

SHORELINE MASTER PROGRAM PERIODIC REVIEW

Walla Walla County 2023 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 2022 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.

PREPARED BY	JURISDICTION	DATE
The Watershed Company: Bri Hines, Environmental Planner Dan Nickel, Principal	Walla Walla County	January 2023

Row	Summary of change	Review	Action
2022			
a.	Office of Financial Management (OFM) adjusted the cost threshold for substantial development to \$8,504.	The SMP contains a definition for “substantial development” in Section 2 – Definitions. This definition has an outdated cost threshold of \$6,416. The definition references the OFM adjustments as well as the applicable RCW.	<p>Mandatory: Update cost threshold in Chapter 2 to reflect adjusted cost threshold of \$8,504.</p> <p>Note, this could also be accomplished by solely relying on a reference to the statute (WAC 173-27-040) and removing the cost threshold altogether. Such an action may eliminate the need for future SMP amendment to this section when OFM adjusts the threshold in the future.</p>
2021			
a.	The Legislature amended floating on-water residence provisions.	The SMP includes a definition of “Houseboat or Floating Home” in Chapter 2 – definitions. This definition is an old definition that does not include the use of the term “vessels” as part of a definition of “floating on-water residence.”	<p>Recommended: Create a new definition for “floating on-water residence” consistent with this legislative update.</p> <p><i>“Floating on-water residence” means a vessel or any floating structure other than a floating home, as defined by this chapter: (a) that is designed or used primarily as a residence on the water has detachable utilities; and (b) whose owner or primary occupant has held an ownership interest in space in a marina, or has held a lease or sublease to use space in a marina, since a date prior to July 1, 2014.</i></p>

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		<p>The SMP prohibits new FOWR in Section 6.6 – Boating and Moorage Facilities, however this does not include allowance for structures established prior to July 1, 2014.</p>	<p>Required: Add verbiage into Section 6.6, Subsection B – General Regulations which classifies existing FOWRs that were established prior to July 1, 2014 as nonconforming structures.</p> <p><i>(5) Floating and other over-water homes, including liveboards, are prohibited. Existing floating on-water residences legally established and moored within a marina within Walla Walla County prior to July 1, 2014 are considered a conforming use and should be accommodated through reasonable permit conditions, or mitigation that will not effectively preclude maintenance, repair, replacement, and remodeling of existing floating on-water residences and their moorages by rendering these actions impracticable. All replacements, and remodels which add one hundred twenty square feet or more to the living space, must require on-board gray water to a waste-water disposal system.</i></p>
b.	<p>The Legislature clarified the permit exemption for fish passage projects</p>	<p>The SMP lists this exemption by referencing RCW 90.58.147 in the definition for “exemptions” in Chapter 2 – Definitions, as well as Section 7.4(F) – Exemptions from Permit requirements</p>	<p>No action needed.</p>

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2019			
a.	OFM adjusted the cost threshold for building freshwater docks.	This update is included in the reference to WAC 173-27-040.	No change needed.
b.	The Legislature removed the requirement for a shoreline permit for disposal of dredged materials at Dredged Material Management Program sites. (<i>Applies to 9 jurisdictions</i>).	Walla Walla County does not contain any sites that participate in this program.	No change needed.
c.	The Legislature added restoring native kelp, eelgrass beds and native oysters as fish habitat enhancement projects.	Walla Walla County does not contain any saltwater aquatic habitat.	No change needed.
2017			
a.	OFM adjusted the cost threshold for substantial development to \$7,047.	Updated dollar threshold provided in legislative update from 2022. See 2022(a) row above.	See response to 2022a.
b.	Ecology amended rules to clarify that the definition of “development” does not include dismantling or removing structures.	The SMP contains a definition for “development” in Section 2 – Definitions. This definition does not have the updated clarification for dismantling structures.	Required: Update the definition for “development” to include the following to the bulleted list at the end: <i>(5) Dismantling or removing structures if there is no other associated development or re-development.</i>
c.	Ecology adopted rules that clarify exceptions to local review under the SMA.	The SMP has a section listing exemptions from SMA review, but this does not include the recommended exceptions listed in this legislative update.	Recommended: In order to ensure consistent implementation of the SMP, add a consolidated section in the SMP to include all statutory exceptions to local review identified in WAC 173-27-044 and -045. <i>Exceptions</i> <i>County review is not required for those projects listed either in WAC 173-27-044, “Developments not</i>

