

SHORELINE MASTER PROGRAM PERIODIC REVIEW – TOWN OF SKYKOMISH

Periodic Review Checklist (February, 2019)

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.

GMA & SEPA DRAFT – February 2019

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	<i>Definitions</i> revised to reflect Substantial Development cost threshold of \$7,047 (p. 23) Updated cost threshold described in 9.2.6, <i>Exemptions</i> (p. 115)
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. If clarification would be helpful, it may be incorporated into the SMP	<i>Definitions</i> revised with Ecology example code clarifying that “development” does not include dismantling or removing structures. (p. 14)
c.	Ecology adopted rules that clarify exceptions to local review under the SMA.	SMP lists projects pertaining to RCW 80.50 under exemptions to substantial development	SMP revised with three separate sections: 9.4 <i>Exemptions from the Shoreline Management Act</i> (p. 113), 9.5 <i>Exemptions from local permit review</i> (p. 113), 9.6 <i>Shoreline Substantial Development Permit Exemption</i> (p. 114)
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,” but this must be changed to “date of filing” to maintain compliance. SMP must reflect updated permit filing procedures to maintain compliance.	Revisions to 9.7.8 <i>Washington State Department of Ecology Review</i> to Ecology’s filing and permit procedures. (p. 123-124)
e.	Ecology amended forestry use regulations to clarify that forest practices that only involve timber	Forest practices prohibited within shoreline jurisdiction	No amendment needed

Row	Summary of change	Review	Action
	cutting are not SMA “developments” and do not require SDPs.	(Section 6.1.1 <i>Prohibited Activities</i> , p. 79).	
f.	Ecology clarified the SMA does not apply to lands under exclusive federal jurisdiction .	No lands with exclusive federal jurisdiction in Town limits.	No amendment needed
g.	Ecology clarified “default” provisions for nonconforming uses and development .	SMP includes tailored provisions for nonconforming use and development (Section 9.12 <i>Nonconforming Development</i> , p129).	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.	Optional edits proposed by Ecology in section 9.14, <i>Master Program Review</i> (p. 134)
i.	Ecology adopted a new rule creating an optional SMP amendment process that allows for a shared local/state public comment period.	SMP regulations would not impede a shared local/state public comment period if SMP were to adopt joint review.	Optional edits proposed by Ecology in section 9.15 <i>Amendments to the Master Program</i> (p. 134)
j.	Submittal to Ecology of proposed SMP amendments.	SMP does not address the details of SMP amendment submittal process (9.14 <i>Master Program Review</i> and 9.15 <i>Amendments to the Master Program</i> , p. 134). Town will rely on state rule.	No amendment needed.
2016			
a.	The Legislature created a new shoreline permit exemption for retrofitting existing structures to	SMP does not include new permit exemption for retrofits to comply with ADA.	Section 9.4 <i>Shoreline Substantial Development Permit Exemptions</i> revised to add the ADA exemption to the list of statutory permit exemptions.in 9.6.2 (p.118)

Row	Summary of change	Review	Action
	comply with the Americans with Disabilities Act .		
b.	Ecology updated wetlands critical areas guidance including implementation guidance for the 2014 wetlands rating system.	<p>SMP only adopts the CAO in general, not the specific 2016 update. The SMP is not required to incorporate ECY’s 2016 Wetland Guidance for CAO Updates , 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 most current, accurate, available science/technical info</p>	<p>SMP revised to adopt the 2014 ECY Wetland Rating System (Section 5.7.3.3, p. 52),</p> <p>The Town is in the process of adopting the 2016 Critical Areas Ordinance update. Once this is done, the CAO can be adopted by reference with some itemized exceptions/limitations for shoreline applicability, as needed. Duplicative and out of date language in Sections 5.6 <i>Critical Areas General Provisions</i>, 5.7 <i>Critical Areas Wetlands</i>, 5.8 <i>Critical Areas – Frequently Flooded Areas</i>, 5.9, <i>Critical Areas – Geological Hazard Areas</i> and 5.10 <i>Fish and Wildlife Habitat</i> (pp.48-70) can be removed from the SMP.</p> <p>The text of the CAO update proposed for adoption is being provided to Ecology.</p>
2015			
a.	The Legislature adopted a 90-day target for local review of Washington State Department of Transportation (WSDOT) projects.	<p>Neither SMP 6.6 Transportation Facilities nor Chapter 9 Administration include provisions for review of WSDOT projects.</p> <p>Ecology provides example language incorporating direction to conduct review consistent with 90-day legislative target.</p>	<p>No amendment required.</p> <p>Ecology proposes optional language in section 9.7.9 <i>Special procedures for WSDOT projects, (p. 124)</i></p>

