

SHORELINE MASTER PROGRAM PERIODIC REVIEW

Periodic Review Checklist

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	Action
2017			
a.	OFM adjusted the cost threshold for substantial development to \$7,047.	<i>SMP needs amending</i>	<p>Page 125 of 1/10/19 Amended SMP:</p> <p><i>Substantial development.</i> Any development of which the total cost or fair market value exceeds five thousand <u>seven thousand forty-seven</u> dollars (\$5,000 <u>\$7,047</u>), or any development which materially interferes with the normal public use of the water or shorelines of the state. The dollar threshold established in this subsection (3)(e) must be adjusted for inflation by the office of financial management every five years, beginning July 1, 2007, based upon changes in the consumer price index during that time period. "Consumer price index" means, for any calendar year, that year's annual average consumer price index, Seattle, Washington area, for urban wage earners and clerical workers, all items, compiled by the bureau of labor and statistics, United States department of labor. The office of financial management must calculate the new dollar threshold and transmit it to the office of the code reviser for publication in the Washington State Register at least one month before the new dollar threshold is to take effect. Under the Shoreline Management Act, some development is not considered "substantial development" These categories are listed in Section 7.A.1.b of this SMP.</p> <p>Page 129 of 1/10/19 Amended SMP:</p> <p>b. The following shall not be considered substantial developments for the purpose of this Master Program;</p> <ol style="list-style-type: none"> Any development of which the total cost or fair market value, whichever is higher, Does <u>does</u> not exceed five thousand <u>seven thousand forty-seven</u> dollars, if such development Does <u>does</u> not materially interfere with the

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			<p>normal public use of the water or shorelines of the state. For purposes of determining whether or not a permit is required, the total cost or fair market value shall be based on the value of development that is occurring on shorelines of the state as defined in RCW 90.58.030 (2)(d). The total cost or fair market value of the development shall include the fair market value of any donated, contributed or found labor, equipment or materials.</p>
b.	<p>Ecology amended rules to clarify that the definition of “development” does not include dismantling or removing structures.</p>	<p><i>SMP needs amending</i></p>	<p>Page 116 of 1/10/19 Amended SMP: <i>Development.</i> 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 of the state subject to Chapter 90.58 RCW at any stage of water level. <u>Development does not include dismantling or removing structures if there is no other associated development or redevelopment.</u> (RCW 90.58.030(3)(d).)</p>
c.	<p>Ecology adopted rules that clarify exceptions to local review under the SMA.</p>	<p><i>SMP needs amending</i></p>	<p>Page 133 of 1/10/19 Amended SMP: b. The following shall not be considered substantial developments for the purpose of this Master Program; ... <u>c. The following shall not be considered substantial developments for the purpose of this Master Program and shall not require a shoreline letter of exemption; however</u></p>

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			<p><u>they shall be consistent with the provisions of this Shoreline Master Program:</u></p> <ol style="list-style-type: none"> <u>1. Remedial actions, pursuant to RCW 90.58.355. Persons conducting remedial actions at a facility pursuant to a consent decree, order, or agreed order issued pursuant to chapter 70.105D RCW, or to the department of Ecology when it conducts a remedial action under chapter 70.105D RCW.</u> <u>2. Boatyard improvements to meet NPDES permit requirements. Pursuant to RCW 90.58.355, any person installing site improvements for storm water treatment in an existing boatyard facility to meet requirements of a national pollutant discharge elimination system storm water general permit. The department must ensure compliance with the substantive requirements of this chapter through the review of engineering reports, site plans, and other documents related to the installation of boatyard storm water treatment facilities.</u> <u>3. WSDOT facility maintenance and safety improvements. Pursuant to RCW 90.58.356, department of transportation projects and activities meeting the conditions of RCW 90.58.356 are not required to obtain a substantial development permit, conditional use permit, variance, letter of exemption, or other review conducted by a local government to implement the Shoreline Management Act, chapter 90.58 RCW.</u> <p><u>d. The following are exempt from the provisions within this Shoreline Master Program and shall not require a letter of exemption or local review:</u></p> <ol style="list-style-type: none"> <u>1. Pursuant to RCW 90.58.045, an environmental excellence</u>