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			<u>required to obtain shoreline permits or local review” or in WAC 173-27-045, “Developments not subject to the Shoreline Management Act.”</u>
d.	Ecology amended rules that clarify permit filing procedures consistent with a 2011 statute.	The SMP references the required permit filing procedures as well as WAC 173-27-130 in Section 7.5 – Permit Applications.	No action needed.
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.	The SMP discusses forest practice requirements in Section 6.11 – Forest Practices. This section does not clarify that solely timber cutting activities is not a development under the SMA and does not require a shoreline substantial development permit or a shoreline exemption.	<p>Recommended: The County should consider amending SMP Section 6.11 – Forest Practices to include the following statement:</p> <p><u>A forest practice that only involves timber cutting is not a development under the act and does not require a shoreline substantial development permit or a shoreline exemption. A forest practice that includes activities other than timber cutting, such as building roads and trails and placing culverts, may be a development under the act and may require a substantial development permit, as required by WAC 222-50-020 (or its successor).</u></p>
f.	Ecology clarified the SMA does not apply to lands under exclusive federal jurisdiction	The SMP specifically lists the areas of the shoreline jurisdiction which under federal jurisdiction in Section 3.2 – Shorelines of Statewide Significance, subsection (C)(5).	No change needed.
g.	Ecology clarified “default” provisions for	The SMP has outdated definitions for nonconforming	Recommended.

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	nonconforming uses and development.	lots, structures, and uses in Chapter 2 - Definitions.	Create separate definitions for Nonconforming use and Nonconforming structure. <u>Nonconforming structure or development. A building or structure or portion thereof which was lawfully erected, altered or maintained, but no longer conforms with present regulations such as setbacks, buffer or yards, area; bulk height or density standards of the Master Program.</u> <u>Nonconforming use. An activity in a structure or on a tract of land that was legally established prior to the effective date of the act or shoreline master program, which does not conform to the use regulations of the current site zoning.</u>
h.	Ecology adopted rule amendments to clarify the scope and process for conducting periodic reviews.	The SMP does not outline the periodic update process, nor is it required to do so.	No change needed.
i.	Ecology adopted a new rule creating an optional SMP amendment process that allows for a shared local/state public comment period.	This optional SMP amendment process is included in Section 7.12 – Amendments to the SMP.	No change needed.
j.	Submittal to Ecology of proposed SMP amendments.	This optional SMP amendment process is included in Section 7.12 – Amendments to the SMP.	No change needed.
2016			
a.	The Legislature created a new shoreline permit exemption for retrofitting existing structures to comply with the Americans with Disabilities Act (ADA).	This exemption is listed by reference (RCW 90.58.030(3)(e)) in Section 7.4 – Exemption from Permit Requirements	No change needed.

Row	Summary of change	Review	Action
b.	Ecology updated wetlands critical areas guidance including implementation guidance for the 2014 wetlands rating system.	The SMP discusses wetland regulations within shoreline jurisdiction in Appendix A, Section 3.1 – Wetlands critical areas designation. This section dictates that wetlands shall be rated according to the DOE publication #14-06-030 or any subsequent revisions.	No change needed.
2015			
a.	The Legislature adopted a 90-day target for local review of Washington State Department of Transportation (WSDOT) projects.	The SMP does not reference WSDOT-specific project timelines, specifically the 90-day target. However, this inclusion is not required.	No change needed.
2014			
a.	The Legislature raised the cost threshold for requiring a Substantial Development Permit (SDP) for replacement docks on lakes and rivers to \$22,500 (from \$11,200).	The SMP references WAC 173-27-040 in exemptions, which covers these updated cost thresholds.	No change needed.
b.	The Legislature created a new definition and policy for floating on-water residences legally established before 7/1/2014.	These legislative updates were addressed with item 2021(a) above.	See response to 2021(a)
2012			
a.	The Legislature amended the SMA to clarify SMP appeal procedures .	The SMP does not outline the appeal process, nor is it required to do so.	No change needed.
2011			
a.	Ecology adopted a rule requiring that wetlands be delineated in accordance with the approved federal wetland delineation manual .	The SMP dictates that wetlands in shoreline jurisdiction will be delineated with the approved federal delineation manual in Section 3 – Wetlands.	No change needed.

