Existing Development

Existing development is “grandfathered”

Existing legally established structures and uses are typically “grandfathered” with the approval of an updated Shoreline Master Program (SMP).

That means they can:
- continue to exist,
- be used,
- be maintained, and
- be repaired.

That’s even the case if the updated SMP includes regulations that would not allow new development to be built exactly as existing development. For example, new buildings may need to be further away from the water, or new development projects may need to retain some vegetation on-site.

Local governments typically also allow some “grandfathered” buildings to be expanded, although there may be limits to the size of the addition, the total square footage, new stories, or new impervious surfaces.

Traditional approach

Traditionally, uses and structures that are not consistent with the new regulations have been categorized as “nonconforming” development. This is not the same as and does not mean that they are illegal, unless the use or structure was illegally created in the first place. **Nonconforming uses and development are those that were lawfully constructed or established, but do not conform to current land use regulations or standards.**

Many SMPs:
- define nonconforming structures, uses and lots
- address expansion, changes in use, and rebuilding after fire or natural disaster; and
- set timelines for permitting, reconstruction and abandonment.
If a jurisdiction does not include regulations regarding nonconforming development, WAC 173-27-080 would apply. Jurisdictions may also revise these provisions to meet local needs, write new nonconforming provisions, or use the same nonconforming provisions that are in the local zoning code to provide consistency in and out of the shoreline jurisdiction.

Optional approaches

Non-traditional approaches to existing structures include, but are not limited to:

1) Excluding the footprint of the existing structures from the buffer or setback. Depending on the size of the buffer, it may wrap around the sides and rear of the structure but will not include the structure.
2) Stating in the SMP that all legally-established existing structures are conforming structures.

Under Ecology regulations, non-traditional approaches for existing development must be:

1) Limited to structures only. Uses that would not be allowed under the new SMP should not be included.
2) Limited to legally established structures only.
3) Not applied to overwater residences. New overwater residences are not allowed under the SMP Guidelines, so existing overwater residences are nonconforming uses and nonconforming structures.

Current Kitsap County Code- Nonconforming Uses and Structures

Chapter 17.460 (Zoning) and Section 19.100.130 (Critical Areas Ordinance) of the Kitsap County Code provide provisions for nonconforming uses and structures, currently in effect for all applicable areas of unincorporated Kitsap County. Both the original 1976 (Resolution No. 26-1976) and the current Shoreline Master Program (Title 22) contain language regarding nonconforming uses and structures, similar to what WAC 173-27-080 provides. These current regulations, along with recent legislative clarifications and the options above, could be considered for this SMP update.

NOTE: The information provided herein is intended to be general in nature. Case-by-case analysis may be required for site-specific answers.

Kitsap County Shoreline Master Program Update
- [www.kitsapshoreline.org](http://www.kitsapshoreline.org)

Washington Department of Ecology