Row	Summary of change	Review	Action
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).	All docks are prohibited in shoreline jurisdiction (7.05 <i>Piers, Docks and Floats</i> , p. 98).	No amendment needed
b.	The Legislature created a new definition and policy for floating on-water residences legally established before 7/1/2014.	The town has no existing floating on-water residences or overwater residential use, which are prohibited in shoreline jurisdiction.	Ecology recommended amendment to clarify by adding them to the Ch 6.1.1 <i>Prohibited Activities</i> (p. 79), and in 6.5 Residential Development 6.5.3 policy D (p. 85) and 6.5.4 Regulation 6 (p. 86).
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).	No amendment needed

Row	Summary of change	Review	Action
c.	The Legislature created a new definition and policy for floating homes permitted or legally established prior to January 1, 2011.	The town has no existing floating homes/ overwater residential use, which are prohibited in shoreline jurisdiction	See actions for line 2014.b above
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 p. 129, 9.12 <i>Nonconforming Development.</i>	No amendment needed unless SMP incorporates this option per Town discretion.
2010			
a.	The Legislature adopted Growth Management Act – Shoreline Management Act clarifications.	SMP describes effective date of SMP amendments that they do not become effective until approved by Ecology (9.15 <i>Amendments to the Master Program</i> p. 134).	SMP revised to clarify that SMPs are effective 14 days from Ecology’s written notice of final action. Optional edits proposed by Ecology in section 9.15 <i>Amendments to the Master Program</i> (p. 134)
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 Ch 2 defines Restoration, Ch 3.6 Conservation Element references restoration and Ch 10 is the Restoration Plan (to be removed as a separate document)	No amendment required. However, the restoration relief procedures are available within any incorporated city/town, just not in any unincorporated County area, so it’s not just the Town’s UGA at issue. As part of removing the Ch 10 Rstoration Plan to be a separate, stand-alone document, some restoration policies should be added to the SMP, likely at Ch5 to reference back to Ch 3.6, and to incorporate a reference to WAC 173-27-215 for this optional relief.

Row	Summary of change	Review	Action
b.	Ecology adopted a rule for certifying wetland mitigation banks .	Incorporated into SMP, addressing use of mitigation banking to compensate for development impacts (10.06 <i>Existing and Ongoing Restoration Projects</i> , p. 142; 10.07 <i>Strategies for Implementation</i> p. 145).	Consider adding placeholder language: “Once the Town has an approved program in place, credits from a certified mitigation bank may be used to compensate for unavoidable impacts.”
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 Chapter 2 Definitions ; “floodway” defined with FEMA maps, <i>Appendix D: Floodway Mapping Sources</i> , pp. 213-224.	<i>Definition</i> of “floodway” revised with an optional language amendment proposed by Ecology (p. 15)
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.	Incorporated into SMP; shoreline jurisdiction described pp. 1-2 (1.03 <i>Shoreline Jurisdiction</i>). 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.	Maps were not provided to Ecology for review in the 4.2 draft, but are included into the 5.1 draft.d

Row	Summary of change	Review	Action
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.	Incorporated into SMP Chapter 9.6.2; cites WAC 173-27-040(2)(a)	No amendment needed.

Other review elements

SMP Section/ Related Document	Summary of Change	Review	Action
Inside Cover; Participants in the Periodic Review Process	Personnel turnover	Not all names listed are current/accurate.	Revise to bring list of Planning Commission, Town Council, staff, consultants and agency staff up-to-date.
Shoreline Restoration Plan	Local changes to status of restoration actions and opportunities.	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	Minor revisions to the restoration plan to note completed projects or update anticipated completion dates. 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.