

SHORELINE MASTER PROGRAM PERIODIC REVIEW

Periodic Review Checklist

Checklist version: September 20, 2017

Introduction

This document is intended for use by counties, cities and towns conducting the “periodic review” of their Shoreline Master Programs (SMPs). This review is intended to keep SMPs current with amendments to state laws or rules, changes to local plans and regulations, and changes to address local circumstances, new information or improved data. The review is required under the Shoreline Management Act (SMA) at [RCW 90.58.080\(4\)](#). Ecology’s rule outlining procedures for conducting these reviews is at [WAC 173-26-090](#).

This checklist summarizes amendments to state law, rules and applicable updated guidance adopted between 2007 and 2017 that may trigger the need for local SMP amendments during periodic reviews.

How to use this checklist

See Section 2 of Ecology’s *Periodic Review Checklist Guidance* document for a description of each item, relevant links, review considerations, and example language.

At the beginning: Use the review column to document review considerations and determine if local amendments are needed to maintain compliance. See WAC 173-26-090(3)(b)(i).

At the end: Use the checklist as a final summary identifying your final action, indicating where the SMP addresses applicable amended laws, or indicate where no action is needed. See WAC 173-26-090(3)(d)(ii)(D), and WAC 173-26-110(9)(b).

Local governments should coordinate with their assigned [Ecology regional planner](#) for more information on how to use this checklist and conduct the periodic review.

Row	Summary of change	Review (Prepared by AHBL – June 2020)	Action
2017			
a.	OFM adjusted the cost threshold for substantial development to \$7,047.	<p><i>Optional SMP Amendment:</i></p> <p>In Chapter 6 Section G.2, the current SMP does not list all exemptions but instead references the exemptions in WAC 173-27-040. It is not required to make this amendment since the City relies on state statute.</p> <p>The WAC still uses \$5,000 as the cost threshold which is outdated, however there is a different document that the state uses to publish new threshold figures, which can change every two years. The City may choose to list all exemptions in the SMP, however this is unnecessary.</p>	OFM adjusted the threshold to \$7,047 on September 2, 2017. The definition for “Substantial Development” has been updated to reflect the new cost threshold, and the effective date of that figure.
b.	Ecology amended rules to clarify that the definition of “development” does not include dismantling or removing structures.	<p>Amend the SMP:</p> <p>The definition of “development” in Chapter 7 Section B needs to be updated to add the suggested Ecology language: <i>“Development” does not include dismantling or removing structures if there is no other associated development or re-development.”</i></p>	<p>Amendment Made to SMP:</p> <p>Added suggested language to existing definition of “development”.</p>
c.	Ecology adopted rules that clarify exceptions to local review under the SMA.	<p>Amend the SMP:</p> <p>While the SMP has a process for SSDP, CUP, variance, or exemptions, it does not list actions</p>	<p>Amendment Made to SMP:</p> <p>Added Section “H” to Chapter 6 called “Exceptions to Local Review.” This section lists</p>

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		<p>which require no local review. A simple way to include the specific actions that do not require local review is to add an “exceptions to local review” section within Chapter 6, directly following the “Shoreline Letters of Exemption” section.</p> <p>The new “exceptions to local review” section would include the following three exceptions with example language provided by Ecology:</p> <ul style="list-style-type: none"> • Remedial hazardous substance cleanup actions (1994 law), • Boatyard improvements to meet NPDES requirements (2012 law), and • Certain WSDOT maintenance and safety projects and activities (2015 law). <p>The City may choose to add other minor actions that do not require local review to this section as well, such as minor maintenance, landscaping activities, etc.</p>	<p>certain development that is do not require shorelines permits or local review.</p>
d.	<p>Ecology amended rules that clarify permit filing procedures consistent with a 2011 statute.</p>	<p>Amend the SMP:</p> <p>The current SMP should be updated so that permit filing procedures are clearly stated in a way that is consistent with the Ecology protocol.</p> <p>Add to Chapter 6 Section I to clarify that certain decisions must be submitted to ecology and appeal periods start at the “date of filing”. The</p>	<p>Amendment Made to SMP:</p> <p>To clarify how permit decisions must be filed/mailed to Ecology, amendments were made to Chapter 6, Section I.3.b using sample language from the Ecology Checklist.</p>

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		Ecology Checklist provides sample language that can be incorporated. This section should include directions for filing a SSDP, CUP or Variance.	Language was also added to Chapter 6 Section I.5 to specifically address filing of appeals for SSDP, CUP and Variances.
e.	Ecology amended forestry use regulations to clarify that forest practices that only involves timber cutting are not SMA “developments” and do not require SDPs.	<i>No Amendments Necessary:</i> This provision simply states that timber cutting does not need an SSDP or exemption. The City of West Richland does not have significant commercial forestry along shorelines and this amendment is not necessary.	None Taken
f.	Ecology clarified the SMA does not apply to lands under exclusive federal jurisdiction	<i>No Amendments Necessary:</i> This amendment is optional, and would clarify that lands under exclusive federal jurisdiction, such as a military base, would not be subject to the City’s SMP. Because the City of West Richland does not have any shorelands under exclusive federal jurisdiction, no amendment is necessary.	None Taken
g.	Ecology clarified “default” provisions for nonconforming uses and development .	Amend the SMP: Amendments are only necessary where a City does not have its own tailored provisions for nonconforming uses and development. The City adequately addresses nonconforming uses and development in Chapter 6 section J, so no substantial changes are required.	Amendment Made to SMP: Removed existing definition of “non conforming use or development” and replaced with separate definitions for “nonconforming use”, “nonconforming development or nonconforming structure” and “nonconforming lot” consistent with Ecology suggested language.

