or set forth in this SMP as conditional uses shall be subject to review and condition by the <del>Shorelines Hearings Board</del>/Hearing Examiner and by Ecology. Shoreline Conditional Use Applications shall be processed consistent with this SMP and BCC Chapter 17.10, Permit Review Process.</p>	<p>The Shorelines Hearings Board is a state level review board while the Hearing Examiner works at the local level, therefore these two entities are not interchangeable. For clarity and consistency these have all been changed to 'Hearing Examiner.'</p>