

SHORELINE MASTER PROGRAM PERIODIC REVIEW – TOWN OF SKYKOMISH

Periodic Review Checklist (December, 2018)

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.

INITIAL DRAFT – December 2018

The **Town of Skykomish** is conducting a periodic review of its Shoreline Master Program, last updated in 2014. The SMP is referenced at Chapter 16.25 of the Skykomish Municipal Code (SMC 16.25) and applies to shorelines along the Skykomish River and Maloney Creek. Below is a summary of the review and actions needed to ensure the SMP is consistent with recent changes to state laws and rules, changes to the local Comprehensive Plan and Development Regulations, and other changes in local circumstance, new information or improved data.

Row	Summary of change	Review	Action
2017			
a.	OFM adjusted the cost threshold for substantial development to \$7,047.	SMP references previous \$5,718 cost threshold (p. 23 <i>Definitions: Substantial Development</i> and p. 114, 9.04.02 <i>Shoreline Substantial Development Permit Exemptions</i>).	Revise SMP, permit application forms, or other administrative documents to reflect Substantial Development cost threshold of \$7,047.
b.	Ecology amended rules to clarify that the definition of “development” does not include dismantling or removing structures.	SMP does not define “development” in this way, but clarifying the definition is not required (p. 14 <i>Definitions: Development</i>).	No amendment needed, though Town may revise definition of Development.
c.	Ecology adopted rules that clarify exceptions to local review under the SMA .	SMP includes hazardous substance remedial actions and projects pertaining to RCW 80.50 under exemptions to substantial development permits (pp. 113-117, 9.04 <i>Shoreline Substantial Development Permit Exemptions</i>). WAC 173-27-040 referenced on p. 114, 9.04.02.	Consolidate exceptions to local review in a section separate from permit exemptions to incorporate Ecology’s revised rules with all applicable statutes.
d.	Ecology amended rules that clarify permit filing procedures consistent with a 2011 statute.	SMP states that Ecology’s decision must be made within 30 days of permit receipt (pp. 122-123, 9.05.09 <i>Washington State Dept. of Ecology Review</i>), but this must be changed to date of filing to maintain compliance. In 9.05 <i>Permit Application</i> (pp. 118-125), SMP must reflect updated permit filing procedures to maintain compliance.	Use “date of filing” instead of “date of receipt” for shoreline permits sent to Ecology. Revise Permit Application section (9.05) consistent with Ecology requirements.

Row	Summary of change	Review	Action
e.	Ecology amended forestry use regulations to clarify that forest practices that only involve timber cutting are not SMA “developments” and do not require SDPs.	Forest practices prohibited within shoreline jurisdiction (<i>Prohibited Activities</i> , p. 79 6.01.01).	N/A
f.	Ecology clarified the SMA does not apply to lands under exclusive federal jurisdiction .	No lands with exclusive federal jurisdiction in Town limits.	N/A
g.	Ecology clarified “default” provisions for nonconforming uses and development .	SMP includes tailored provisions for nonconforming use and development (9.10 <i>Nonconforming Development</i> , pp. 128-130). Town will retain existing nonconforming use and development provisions.	No amendment needed.
h.	Ecology adopted rule amendments to clarify the scope and process for conducting periodic reviews .	SMP does not describe periodic review scope and procedures in detail (see 9.12 <i>Master Program Review</i> , pp. 133-134). Town may follow Ecology procedures for conducting reviews without amending the SMP.	No amendment needed.
i.	Ecology adopted a new rule creating an optional SMP amendment process that allows for a shared local/state public comment period.	SMP states that Skykomish Planning Commission is to hold at least one public hearing, and that the Town Council may also hold a public hearing while reviewing SMP amendments, which would not impede a shared local/state public comment period if SMP were to adopt joint review (9.13 <i>Amendments to the Master Program</i> , p. 134).	No amendment needed, though Town has opted for a joint review process during this periodic review.
j.	Submittal to Ecology of proposed SMP amendments.	SMP does not address the details of SMP amendment submittal process (9.12 and 9.13, pp. 133-134). Town will rely on state rule.	No amendment needed.

Row	Summary of change	Review	Action
2016			
a.	The Legislature created a new shoreline permit exemption for retrofitting existing structures to comply with the Americans with Disabilities Act .	SMP does not include new permit exemption for retrofits to comply with ADA (pp. 113-117, 9.04 <i>Shoreline Substantial Development Permit Exemptions</i>).	Add the ADA exemption to the list of statutory permit exemptions.
b.	Ecology updated wetlands critical areas guidance including implementation guidance for the 2014 wetlands rating system.	<p>SMP wetlands critical areas policies and regulations include buffer table and stormwater management (5.07 <i>Critical Areas – Wetlands</i>, pp. 50-55). 2016 CAO incorporates 2014 updates but the SMP only adopts the CAO in general, not the specific 2016 update (5.13.03 <i>Regulations</i>, p. 75).</p> <p>SMP is not required to incorporate updates to 2016 guidebook, but may incorporate recommendation to emphasize the requirement to provide wildlife corridors where possible in exchange for buffer reduction.</p> <p>WAC requires SMP to use the more current, accurate, available science/technical info</p>	Adopt 2016 CAO by reference and add SMP text to clarify limitations & exception, as needed.
2015			
a.	The Legislature adopted a 90-day target for local review of Washington State Department of Transportation (WSDOT) projects.	SMP does not include provisions for WSDOT review but may adopt Ecology example code incorporating direction to conduct review consistent with 90-day legislative target.	No amendment needed.
2014			
a.	The Legislature raised the cost threshold for requiring a Substantial Development Permit (SDP) for replacement docks on	All docks are prohibited in shoreline jurisdiction (7.05 <i>Piers, Docks and Floats</i> , p. 98).	N/A

