

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.	City adopts by reference (see Chapter 8, section A) WAC 173-27-040, which states OFM adjustments.	None needed
b.	Ecology amended rules to clarify that the definition of “development” does not include dismantling or removing structures.	Adjustment to definition section needed.	<p><u>Chapter 2 Defintions – “D”</u></p> <p><u>Development</u> <i>A use within shoreline planning areas 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 overlying lands subject to this chapter at any state of water level.</i> <u>“Development” does not include dismantling or removing structures if there is no other associated development or re-development.</u></p>
c.	Ecology adopted rules that clarify exceptions to local review under the SMA.	Adjustment to definition section needed. ECY recommends adopting these as separately listed exemptions and not by reference	<p><u>Chapter 8 – section “D. Statement of Exemption”</u></p> <p><u>3. Developments not required to obtain shoreline permits or local reviews. Requirements to obtain a substantial development permit, conditional use permit, variance, letter of exemption, or other review to implement the Shoreline Management Act do not apply to the following:</u></p> <ul style="list-style-type: none"> (i) <u>Remedial actions. Pursuant to RCW 90.58.355, any person conducting a remedial action 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> (ii) <u>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.</u> (iii) <u>WSDOT facility maintenance and safety improvements. Pursuant to RCW 90.58.356, Washington State 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 local review.</u> (iv) <u>Projects consistent with an environmental excellence program agreement pursuant to RCW 90.58.045.</u> (v) <u>Projects authorized through the Energy Facility Site Evaluation Council process, pursuant to chapter 80.50 RCW.</u>
d.	Ecology amended rules that clarify permit filing procedures consistent with a 2011 statute.	Adjustments needed; Puyallup SMP, Chapter 8 (Admin) does not include detailed provisions for filing process. Proposal to adopt template language.	<p><u>J. After all local permit administrative appeals or reconsideration periods are complete and the permit documents are amended to incorporate any resulting changes, City of Puyallup Shoreline Adminstrator will mail the permit, specifically using return receipt requested mail, to the Department of Ecology regional office and the Office of the Attorney General.</u></p> <p><u>WA State office of the Attorney General</u> <u>ATTN: Ecology Legal Division</u> <u>PO Box 40117</u> <u>Olympia, WA 98504-0117</u></p> <p><u>WA State Dept. of Ecology</u> <u>ATTN: SW Region Shoreline Permitting</u> <u>PO Box 47775</u> <u>Olympia, WA 98504-7775</u></p> <p><u>Projects that require both Conditional Use Permits and or Variances shall be mailed by the Adminstrator simultaneously along with any Substantial Development Permits (SDP) for the project.</u></p> <ul style="list-style-type: none"> (i) <u>The permit and documentation of the final local decision will be mailed together with:</u> <ul style="list-style-type: none"> a. <u>The complete permit application;</u> b. <u>Findings and conclusions letter/decision;</u> c. <u>Ecology permit data form (cover sheet, available from Ecology Shoreline Planner); and,</u> d. <u>Applicable SEPA documents.</u>

