

SHORELINE MASTER PROGRAM PERIODIC REVIEW

Mount Vernon SMP Periodic Review Checklist

This document is intended for use by counties, cities, and towns subject to the Shoreline Management Act (SMA) to conduct 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 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 2019 that may trigger the need for local SMP amendments during periodic reviews.

How to use this checklist

See the associated *Periodic Review Checklist Guidance* for a description of each item, relevant links, review considerations, and example language. Local governments should coordinate with their assigned [Ecology regional planner](#) for more information on how to use this checklist and conduct the periodic review.

At the beginning of the periodic review

- 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).
- Ecology recommends reviewing all items on the checklist. Some items on the checklist prior to the local SMP adoption may be relevant.

At the end of your review process

- 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).

PREPARED BY	JURISDICTION	DATE
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ROW	SUMMARY OF CHANGE	REVIEW	ACTION
2019			
a.	Washington State Office of Financial Management (OFM) adjusted the cost threshold for building freshwater docks .	Section III(B)(1)(vii) contains an outdated cost threshold for docks. It also doesn't clarify whether the provision is referencing freshwater docks or saltwater docks, though this may be implied as there are no saltwater shorelines within the City of Mount Vernon.	Mandatory: The City will update the cost threshold for freshwater docks under Section III(B)(1)(vii) using Ecology's recommended language for consistency.
b.	The Legislature removed the requirement for a shoreline permit for disposal of dredged materials at Dredged Material Management Program sites .	There are no Dredged Material Management Program sites on the City's shoreline.	No action necessary.
c.	The Legislature added restoring native kelp, eelgrass beds and native oysters as fish habitat enhancement projects.	There are no saltwater shorelines in City limits. Therefore, this legislative amendment does not apply.	No action necessary.
2017			
a.	OFM adjusted the cost threshold for substantial development to \$7,047.	SMP Section III(B) includes the outdated value, but also relies on a reference to the statute (WAC 173-27-040). The SMP defines substantial development under this section, but does not include within Section IX 'Definitions'.	Mandatory: Update cost threshold in Section III(B)(1)(a)(i) to reflect adjusted cost threshold of \$7,047.
b.	Ecology permit rules clarified the definition of "development" does not include dismantling or removing structures.	The current SMP definition for development under Section IX does not include the amended rule.	Recommended: Revise the definition of 'Development' to be consistent with Ecology's recommended language to exclude dismantling or removing structures.

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c.	Ecology adopted rules clarifying exceptions to local review under the SMA.	The SMP does not reference all of the statutory exceptions to local review under the SMA, though several of them are listed as exemptions in Section III(B)(1)(b).	<p>Mandatory: Revise SMP to include reference to all statutory exceptions to local review identified in WAC 173-27-044 and -045.</p> <p>Recommended: Remove existing partial references to project types identified in WAC 173-27-045, which indicate that these are exempt from the permitting process but must still comply with SMA requirements, rather than properly identifying as exceptions to local review under the SMA. This could be accomplished by amending the definition of “Exempt Development” and/or by removing the current text in Section III(B)(1)(b), and replacing it with a new section titled “Exceptions to Local Review.”</p>
d.	Ecology amended rules clarifying permit filing procedures consistent with a 2011 statute.	The SMP does not explicitly describe the permit filing procedures. Date of receipt of final decisions involving approval or denial of a substantial development permit, variance, or conditional use permit are defined in Section IX ‘Definitions’.	<p>Recommended: Add a section for Permit Filing Procedures using Ecology’s recommended language and remove the incomplete definitions for date of receipt of final decisions, or update the existing definitions to be consistent with Ecology’s language and incorporate RCW 90.58.140(6), the state’s Shorelines Hearings Board twenty-one day appeal period.</p> <ul style="list-style-type: none"> • Added definition for ‘date of filing’ to SMP Section IX. • Revise ‘date of receipt’ to ‘date of filing’ throughout SMP. • Added 21 day appeal period to SMP Section III(B)(5). • Added Section III (F) Permitting Filing Procedures to SMP.
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 current SMP does not address forest practices. Mount Vernon does not contain forest lands.	No action necessary.
f.	Ecology clarified the SMA does not apply to lands under exclusive federal jurisdiction .	The SMP does not address federal lands.	No action necessary.
g.	Ecology clarified “default” provisions for nonconforming uses and development .	SMP Section III(E) establishes the City’s provisions for nonconforming uses and developments. Section IX ‘Definitions’ of the SMP does not include definitions for nonconforming structures, uses, or lots.	No action necessary.