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b.	Ecology adopted rules for new commercial geoduck aquaculture .	Walla Walla County does not contain any saltwater shorelines, therefore this update is not applicable.	No change needed.
c.	The Legislature created a new definition and policy for floating homes permitted or legally established prior to January 1, 2011.	This updated definition was addressed in legislative update row 2021(a).	See response to 2021(a).
d.	The Legislature authorized a new option to classify existing structures as conforming .	The existing SMP states that any legally established development built before the Master Program adoption date that does not meet current provisions is considered a conforming lot/structure/use in Section 7.10 – Nonconforming Uses, Structures, and Lots.	No change needed.
2010			
a.	The Legislature adopted Growth Management Act – Shoreline Management Act clarifications .	The SMP states that the SMP and all amendments thereto shall become effective 14 days from the date of Ecology’s written notice of final approval in Section 1.6 – Effective Date.	No change needed.
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.	The SMP states in Section 6.18 – Shoreline Restoration and Enhancement that projects are potentially allowed relief pursuant to RCW 90.58.580, in the event that the project shifts the OHWM landward.	No change needed.
b.	Ecology adopted a rule for certifying wetland mitigation banks .	Section 3.13 – Wetland Mitigation Banks requires mitigation banks to be certified under Chapter 173-700 WAC.	No change needed.

Row	Summary of change	Review	Action
c.	The Legislature added moratoria authority and procedures to the SMA.	The SMP does not outline any moratoria procedures for SMP amendments, nor is it required to do so.	No change needed.
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.	The SMP contains the updated definition of "floodway" in Chapter 2 – Definitions.	No change needed.
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.	The SMP includes a listing of shoreline waterbodies in Section 1.2.	No change needed.
c.	Ecology's rule listing statutory exemptions from the requirement for an SDP was amended to include fish and wildlife habitat enhancement projects that conform to the provisions of RCW 77.55.181.	The SMP lists exemptions in 7.4 – Exemption from Permit Requirements, which includes a reference to RCW 77.55.181.	No change needed.

Additional amendments

Modify this section, as needed, to reflect additional review issues and related amendments. The summary of change could be about Comprehensive Plan and Development regulations, changes to local circumstance, new information, or improved data.

Item #	SMP Section	Summary of change	Discussion
1	7.10 Nonconforming Structures	The County would like to consider amending the allowances for the replacement of pre-existing legal residential structures when the existing structure is located in an existing hazard area (i.e. floodplain). If the existing structure could be re-located to an area outside of such a designated hazard area, then voluntary replacements should include	County staff request

Item #	SMP Section	Summary of change	Discussion
		<p>such a consideration. Therefore, an amendment may be warranted to separate redevelopment from expansion.</p> <p>Edit E.1.b. Change from footprint to area of structure.</p> <p>Clarify in the definition of Alterations, that it does not include landscape or structural maintenance.</p>	
2	1.0 Introduction	Consider adding a user/reader guide and flow chart at the beginning of the SMP (See examples from Benton Co and Skagit Co)	County staff request
3	2.0 Definitions	Connect definitions where applicable (e.g. “residential appurtenance” and “appurtenance, residential” by using a “See also....” In the definition	County staff request
4	7.6 Shoreline Substantial Development Permits	The County would like to consider changing the review process for a shoreline substantial development (SDP) permit from a Type 3 (i.e. Hearing Examiner review) to a Type 2 (i.e. Administrative review). The SMP, section 7.6, includes reference to WWCC, Chapter 14.07 and 14.09. To change the SDP process from a Type 3 to a Type 2 review, requires an amendment to WWCC 14.09 (Project Permit Review Process).	County staff request.