

## 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 <b>cost threshold for substantial development</b> to \$7,047.   | The dollar threshold is not included in the SMP's regulatory text. This standard exemption from the permit requirement is adopted by reference in BLMC 16.58.020.A.   | No revisions necessary.  |
| b.   | Ecology amended rules to clarify that the <b>definition of "development"</b> does not include dismantling or removing structures.                                      | The definition of "development" in WAC 173-27-030(6) is adopted by reference in BLMC 16.36.030.C.3.   | No revisions necessary.  |
| c.   | Ecology adopted rules that clarify <b>exceptions to local review under the SMA.</b>  | The City's SMP does not include references to the exemptions from local review, and based on local circumstances the applicable project-types are not likely to occur.  | No revisions necessary.  |
| d.   | Ecology amended rules that clarify <b>permit filing procedures</b> consistent with a 2011 statute.   | No specific reference is included in the SMP's regulatory language to the permitting procedures outlined in WAC 173-27-130.   | Clarifying language will be added adopting a reference to the filing provisions of WAC 173-27-130.   |
| e.   | Ecology amended <b>forestry use regulations</b> to clarify that forest practices that only involves timber cutting are not SMA "developments" and do not require SDPs. | Non-"development" forest practices are prohibited in all shoreline environmental designations per BLMC 16.50.030.C.   | No revisions necessary.  |
| f.   | Ecology clarified the SMA does not apply to lands under <b>exclusive federal jurisdiction</b>  | Lands under exclusive federal jurisdiction are not addressed in the City's SMP, as none are located in the City limits or the City's shoreline jurisdiction.  | No revisions necessary.  |
| g.   | Ecology clarified "default" provisions for <b>nonconforming uses and development.</b>  | The City has a shoreline nonconforming uses and developments section in BLMC 16.56.150 and does not rely on the default provisions in WAC 173-27-080, except as it relates to developments and/or uses that are not | Even though the City is not required to make amendments to the SMP regulations regarding nonconforming uses and developments to remain compliant with State law, the City is intending to make |

| Row         | Summary of change   | Review   | Action   |
|-------------|---|--|--|
|             |   | addressed elsewhere in the section.  | amendments to BLMC 16.56.150 in order to better address existing developments and property owners' ability to maintain existing development, and to better differentiate between nonconforming <i>uses</i> and nonconforming <i>structures</i> . |
| h.          | Ecology adopted rule amendments to clarify the scope and process for conducting <b>periodic reviews</b> .   | The City's SMP does not include references to periodic reviews or updates required by WAC 173-26-090.  | No revisions necessary.  |
| i.          | Ecology adopted a new rule creating an <b>optional SMP amendment process</b> that allows for a shared local/state public comment period.                  | The City's SMP does not include references to periodic reviews or update processes that would be affected by this change.  | No revisions necessary.  |
| j.          | <b>Submittal</b> to Ecology of proposed SMP amendments.   | The City's SMP does not include a description of the SMP submittal process.  | No revisions necessary.  |
| <b>2016</b> |   |  |  |
| a.          | The Legislature created a new shoreline permit exemption for retrofitting existing structures to comply with the <b>Americans with Disabilities Act</b> . | The City's SMP does not include specific references to each of the statutory exemptions found in WAC 173-27-040. Rather, WAC 173-27-040 is adopted in its entirety in BLMC 16.58.020.A.  | No revisions necessary.  |
| b.          | Ecology updated <b>wetlands critical areas guidance</b> including implementation guidance for the 2014 wetlands rating system.                            | The update to use the 2014 rating systems has already been incorporated into the City's CAOs (see BLMC 16.22.020). The SMP regulations make specific reference to adopting the "Critical Areas Code" (as defined in BLMC 16.36.060) in BLMC 16.56.110.B. | No revisions necessary.  |
| <b>2015</b> |   |  |  |
| a.          | The Legislature adopted a <b>90-day target</b> for local review of Washington State Department of Transportation (WSDOT) projects.                        | The City's SMP does not include references to the special timeline consideration for WSDOT projects.   | No revisions necessary.  |