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			<p>(ii) <u>Consistent with RCW 90.58.140(6), the state's Shorelines Hearings Board twenty-one (21) day appeal period starts with the date of filing, which is defined below:</u></p> <ul style="list-style-type: none"> a. <u>For projects that only require a Substantial Development Permit: the date that Ecology receives the city decision.</u> b. <u>For a Conditional Use Permit (CUP) or Variance: the date that Ecology's decision on the CUP or Variance is transmitted to the applicant and City of Puyallup</u> c. <u>For SDPs simultaneously mailed with a CUP or variance to Ecology: the date that Ecology's decision on the CUP or Variance is transmitted to the applicant and the city.</u>
	Ecology amended forestry use regulations to clarify that forest practices that only involves timber cutting are not SMA "developments" and do not require SDPs.	Forest practices are not permitted by the city in shoreline. No changes recommended.	N/A
	Ecology clarified the SMA does not apply to lands under exclusive federal jurisdiction	Puyallup does not see the need to clarify this in city SMP as no federal lands occur in the city limits.	N/A
	Ecology clarified "default" provisions for nonconforming uses and development .	City has adopted WAC 173-27-080 by reference; city will adopt recommended language	<p><u>K. NONCONFORMING USE, LOT OR DEVELOPMENT</u> <u>A nonconforming use or development is a shoreline use or development which was lawfully constructed or established prior to the effective date of the Act or the Master Program, or amendments thereto, but which does not conform to present regulations or standards of the Program. In such cases, the use or development may continue subject to the provisions of WAC 173-27-080, Nonconforming Uses and Development Standards.</u></p> <p><u>Definitions</u></p> <ul style="list-style-type: none"> I. <u>"Nonconforming use" means an existing shoreline use that was lawfully established prior to the effective date of the act or the applicable master program, but which does not conform to present use regulations due to subsequent changes to the master program.</u> II. <u>"Nonconforming development" or "nonconforming structure" means an existing structure that was lawfully constructed at the time it was built but is no longer fully consistent with present regulations such as setbacks, buffers or yards; area; bulk; height or density standards due to subsequent changes to the master program.</u> III. <u>"Nonconforming lot" means a lot that met dimensional requirements of the applicable master program at the time of its establishment but now contains less than the required width, depth or area due to subsequent changes to the master program.</u> <p><u>Nonconforming structures</u></p> <ul style="list-style-type: none"> I. <u>Structures that were legally established and are used for a conforming use but are nonconforming with regard to setbacks, buffers or yards; area; bulk; height or density may continue as legal nonconforming structures and may be maintained and repaired.</u> II. <u>Nonconforming structures may be enlarged or expanded provided that said enlargement meets the applicable provisions of the master program. In the absence of other more specific regulations, proposed expansion shall not increase the extent of nonconformity by further encroaching upon or extending into areas where construction would not be allowed for new structures, unless a shoreline variance permit is obtained.</u> III. <u>Nonconforming single-family residences that are located landward of the ordinary high water mark may be enlarged or expanded in conformance with applicable bulk and dimensional standards by the addition of space to the main structure or by the addition of normal appurtenances as defined in WAC 173-27-040 (2)(g) upon approval of a conditional use permit.</u> IV. <u>A structure for which a variance has been issued shall be considered a legal nonconforming structure and the</u>

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			<p><u>requirements of this section shall apply as they apply to preexisting nonconformities.</u></p> <p>V. <u>In the absence of other more specific regulations, a structure which is being or has been used for a nonconforming use may be used for a different nonconforming use only upon the approval of a conditional use permit. A conditional use permit may be approved only upon a finding that:</u></p> <p>a. <u>No reasonable alternative conforming use is practical; and</u> b. <u>The proposed use will be at least as consistent with the policies and provisions of the act and the master program and as compatible with the uses in the area as the preexisting use.</u></p> <p><u>In addition, such conditions may be attached to the permit as are deemed necessary to assure compliance with the above findings, the requirements of the master program and the Shoreline Management Act and to assure that the use will not become a nuisance or a hazard.</u></p> <p>VI. <u>A nonconforming structure which is moved any distance must be brought as closely as practicable into conformance with the applicable master program and the act.</u></p> <p>VII. <u>If a nonconforming development is damaged to an extent not exceeding seventy-five (75) percent of the replacement cost of the original development, it may be reconstructed to those configurations existing immediately prior to the time the development was damaged, provided that application is made for the permits necessary to restore the development within two years of the date the damage occurred.</u></p> <p><u>Nonconforming uses</u></p> <p>I. <u>Uses that were legally established and are nonconforming with regard to the use regulations of the master program may continue as legal nonconforming uses.</u></p> <p>II. <u>In the absence of other more specific regulations in the master program, such uses shall not be enlarged or expanded, except upon approval of a conditional use permit.</u></p> <p>III. <u>If a nonconforming use is discontinued for twelve (12) consecutive months or for twelve (12) months during any two-year period, the nonconforming rights shall expire and any subsequent use shall be conforming unless re-establishment of the use is authorized through a conditional use permit which must be applied for within the two-year period.</u></p> <p>IV. <u>Water-dependent uses should not be considered discontinued when they are inactive due to dormancy, or where the use includes phased or rotational operations as part of typical operations. A use authorized pursuant to subsection of this section shall be considered a conforming use for purposes of this section.</u></p> <p><u>Nonconforming lots</u></p> <p>I. <u>A nonconforming lot may be developed if permitted by other land use regulations of the local government and so long as such development conforms to all other requirements of the applicable master program and the act.</u></p>
	<p>Ecology adopted rule amendments to clarify the scope and process for conducting periodic reviews.</p>		<p>4) Planning Commission</p> <p>i. The Puyallup Planning Commission shall be responsible for hearing and making recommendations for action to the City Council on the following types of matters:</p> <p>a. Amendments to the Shoreline Master Program</p> <p>b. On or before June 30, 2019, this Program shall be evaluated for cumulative effects of all authorized development on shoreline conditions and progress on the city's SMP restoration and public access plan implementation. Following June 30, 2019, the Puyallup SMP shall be reviewed not less than once every eight (8) years for cumulative effects of all authorized development on shoreline conditions and progress on the city's SMP restoration and public access plan implementation. This process should involve coordination with State resource agencies, affected tribes, and other interested</p>