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			program agreement entered into under chapter 43.21K RCW, shall supersede and replace any legal requirement under this Shoreline Master Program.
d.	Ecology amended rules that clarify permit filing procedures consistent with a 2011 statute.	<i>Code needs amending</i>	18.12.195 Department of Ecology review. After the examiner's approval of a conditional use or variance permit, the administrator shall submit the permit to the Department of Ecology by return receipt requested mail for its approval, approval with conditions, or denial. Upon receipt of Ecology's decision, the administrator shall notify those interested persons having requested notification of such decision. (Ord. 1803 § 3, 2012; Ord. 1290 § 4, 1996).
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>	No action necessary as forest practices are prohibited within the shoreline jurisdiction.
f.	Ecology clarified the SMA does not apply to lands under exclusive federal jurisdiction	<i>No amendments necessary</i>	No action necessary per revised WAC 173-22-070, see WSR 17-17-016. The SMP is silent to this and as there are no lands under federal jurisdiction in the City, this clarification seems unnecessary.
g.	Ecology clarified "default" provisions for nonconforming uses and development.	<i>No amendments necessary</i>	No action necessary per revised WAC 173-27-080, see WSR 17-17-016. These are default nonconforming building/use standards for SMPs that are silent to nonconforming development.
h.	Ecology adopted rule amendments to clarify the scope and process for conducting periodic reviews.	<i>No amendments necessary</i>	No action necessary per revised WAC 173-26-09 and WAC 173-26-110, see WSR 17-17-016. This is procedural in nature as to how reviews of the SMP are to occur.
i.	Ecology adopted a new rule creating an optional SMP amendment process that allows for a shared local/state public	<i>No amendments necessary</i>	No action necessary per revised WAC 173-26-090 and WAC 173-26-100, see WSR 17-17-016.

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	comment period.		
j.	Submittal to Ecology of proposed SMP amendments.	<i>No amendments necessary</i>	
2016			
a.	The Legislature created a new shoreline permit exemption for retrofitting existing structures to comply with the Americans with Disabilities Act .	<i>SMP needs amending</i>	<p>Page 133 of 1/10/19 Amended SMP:</p> <p>b. The following shall not be considered substantial developments for the purpose of this Master Program;</p> <p>...</p> <p><u>17. The external or internal retrofitting of an existing structure with the exclusive purpose of compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.) or to otherwise provide physical access to the structure by individuals with disabilities.</u></p>
b.	Ecology updated wetlands critical areas guidance including implementation guidance for the 2014 wetlands rating system.	<i>SMP needs amending</i>	<p>Page 127 of 1/10/19 Amended SMP:</p> <p><i>Wetland delineation.</i> Identification of a wetland boundary pursuant to <u>approved federal wetlands delineation manual and applicable regional supplementthe Washington State Wetland Identification and Delineation Manual (1997, as amended).</u></p> <p><i>Wetlands Rating System.</i> Wetlands shall be rated according to the Washington State Wetland Rating System for Western Washington – <u>2014 update (Department of Ecology Publication No. 14-06-029, October 2014 – Effective January 2015, or as revised)(Washington Department of Ecology 2004, as revised).</u></p> <p>Page 186 of 1/10/19 Amended SMP:</p> <p><u>A3.C.1</u> 18.16.310 Wetlands Designation and Classification.</p> <p>B. Wetlands Classification. Wetlands shall be rated according to</p>