| Row         | Summary of change  | Review   | Action                  |
|-------------|--|--|-------------------------|
| <b>2014</b> |  |  |                         |
| a.          | The Legislature raised the cost threshold for requiring a Substantial Development Permit (SDP) for <b>replacement docks on lakes and rivers</b> to \$20,000 (from \$10,000). | There is no specific reference to this exemption provision included in the City's SMP.   | No revisions necessary. |
| b.          | The Legislature created a new definition and policy for <b>floating on-water residences</b> legally established before 7/1/2014.   | The City has no established Floating On Water Residences (FOWRs) or references to them in the SMP, except for a prohibition on "floating homes" in BLMC 16.52.020.E.             | No revisions necessary. |
| <b>2012</b> |  |  |                         |
| a.          | The Legislature amended the SMA to clarify <b>SMP appeal procedures</b> .  | The City's SMP does not include references to the SMP appeal procedures referenced in RCW 90.58.190.   | No revisions necessary. |
| <b>2011</b> |  |  |                         |
| a.          | Ecology adopted a rule requiring that wetlands be delineated in accordance with the approved <b>federal wetland delineation manual</b> .                                     | The City's adopted the federal delineation manual and methodology in the CAO section BLMC 16.22.010. That section is incorporated into the SMP by reference in BLMC 16.56.110.B. | No revisions necessary. |
| b.          | Ecology adopted rules for new commercial <b>geoduck aquaculture</b> .  | The City has no saltwater shorelines within its borders, and no areas suitable for geoduck aquaculture.  | No revisions necessary. |
| c.          | The Legislature created a new definition and policy for <b>floating homes</b> permitted or legally established prior to January 1, 2011.                                     | The City has no floating homes permitted or legally established prior to January 1, 2011 and has a prohibition on new floating homes in BLMC 16.52.020.E.                        | No revisions necessary. |
| d.          | The Legislature authorized a new <b>option to classify existing structures as conforming</b> .   | The City's SMP section dealing with nonconforming uses and developments incorporates language from WAC 173-26-241(3)(j) in BLMC 16.56.150.                                       | No revisions necessary. |

| Row  | Summary of change   | Review  | Action   |
|------|---|---|--|
| 2010 |   |   |  |
| a.   | The Legislature adopted <b>Growth Management Act – Shoreline Management Act clarifications</b> .  | The City’s comprehensive SMP update was adopted well after the effective date of this law.  | No revisions necessary.  |
| 2009 |   |   |  |
| a.   | The Legislature created new “relief” procedures for instances in which a <b>shoreline restoration project within a UGA</b> creates a shift in Ordinary High Water Mark. | The relief procedures related to a landward shift in OHWM that are the subject of this law are not referenced in the City’s SMP regulations.  | No revisions necessary.  |
| b.   | Ecology adopted a rule for certifying <b>wetland mitigation banks</b> .   | The City’s SMP regulations do not address wetland mitigation banks, and due to local circumstances related to critical areas and existing development, mitigation banks are not likely to be required in relation to shoreline development proposals.   | No revisions necessary.  |
| c.   | The Legislature added <b>moratoria authority</b> and procedures to the SMA.   | The City chose not to address moratoria authority in the comprehensive update.  | No revisions necessary.  |
| 2007 |   |   |  |
| a.   | The Legislature clarified <b>options for defining "floodway"</b> as either the area that has been established in FEMA maps, or the floodway criteria set in the SMA.    | The City’s CAO incorporates the definition of “floodway” provided by FEMA in BLMC 16.26.020. By adopting the City’s CAOs by reference into the SMP, the City relies on that definition consistently through all appropriate code sections.  | No revisions necessary.  |
| b.   | Ecology amended rules to clarify that comprehensively updated SMPs shall include a <b>list and map of streams and lakes</b> that are in shoreline jurisdiction.         | The City has not identified any new streams or lakes since the comprehensive update. However, since the City’s comprehensive SMP update took place the City has annexed new areas from Pierce County that include some areas that are a part of the shoreline jurisdiction extending upland from Fennel | The City will include the newly-annexed areas of the shoreline jurisdiction in a new shoreline environmental designation (SED) map that shows the newly-added areas all categorized as a part of the “natural” SED, which is contiguous to other “natural”-designated areas related to |

| Row | Summary of change  | Review  | Action   |
|-----|--|---|--|
|     |  | Creek, which is a regulated stream.   | Fennel Creek that are already within the City. |
| c.  | Ecology’s rule listing statutory exemptions from the requirement for an SDP was amended to include <b>fish habitat enhancement projects</b> that conform to the provisions of RCW 77.55.181. | The City’s SMP does not include the specific exemptions from permit requirements from WAC 173-27-040 except by reference. | No revisions necessary.                        |

