

Questions and Answers On the City's Proposed Programmatic Buoy Process

What is the Programmatic Buoy Application?

The City regulates buoys through the Shoreline Master Program (SMP), as required under the State of Washington's Growth Management Act. In order to improve efficiency and customer service, the City is working to establish a new "programmatic buoy permitting process" which will provide a streamlined application and review process for buoy placement.

To establish this process, the City is required to obtain a Shoreline Substantial Development Permit (SSDP). An application for an SSDP is currently pending. The programmatic buoy application process will only be implemented if the SSDP permit is approved.

What the proposed process will NOT do:

The proposed process will not establish new policies, change existing regulations, or create new permitting requirements for buoys. It will simply create a programmatic administrative process to save citizens time and money and allow the City to more effectively manage shoreline resources.

How will the programmatic buoy application process work?

If the SSDP is approved, programmatic buoy applications will be available at City Hall and on the City's web site. The applications will be easy to complete, with yes/no questions and menus for indicating buoy construction configurations. Buoys which meet the standards for the programmatic buoy application process will not be required to go through a separate environmental analysis and State Environmental Policy Act (SEPA) review, as these steps will be incorporated as part of the SSDP. The application will include standard cross sectional plans along with a sample site plan with clear instructions on how to prepare a site specific plan. City staff will be available to assist applicants through individual permit intake appointments.

Background on buoy permitting on the island:

The City's SMP, adopted in Chapter 16.12 of the Bainbridge Island Municipal Code (BIMC), regulates mooring buoys within the waters of Bainbridge Island. The SMP was the subject of an extensive citizen participation process that included multiple opportunities for public input prior to its adoption in 1996.

Under the SMP, residents interested in installing buoys are currently required to obtain a statement of exemption (for any buoy with a fair market value less than \$5,718) or a Shoreline Substantial Development Permit (SSDP). Prior to adoption of the SMP, statements of exemptions or substantial development permits were not required.

There are many unpermitted buoys in Bainbridge waters:

In 2001, the City completed an inventory of shoreline structures which documented 534 buoys around the island. At that time, City records showed that only a few permits had been issued since 1996. This, together with anecdotal information from residents, indicated that many buoys installed after November 1996 had been placed without the required substantial development permit or statement of exemption.

What if my buoy doesn't have a permit or statement of exemption?

If the programmatic buoy process is implemented, the following processes will allow owners to bring buoys into compliance.

If a buoy was legally placed prior to 1996:

In order to establish a buoy's existing nonconforming status (ie., to "have it grandfathered"), residents will be asked to provide the City with documentation that shows that the buoy existed in its current location prior to September, 1996. Acceptable documentation would include pictures with dates or recognizable structures, receipts, buoy markings and GPS coordinates, affidavits, etc. This documentation should be provided with a nonconforming status submittal sheet. Once the City reviews the documentation and historic records, if the buoy is found to be legally existing nonconforming, the City will issue a letter confirming the buoy's status.

Please note that any buoy placed prior to 1996 may have needed approval from the Army Corps of Engineers (ACOE) or the Washington State Department of Natural Resources (DNR). If these approvals were needed and not obtained, the buoy is not legally nonconforming and can not go through the programmatic buoy process. In that case, the owner would need to submit a shoreline substantial development permit or statement of exemption application.

If a buoy was placed after 1996:

Residents placing buoys in the waters of Bainbridge Island after September of 1996 were required to receive a shoreline substantial development permit or statement of exemption. If a buoy was placed without a permit or exemption, then it must be reviewed through an after-the-fact application.

If implemented, the programmatic buoy application process will make it easier for residents to bring un-permitted buoys into compliance. If a buoy meets the criteria of the programmatic review, the owner may submit for review under the programmatic permit process.

If a buoy does not meet the programmatic criteria, the owner may bring the buoy into compliance with the programmatic criteria, or will need to submit a separate shoreline substantial development permit or statement of exemption application.

What if the SSDP for the Pprogrammatic buoy process is not approved?

If the City does not implement the programmatic buoy application process, owners will be required to seek a substantial development permit or statement of exemption for any previously

unpermitted buoy. **The City will proceed with code enforcement action for buoys that remain out of compliance.** This may involve penalties or removal of the buoy.

Adoption of the programmatic buoy application process will not impact the City's Harbor Management Plan or the Anchoring and Mooring Plan

The proposed programmatic buoy application will not modify or add any new elements to the Anchoring and Mooring Plan (A&M) or the Harbor Management Plan (HMP), and will have no impact on the City's ongoing development and implementation of these plans.

Public Outreach

The City's efforts to inform shoreline property owners about existing requirements for buoy placement under the SMP, as well as its intent to establish a programmatic buoy review process, have included:

- Presentations to the full City Council in October, 2007 and to the Land Use Committee in February, 2008, and
- A presentation at the Port Madison Yacht Club in July of 2008 as part of a special meeting of the Harbor Commission.
- Advertisement of a public comment period under SEPA for the city's proposed SSDP, announced November 29, 2008 with comments due by December 29, 2008, .

For more information

The programmatic buoy process is not yet available. For updates on the process, join the programmatic buoy listserv. Go to www.ci.bainbridge-isl.wa.us, scroll down to "Sign up for ListServ updates" on the left side of the home page, and follow the directions.

The City will enforce the SMP regardless of the decision on the programmatic review permit. If the City's SSDP to establish the process is denied, existing buoys will still need to be brought into compliance through a permit or exemption. Residents may choose to begin the permit or exemption process now to bring a buoy into compliance.

For information on submitting a permit or exemption under the existing application process, please contact Katie Jones, Planning Permit Technician, at 780-3770 or kjones@ci.bainbridge-isl.wa.us.

For more information on the proposed Programmatic Buoy Permitting Process, contact Tami Allen, Harbormaster, at 780-3733 or tallen@ci.bainbridge-isl.wa.us.