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			<p>the <u>Washington State Wetland Rating System for Western Washington – 2014 update (Department of Ecology Publication #14-06-029, October 2014 – Effective January 2015, or as revised)</u> Washington State Wetland Rating System for Western Washington (Department of Ecology 2004, or as revised). This document contains the definitions, methods and a rating form for determining the categorization of wetlands described below:</p> <p>Category I wetlands include those that receive a score of <u>23 through 27</u> greater than or equal to 70 based on functions, or those that are rated Category I based on Special Characteristics as defined in the rating form.</p> <p>Category II wetlands include those that receive a score of <u>20 through 22</u> 51 through 69 based on functions, or those that are rated Category II based on Special Characteristics as defined in the rating form.</p> <p>Category III wetlands include those that receive a score of <u>16 through 19</u> 30 through 50 based on functions.</p> <p>Category IV wetlands score less than <u>30-16</u> points based on functions.</p> <p><u>A3.C.2</u> 18-16.320 Performance Standards</p> <p>C- Wetland buffers</p> <p>1- <u>Standard buffer widths</u>. <u>Buffer Requirements. The standard buffer widths in Table 1 – “Wetland Buffers” have been established in accordance with the best available science. They are based on the category of wetland and the habitat score as determined by a qualified wetland professional using the Washington State wetland rating system for western Washington.</u></p> <ul style="list-style-type: none"> a- <u>The use of the standard buffer widths requires the</u>

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			<p><u>implementation of the measures in Table 2, where applicable, to minimize the impacts of the adjacent land uses. The standard buffer widths presume the existence of a relatively intact native vegetation community in the buffer zone adequate to protect the wetland functions and values at the time of the proposed activity. If the vegetation is inadequate then the buffer width shall be increased or the buffer should be planted to maintain the standard width.</u></p> <ul style="list-style-type: none"> <u>• If an applicant chooses not to apply the mitigation measures in Table 2 – “Required measures to minimize impacts to wetlands”, then a 33% increase in the width of all buffers is required. For example, a 75-foot buffer with the mitigation measures would be a 100-foot buffer without them. Wetland buffers widths, based on wetland category, habitat score and land use intensity, are shown in the table below</u> <u>• The standard buffer widths assume that the buffer is vegetated with a native plant community appropriate for the ecoregion. If the existing buffer is unvegetated, sparsely vegetated, or vegetated with invasive species that do not perform needed functions, the buffer should either be planted to create the appropriate plant community or the buffer should be widened to ensure that adequate functions of the buffer are provided.</u> <u>• If the wetland is a Category I or II wetland with a habitat score greater than 5 points and it is located within 300 feet of a priority habitat area as defined by the Washington</u>

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			<p><u>State Department of Fish and Wildlife, the applicant shall provide a relatively undisturbed vegetated corridor at least 100 feet wide between the wetland and the priority habitat area. The corridor shall be protected for the entire distance between the wetland and the priority habitat through a conservation easement, native growth protection easement or the equivalent.</u></p> <ul style="list-style-type: none"> • <u>Additional buffer widths are added to the standard buffer widths. For example, a Category I wetland scoring 8 points for habitat function would require a buffer of 225 feet (75 + 150).</u> <p><u>Table 1 Wetland Buffer Requirements</u> **This table is updated to be consistent with City’s last CAO update in 2014.**</p> <p><u>Table 2 – Required Measures to Minimize Impacts to Wetlands</u> **This table is updated to be consistent with City’s last CAO update in 2014.**</p>
2015			
a.	The Legislature adopted a 90-day target for local review of Washington State Department of Transportation (WSDOT) projects.	<i>Code needs amending</i>	<p>18.12.110 Permit process. B. Application Review – Administrator Action. The administrator shall make recommendation in the case of variance and conditional use permits and decisions in the case of substantial development permits, based upon whether or not the proposed development and/or use is consistent with the laws, policies and procedures of the Act, related WACs as amended, and this master program as amended. <u>Pursuant to RCW 47.01.485, the permit review time for projects on a state highway shall be ninety days.</u></p>