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		<p>The City’s Planning Commission should determine if they would like to re-visit the nonconforming provisions again, at their first workshop meeting,</p> <p>The City should update the current definition of “Non-conforming use or development” in Chapter 7 to include separate definitions for “non-conforming use”, “nonconforming development” and “nonconforming lot”, as shown in the Ecology Checklist.</p>	
h.	Ecology adopted rule amendments to clarify the scope and process for conducting periodic reviews .	<p><i>Optional SMP Amendment:</i></p> <p>The City already describes the process for reviewing or amending the SMP in Chapter 6 Section L. Specifically section L.d states that SMP updates shall be consistent with WAC Chapter 173-26. The SMP could be more specific by stating that <i>“the periodic review process should be done consistent with requirements of RCW 90.58.080 and WAC 173-26-090.”</i></p>	<p>Amendment Made to SMP:</p> <p>Added specific reference to RCW and WAC in Chapter 6 Section L.d.</p>
i.	Ecology adopted a new rule creating an optional SMP amendment process that allows for a shared local/state public comment period.	<p><i>No Amendment Necessary:</i></p> <p>This is an optional amendment. The current SMP does not have any language that would impede the City from using the shared local/state public comment period. The City may choose to use this shared comment period as there may be some advantages, however, not all jurisdictions utilize this process.</p>	None Taken

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j.	Submittal to Ecology of proposed SMP amendments.	<p><i>No Amendment Necessary:</i></p> <p>The City does not describe the process of submitting SMP amendments to Ecology, but rather simply states that “revisions to the SMP...do not become effective until approved by Ecology.”</p> <p>The City may add detail to this statement, however, this is not necessary. When submitting for initial and final determination of consistency, the City can simply refer to statute for submittal requirements (see WAC 173-26-104(3)).</p>	None Taken at this time.
2016			
a.	The Legislature created a new shoreline permit exemption for retrofitting existing structures to comply with the Americans with Disabilities Act .	<p><i>No Amendment Necessary:</i></p> <p>As stated in item 2017(a) above, the City does not list all exemptions but references WAC 173-27-040. The City may want to list all exemptions in the SMP, however this is not necessary.</p>	None Taken
b.	Ecology updated wetlands critical areas guidance including implementation guidance for the 2014 wetlands rating system.	<p><i>No Amendment Necessary:</i></p> <p>Critical Area Provisions for the shoreline jurisdiction are located within Appendix 2 of the SMP. Appendix 2 Section E of the SMP, as well as the City’s Critical Area Ordinance, talks about wetland delineation and rating, and references</p>	None Taken

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		<p>use of Ecology’s 2014 Washington State Wetland rating System for Eastern Washington.</p> <p>There do not appear to be any conflicts with the SMP or current CAO. We presume that the existing code adequately or accurately references wetland buffers, ratings, and mitigation measures. The City may wish to continue to review the CAO to ensure it is fully consistent with the Ecology guidance.</p>	
2015			
a.	<p>The Legislature adopted a 90-day target for local review of Washington State Department of Transportation (WSDOT) projects.</p>	<p><i>Optional SMP Amendment:</i></p> <p>The SMP does not currently mention this provision, but it is optional to add. Because the City of West Richland has state owned highways within the shoreline jurisdiction (WA-224), it may make sense to add these provisions to ensure compliance with the 90-day review target.</p>	<p>Amendment Made to SMP:</p> <p>Added provisions for 90-day review and commencing of construction of WSDOT projects in Chapter 6, section J.g.</p>
2014			
a.	<p>The Legislature raised the cost threshold for requiring a Substantial Development Permit (SDP) for replacement docks on lakes and rivers to \$20,000 (from \$10,000).</p>	<p><i>Optional SMP Amendment:</i></p> <p>The City references the exemptions from WAC 173-26-040, which are consistent with the SMP checklist, however, the threshold was recently updated to \$22,500 and \$11,200 respectively. This update will likely be reflected in the WAC eventually, however, the City may consider listing permit exemptions with the SMP.</p>	<p>None Taken</p>