### Elective Revisions - Analysis

|    |  |   |   |
|----|--|---|---|
| a. | <b>Additional Vegetation Planting Incentives:</b> The City is proposing to clarify that a “boathouse” is an upland storage building intended to store boating-related and/or water-enjoyment equipment. The intention is to allow these structures (storage only, no habitable space) as an incentive for undertaking planting and vegetation maintenance per BLMC 16.56.050 and 16.56.060. The City is also proposing that upland property owners be able to use, with a written legal license agreement, areas of Cascade Water Alliance’s property in calculating their allowed impervious surface on the upland lot within the shoreline jurisdiction in exchange for the same planting requirement. | The City has made the changes to the appropriate sections to draw the distinction between “covered moorage,” which is prohibited and is specifically overwater, and an upland boathouse that may be built at or above (but not below) OHWM. Any upland property owner that chooses to take advantage of this incentive will provide greater ecological benefit in regards to water quality and additional habitat features, then will be lost due to installation of the boathouse due to the size and design restrictions on the structure. This is designed to meet the incetivization strategy from the City’s Shoreline Restoration Plan and RCW 90.58.020(3) and 90.58.020(4). | The City is proposing changes to BLMC 16.36.050, 16.50.020, 16.50.030, and 16.56.040. |
| b. | <b>Changes to the Overwater Pier, Dock and Float Regulations:</b> The City is proposing to simplify the design requirements related to construction, re-construction, and repair of docks, piers, and floats. Right now, the regulations limit widths, lengths, and shapes in ways that serve no ecological purpose related to the ecology of Lake Tapps. The City is proposing  | The City sees this change as appropriate, but would still like to divorce our regulations from the arbitrary assignment of limits on the width of piers and docks. The State has no set width requirement that the City is aware of. Some justified limits are appropriate to protect some separation between structures to provide   | The City has proposed the necessary changes to BLMC 16.54.030 and 16.54.030.          |

| Row | Summary of change   | Review  | Action  |
|-----|---|---|---|
|     | <p>to retain the overall regulatory limits in regards to overall square footage allowed, setbacks from neighboring docks, and length.</p>   | <p>space for safe operation of watercraft and water-related recreation. In the revised draft regulations, the City has reduced the percentage proposed to 25% which mirrors the allowed width of the upland access corridor allowed to property owners through the native vegetation zone and 10 feet of maximum width, whichever is less. At ten feet of width, residents that need space to pull watercraft such as kayak or canoes out of the water safely or that may need to use a wheelchair can better use the dock or pier for the water-dependent, watercraft access purposes for which they are intended. The interpretation provided by Ecology that there is a six (6) foot maximum width is not justified, so it has not been incorporated into the latest regulatory draft.</p> |   |
| c.  | <p><b>Nonconforming Uses and Developments:</b> The City and property owners along the Lake Tapps shoreline have had long-running concern with the way that the adopted non-conforming regulations apply to existing development and re-development activities within the shoreline jurisdiction. At the time of the City’s baseline ecological study and the effective date of the Comprehensive Shoreline Master Program Update (October 16, 2014), the City’s shoreline areas along Lake Tapps were 96% developed with residential development. In order to better regulate repair, remodeling, and</p> | <p>On Ecology’s suggestion, the City has drawn a clearer line between nonconforming structures and nonconforming uses than was in the language previously. Based on applicable language in the State’s regulations, staff reworded the section to tie the existence of development at the time of SMP adoption on October 16, 2014 to status as “legally conforming,” based on the fact that by existing at that time, that development was part of our ecological baseline. No net loss of ecological function can result from previously-existing</p>   | <p>The City has proposed changes to the applicable code sections in BLMC 16.36.170 and 16.56.150.</p> |

| <b>Row</b> | <b>Summary of change</b>  | <b>Review</b>                   | <b>Action</b> |
|------------|---|---------------------------------|---------------|
|            | improvement of existing development in ways that do not increase the degree of any non-conformity, the City is allowing that development that a property owner can demonstrate was in existence as of the effective date of the comprehensive update will be conforming for the purposes of this section. | development remaining in place. |               |