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			parties. The Planning Commission will conduct the periodic review process consistent with requirements of RCW 90.58.080 and WAC 173-26-090
	Ecology adopted a new rule creating an optional SMP amendment process that allows for a shared local/state public comment period.	Puyallup SMP does not include a description of the SMP submittal process	N/A
	Submittal to Ecology of proposed SMP amendments.		
2016			
a.	The Legislature created a new shoreline permit exemption for retrofitting existing structures to comply with the Americans with Disabilities Act .	City adopts WAC 173-27-040 by reference; as such, no specific amendment is needed to address this change.	N/A
b.	Ecology updated wetlands critical areas guidance including implementation guidance for the 2014 wetlands rating system.	City adopts the use of the “most current Washington Department of Ecology Wetland Rating System for Western Washington” in PMC 21.06.910.	N/A
2015			
a.	The Legislature adopted a 90-day target for local review of Washington State Department of Transportation (WSDOT) projects.	City proposes adoption of WAC 173-27-125 by reference in Chapter 8 of Puyallup SMP	<p>A. SHORELINE MANAGEMENT PERMIT AND ENFORCEMENT PROCEDURES, ADOPTION BY REFERENCE</p> <p>The City of Puyallup hereby adopts by reference the following sections or subsections of Chapter 173-27, as amended, of the Washington Administrative Code (“WAC”) entitled Shoreline Management Permit and Enforcement Procedures.</p> <p>WAC 173-27-020 Purpose</p> <p>WAC 173-27-040 Developments exempt from substantial development permit requirement</p> <p>WAC 173-27-090 Time Requirements of Permits</p> <p>WAC 173-27-125 Special procedures for WSDOT projects.</p> <p>WAC 173-27-130 Filing with department</p> <p>WAC 173-27-270 Order to cease and desist</p> <p>WAC 173-27-280 Civil penalty</p> <p>WAC 173-27-290 Appeal of civil penalty</p> <p>WAC 173-27-300 Criminal penalty</p>
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).	City has adopted RCW 90.58.030(3)(e). Rule WAC 173-27-040(2)(h). by reference, no amendments recommended.	N/A
b.	The Legislature created a new definition and policy for floating on-water residences legally established before 7/1/2014.	Puyallup has no existing FOWRs, no amendments are needed.	N/A
2012			
a.	The Legislature amended the SMA to clarify SMP appeal procedures .	The Puyallup SMP does not describe the appeal steps for amendments to shoreline master programs; appeals would be reviewed for consistency with RCW 90.58.190.	N/A
2011			
a.	Ecology adopted a rule requiring that wetlands be delineated in accordance with the approved federal wetland delineation manual .	PMC 21.06.910 (1): “Wetlands are those areas identified through any and all technical wetland delineation manuals as required by RCW 36.70A.175. Wetland delineations will be conducted in accordance with the current manual(s) required to be utilized by the Department of	N/A