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2014			
a.	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).	<i>SMP needs amending</i>	Page 130 of 1/10/19 Amended SMP: 7. Construction of a dock, including community dock, designed for pleasure craft only, for the private noncommercial use of the owner, lessee, or contract purchaser of a single family residence or multi-family residences. The fair market value of the dock shall not exceed <u>twenty thousand dollars for docks that are constructed to replace existing docks, are of equal or lesser square footage than the existing dock being replaced or</u> ten thousand (\$10,000) dollars <u>for all other docks.</u> However, if subsequent construction occurs within five years of completion of the prior construction, and the combined fair market value of the subsequent and prior construction exceeds the amount specified in this subsection, but any subsequent construction having a fair market value exceeding two thousand five hundred (\$2,500) dollars occurs within five years of completing of the prior construction, a Substantial Development Permit is required;
b.	The Legislature created a new definition and policy for floating on-water residences legally established before 7/1/2014.	<i>No amendments necessary</i>	No action necessary per revised WAC 173-26-020, see WSR 17-17-016. The City of Milton does not have any legally established floating on-water residences.
2012			
a.	The Legislature amended the SMA to clarify SMP appeal procedures .	<i>No amendments necessary</i>	No action necessary per revised RCW 90.58.190, see House Bill 2671. This is procedural in nature as it relates to the appeal of the Department of Ecology's decision to adopt a Shoreline Master Program.

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2011			
a.	Ecology adopted a rule requiring that wetlands be delineated in accordance with the approved federal wetland delineation manual .	<i>SMP needs amending</i>	<p>Page 127 of 1/10/19 Amended SMP: <i>Wetland delineation.</i> Identification of a wetland boundary pursuant to approved federal wetlands delineation manual and applicable regional supplementthe Washington State Wetland Identification and Delineation Manual (1997, as amended).</p> <p>Page 165 of 1/10/19 Amended SMP: “Wetlands” are those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas. Wetlands do not include those artificial wetlands intentionally created from non-wetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from non-wetland areas to mitigate the conversion of wetlands. For identifying and delineating a wetland, local government shall use the approved federal wetlands delineation manual and applicable regional supplementWashington State Wetland Identification and Delineation Manual.</p> <p>Page 185 of 1/10/19 Amended SMP: <u>A3.C.3</u> 18.16.310 Wetlands Designation and</p>

Row	Summary of change	Review	Action
			<p style="text-align: center;">Classification.</p> <p>A. Wetlands Designation. Wetlands are designated in accordance with the <u>the approved federal wetlands delineation manual and applicable regional supplement</u>currently adopted Washington State Wetlands Identification and Delineation Manual (1997 or as revised). Wetlands are areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas.</p>
b.	Ecology adopted rules for new commercial geoduck aquaculture .	<i>No amendments necessary</i>	No action necessary per revised WAC 173-26-241, see WSR 11-05-064. No geoduck aquaculture present in the City of Milton.
c.	The Legislature created a new definition and policy for floating homes permitted or legally established prior to January 1, 2011.	<i>No amendments necessary</i>	No action necessary per revised RCW 90.58.270, see House Bill 1783. The City of Milton does not have any legally established floating on-water residences.
d.	The Legislature authorized a new option to classify existing structures as conforming .	<i>No amendments necessary</i>	No action necessary. The City of Milton has opted not to classify existing structures as conforming per revised RCW 90.58.620, see Senate Bill 5451
2010			
a.	The Legislature adopted Growth Management Act – Shoreline Management Act clarifications .	<i>No amendments necessary</i>	N/A
2009			
a.	The Legislature created new “relief” procedures for instances in which a shoreline restoration	<i>No amendments necessary</i>	N/A

<i>Row</i>	<i>Summary of change</i>	<i>Review</i>	<i>Action</i>
	project within a UGA creates a shift in Ordinary High Water Mark.		
b.	Ecology adopted a rule for certifying wetland mitigation banks .	<i>No amendments necessary</i>	<i>N/A</i>
c.	The Legislature added moratoria authority and procedures to the SMA.	<i>No amendments necessary</i>	<i>N/A</i>
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.	<i>No amendments necessary</i>	<i>N/A</i>
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 amendments necessary</i>	<i>N/A</i>
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 amendments necessary</i>	<i>N/A</i>