Row	Summary of change	Review	Action
	lakes and rivers to \$20,000 (from \$10,000).		
b.	The Legislature created a new definition and policy for floating on-water residences legally established before 7/1/2014.	The town includes no floating on-water residences, which are prohibited in shoreline jurisdiction (7.05 <i>Piers, Docks and Floats</i> , p. 98).	N/A
2012			
a.	The Legislature amended the SMA to clarify SMP appeal procedures .	SMP does not outline SMP appeal process in reference to Shorelines Hearings Board, p. 22 (<i>Definitions: Shorelines Hearings Board</i>). Town will rely on state laws and rules.	No amendment needed.
2011			
a.	Ecology adopted a rule requiring that wetlands be delineated in accordance with the approved federal wetland delineation manual .	SMP states that wetlands shall be delineated according to 1987 federal manual and 2010 regional supplement, as revised (5.07.03 <i>Regulations</i> , p. 51). 2016 CAO also references federal delineation.	No amendment needed, but the SMP should adopt 2016 CAO by reference as noted in row 2016(b).
b.	Ecology adopted rules for new commercial geoduck aquaculture .	The town includes no marine shorelines (1.03 <i>Shoreline Jurisdiction</i> , p. 1).	N/A
c.	The Legislature created a new definition and policy for floating homes permitted or legally established prior to January 1, 2011.	The town includes no floating homes, which are prohibited in shoreline jurisdiction (7.05 <i>Piers, Docks and Floats</i> , p. 98).	N/A
d.	The Legislature authorized a new option to classify existing structures as conforming .	SMP may optionally classify legally established residential structures as conforming, even if they do not meet updated standards. Town may address existing structures by clarifying rights and allowances for nonconforming uses without amending SMP. See pp. 128-130, 9.10 <i>Nonconforming Development</i> .	No amendment needed unless SMP incorporates this option per Town discretion.

Row	Summary of change	Review	Action
2010			
a.	The Legislature adopted Growth Management Act – Shoreline Management Act clarifications .	SMP describes effective date of SMP amendments relating to nonconforming development and states that amendments do not become effective until approved by Ecology (<i>Definitions: Nonconforming Development</i> p. 18; <i>9.10 Nonconforming Development</i> pp. 128-129; <i>9.13 Amendments to the Master Program</i> p. 134).	Clarify that SMPs are effective 14 days from Ecology’s written notice of final action.
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.	SMP does not reference a UGA or shoreline restoration projects therein.	N/A
b.	Ecology adopted a rule for certifying wetland mitigation banks .	Incorporated into SMP, addressing use of mitigation banking to compensate for development impacts (<i>10.06 Existing and Ongoing Restoration Projects</i> , p. 142; <i>10.07 Strategies for Implementation</i> p. 145). Optional moratoria procedures not included.	N/A. Addressed during comprehensive update.
c.	The Legislature added moratoria authority and procedures to the SMA.	SMP does not address optional moratoria procedures. Town may rely on statute without amending SMP.	No amendment 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.	Incorporated into SMP; “floodway” defined with FEMA maps, <i>Appendix D: Floodway Mapping Sources</i> , pp. 213-224.	N/A. Addressed during comprehensive update.
b.	Ecology amended rules to clarify that comprehensively updated SMPs shall include a list and map	Incorporated into SMP; shoreline jurisdiction described pp. 1-2 (<i>1.03 Shoreline Jurisdiction</i>).	N/A. Addressed during comprehensive update.

Row	Summary of change	Review	Action
	<p>of streams and lakes that are in shoreline jurisdiction.</p>	<p>Streams and lakes represented in Maps 6, 7, 8, and 9 (<i>Appendix C: Map Folio</i> pp. 177-180. No new streams or lakes identified since last update.</p>	
c.	<p>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.</p>	<p>Incorporated into SMP; cites RCW list of exemptions, WAC 173-27-040(2)(p) (9.04.02(12) <i>Exemptions</i>, p. 117). Exemptions are not listed in detail.</p>	<p>N/A. Addressed during comprehensive update.</p>
<p>Additional housekeeping to address local circumstances, new info, improved data</p>			
a.	<p>Local changes to status of restoration actions and opportunities.</p>	<p>Restoration Plan is included as Chapter 10 of the SMP. Pg 138 10.05 Reaches and Restoration Opportunities and Pg 142 10.06 Existing and Ongoing Restoration Projects</p>	<p>Minor revisions to the restoration plan to note completed projects or update anticipated completion dates.</p> <p>Consider removing the Restoration Plan from the SMP to present as a separate stand-alone document to allow future revision without formal SMP amendment process.</p>