Row	Summary of change	Review	Action
		Ecology, including federally approved Army Corps of Engineers manual(s) and regional supplements.”	
b.	Ecology adopted rules for new commercial geoduck aquaculture .	City of Puyallup has no saltwater shorelines, no SMP amendments.	N/A
c.	The Legislature created a new definition and policy for floating homes permitted or legally established prior to January 1, 2011.	City of Puyallup has no floating homes and does not need to amend their SMP to address this statute.	N/A
d.	The Legislature authorized a new option to classify existing structures as conforming .	This law is optional. Puyallup will retain existing SMP regulations regarding these uses.	N/A
2010			
a.	The Legislature adopted Growth Management Act – Shoreline Management Act clarifications .	City adopted current SMP in January, 2016	N/A
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.	City will adopt WAC 173-27-215 by reference	<p>A. SHORELINE MANAGEMENT PERMIT AND ENFORCEMENT PROCEDURES, ADOPTION BY REFERENCE</p> <p>The City of Puyallup hereby adopts by reference the following sections or subsections of Chapter 173-27, as amended, of the Washington Administrative Code (“WAC”) entitled Shoreline Management Permit and Enforcement Procedures.</p> <p>WAC 173-27-020 Purpose</p> <p>WAC 173-27-040 Developments exempt from substantial development permit requirement</p> <p>WAC 173-27-090 Time Requirements of Permits</p> <p>WAC 173-27-125 Special procedures for WSDOT projects.</p> <p>WAC 173-27-130 Filing with department</p> <p>WAC 173-27-215 Shoreline restoration projects—Relief from shoreline master program development standards and use regulations</p> <p>WAC 173-27-270 Order to cease and desist</p> <p>WAC 173-27-280 Civil penalty</p> <p>WAC 173-27-290 Appeal of civil penalty</p> <p>WAC 173-27-300 Criminal penalty</p>
b.	Ecology adopted a rule for certifying wetland mitigation banks .	Use of wetland mitigation banking is already allowed in a CAO adopted by reference in SMP – PMC 21.06.980 (3)	N/A
c.	The Legislature added moratoria authority and procedures to the SMA.	City will adopt example language into Chapter 8, Administration.	<p>Moratoria authority and requirements</p> <p>I. The City of Puyallup has authority to adopting a moratorium control or other interim control on development under RCW 90.58.590.</p> <p>Before adopting the moratorium must:</p> <ol style="list-style-type: none"> Hold a public hearing on the moratorium or control; Adopt detailed findings of fact that include, but are not limited to justifications for the proposed or adopted actions and explanations of the desired and likely outcomes; Notify the department of Ecology of the moratorium or control immediately after its adoption. The notification must specify the time, place, and date of any public hearing. <p>II. The public hearing must be held within sixty days of the adoption of the moratorium or control.</p> <p>III. A moratorium or control adopted under this section may be effective for up to six months if a detailed work plan for remedying the issues and circumstances necessitating the moratorium or control is developed and made available for public review.</p> <p>IV. A moratorium or control may be renewed for one or more six-month period if the city complies with the requirements above before each renewal.</p>

Row	Summary of change	Review	Action
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.		Floodway The channel of a river or other watercourse and the adjacent land area that must be reserved in order to discharge the base flood without cumulatively increasing the surface water elevation more than one foot. Also known as the "zero-rise floodway." This area shall be identified as established in federal emergency management agency flood insurance rate maps or floodway maps. <u>The floodway does not include lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or maintained under license from the federal government, the state, or a political subdivision of the state.</u>
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.	Maps exist in the current SMP and no new waterbodies have been identified.	N/A
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.	Exemption is cited in Puyallup SMP, no change is needed at this time.	N/A

Other identified changes:

ADMINISTRATIVE RESPONSIBILITIES

The intent of this section is to detail the duties, roles and responsibilities of the City of Puyallup's Planning Director, Hearing Examiner, Appellate Hearing Examiner, Planning Commission, City Council and State Department of Ecology for administering and implementing the Shoreline Master Program.

1. Shoreline Administrator

- i. The City of Puyallup's Development Services Director, or his or her designee, known as the Administrator when carrying out the responsibilities of this Program, is hereby vested with:
 - a. Overall administrative responsibility for this Master Program;
 - b. Authority to grant or deny Shoreline Substantial Development permits and statements of exemption from Shoreline Substantial Development permits; and
 - c. Authority to carry out all responsibilities of the Department under the State Environmental Policy Act.

2. Hearing Examiner

- i. The Puyallup Office of the Hearing Examiner shall be responsible for hearing and making final determinations on the following matters:
 - ~~a. Shoreline Substantial Development Permit~~
 - b. Shoreline Conditional Use Permits
 - c. Shoreline Variance Permits
 - d. Shoreline Permit rescissions
 - e. Appeals of administrative interpretations and statements of exemption.