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		AHBL recommends no changes on this item.	
b.	The Legislature created a new definition and policy for floating on-water residences legally established before 7/1/2014.	<i>No Amendment Necessary:</i> The City does not have any existing floating on-water residences so no amendment is necessary.	None Taken
2012			
a.	The Legislature amended the SMA to clarify SMP appeal procedures.	<i>No Amendment Necessary:</i> The City only outlines appeal processes for shoreline permits, but not for appeals to the actual SMP. No amendments are necessary.	None Taken
2011			
a.	Ecology adopted a rule requiring that wetlands be delineated in accordance with the approved federal wetland delineation manual.	<i>No Amendment Necessary:</i> Appendix 2 Section E.1 correctly states that delineation of wetland boundaries must be done using the Federal Wetland Delineation Manual and applicable regional supplements. It is also within the definition of “Qualified wetland specialist.”	None Taken
b.	Ecology adopted rules for new commercial geoduck aquaculture.	<i>No Amendment Necessary:</i> No commercial geoduck aquaculture takes place in the City of West Richland; there are no saltwater shorelines.	None Taken

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c.	The Legislature created a new definition and policy for floating homes permitted or legally established prior to January 1, 2011.	<p><i>No Amendment Necessary:</i></p> <p>There are no floating homes or areas that could be developed as floating homes within the City.</p>	None Taken
d.	The Legislature authorized a new option to classify existing structures as conforming.	<p><i>Optional SMP Amendment:</i></p> <p>Non-conforming uses are addressed in Chapter 6 Section J of the SMP.</p> <p>The SMP states that “nonconforming uses and structures may continue provided that it is not enlarged or expanded.” The City may consider adding a subsection to J.2 with an amendment clarifying that existing <i>legally established</i> nonconforming uses are considered conforming even if they do not meet current bulk or dimensional standards. The rules then should clarify that redevelopment, expansion and replacement is allowed as long as it is consistent with the current SMP. This amendment is optional, however, it can be helpful to homeowners to who inherit legally established nonconforming structures.</p> <p>AHBL recommends no changes on this item.</p>	None Taken.

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2010			
a.	The Legislature adopted Growth Management Act – Shoreline Management Act clarifications .	<p><i>Optional SMP Amendment:</i></p> <p>The SMP was comprehensively updated after this law went into effect so no changes are required for consistency with the law, per Ecology’s guidelines.</p> <p>Ecology’s checklist also mentions that if an SMP describes the “effective date” of SMP amendments, it should be revised to clarify SMPs are effect 14 days from Ecology’s written notice of action. This language could be simply added to Chapter 6 Section M.2.b, but it is not necessary.</p>	<p>Amendment Made to SMP.</p> <p>A sentence has been added to Chapter 6 Section M.2.b. stating that the effective date of the SMP shall be 14 days from Ecology’s written notice of action.</p>
2009			
a.	The Legislature created new “relief” procedures for instances in which a shoreline restoration project within a UGA creates a shift in Ordinary High Water Mark.	<p><i>Optional SMP Amendment:</i></p> <p>An amendment here is optional. The Ecology Checklist provides two options. The first is to incorporate Ecology’s rule for granting “relief” by reference. The second is to incorporate the provisions of the rule directly into the SMP.</p> <p>Currently, the City follows option 1 with its existing language in Chapter 4 Section 7.b.4. The City may choose to elaborate more on this by following option 2. This would add clarifying language directly in the code for situations where a shoreline restoration project results in a</p>	None Taken

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		<p>landward shift in the OHWM, and list the criteria for granting relief to that shift.</p> <p>AHBL recommends no changes on this item.</p>	
b.	<p>Ecology adopted a rule for certifying wetland mitigation banks.</p>	<p><i>Optional SMP Amendment:</i></p> <p>The SMP is currently silent to Mitigation Banking and the City’s CAO does not enable mitigation banking. The Ecology Guidance simply recommends that mitigation banks are authorized within shoreline jurisdiction, if they are available.</p> <p>It is unlikely that the City will pursue a mitigation banking option so it is not necessary to amend the SMP at this time. However, if the City does expect to adopt a mitigation bank in the future, simple language could simply be added to enable that: <i>“Credits from a certified mitigation bank may be used to compensate for unavoidable impacts.”</i> This would likely be added in Appendix 2 Section O or Section P of the SMP.</p> <p>AHBL recommends no changes on this item.</p>	None Taken
c.	<p>The Legislature added moratoria authority and procedures to the SMA.</p>	<p><i>Optional SMP Amendment:</i></p> <p>The SMP does not address moratoria. It is not required for the City to address moratorium, they can simply rely on statute. The City may elect to add a reference to the state statute (RCW 90.58.509). If desired, the City may also</p>	None Taken

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		incorporate the actually statutory language into the SMP. AHBL recommends no changes on this item.	
2007			
a.	The Legislature clarified options for defining "floodway" as either the area that has been established in FEMA maps, or the floodway criteria set in the SMA.	AHBL recommends no changes on this item.	None Taken.
b.	Ecology amended rules to clarify that comprehensively updated SMPs shall include a list and map of streams and lakes that are in shoreline jurisdiction.	<i>No Amendment Necessary:</i> The list and map of streams in West Richland that are in the shoreline jurisdiction will not change since the last update.	None Taken
c.	Ecology's rule listing statutory exemptions from the requirement for an SDP was amended to include fish habitat enhancement projects that conform to the provisions of RCW 77.55.181.	<i>No Amendment Necessary:</i> The ecology guidelines state that SMPs that cite the RCW list of exemptions do not need to be updated. This should be reviewed if the City decides to list the exemptions in detail within the SMP.	None Taken