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h.	Ecology adopted rule amendments to clarify the scope and process for conducting periodic reviews .	This is optional. The current SMP does not address the periodic review provision.	No action necessary.
i.	Ecology adopted a new rule creating an optional SMP amendment process that allows for a shared local/state public comment period.	The SMP does not address the amendment process, nor is it required.	No action necessary.
j.	Submittal to Ecology of proposed SMP amendments.	The SMP does not address submittal of proposed SMP amendments to Ecology, nor is it required to.	No action necessary.
2016			
a.	The Legislature created a new shoreline permit exemption for retrofitting existing structures to comply with the Americans with Disabilities Act (ADA) .	The SMP does not address the new ADA exemption.	Recommended: Update Section III(B)(1)(a) to include the new ADA exemption as xvii.
b.	Ecology updated wetlands critical areas guidance including implementation guidance for the 2014 wetlands rating system.	The SMP incorporates applicable sections of the CAO pertaining to wetlands and incorporates the Critical Areas Regulations in Appendix C. The CAO, last updated in 2010, refers to the outdated wetland rating system (2004).	Mandatory: Revise shoreline critical areas regulations to reference the 2014 wetland rating system. This could be accomplished by updating the CAO concurrently with the SMP or by incorporating specific shoreline critical areas regulations within the SMP.
2015			
a.	The Legislature adopted a 90-day target for local review of Washington State Department of Transportation (WSDOT) projects.	The SMP does not address this.	Recommended: The City may want to incorporate this update for consistency with the statute. Location: SMP III (B)(12)
2014			
a.	The Legislature created a new definition and policy for floating on-water residences legally established before 7/1/2014.	The SMP prohibits overwater residences and floating homes. There are no existing floating homes in Mount Vernon.	No action necessary.
2012			
a.	The Legislature amended the SMA to clarify SMP appeal procedures .	The current SMP does not address SMP update appeal procedures, nor is it required to when an SMP does not outline the SMP appeal process.	No action necessary

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2011			
a.	Ecology adopted a rule requiring that wetlands be delineated in accordance with the approved federal wetland delineation manual .	The SMP incorporates applicable sections of the CAO pertaining to wetlands and incorporates the Critical Areas Regulations in Appendix C. The CAO, last updated in 2010, references RCW 36.70A.175 in Section IV(A) but refers to the 2004 Washington State Wetland Rating System for Western Washington in IV(C).	Mandatory: Revise shoreline critical areas regulations to reference the approved federal wetland delineation manual. Accomplished by updating Appendix, with the City's current critical areas ordinance . Note* Provide in SMP CAO striking sections of CAO which cannot be included in the SMP. Per Ecology if the CAO is amended and it is cross-referenced without an ordinance no. or date of adoption, the CAO must go through the SMA approval process. Accordingly, SMP will state related ordinance numbers and dates of adoption.
b.	Ecology adopted rules for new commercial geoduck aquaculture .	The City only contains freshwater shorelines, therefore this update does not apply.	No action necessary.
c.	The Legislature created a new definition and policy for floating homes permitted or legally established prior to January 1, 2011.	The SMP prohibits floating homes and houseboats. There are no existing floating-on-water residences in Mount Vernon.	No action necessary.
d.	The Legislature authorized a new option to classify existing residential structures as conforming .	SMP Section III(E)(1)(c) classifies uses and development that were legally established and are non-conforming with regard to the use regulations of the SMP as legal nonconforming uses. The City choose maintain existing SMP regulations.	No action necessary
2010			
a.	The Legislature adopted Growth Management Act – Shoreline Management Act clarifications .	The current SMP was adopted in 2011 and the City's CAO was updated in 2010. The SMP incorporates applicable sections of the CAO pertaining to wetlands and incorporates the Critical Areas Regulations in Appendix C. The SMP includes no net loss provisions. However, the SMP doesn't describe the "effective date" of SMP amendments.	Recommended: Add number item to Section III(A) to include that SMP amendments are effective 14 days from Ecology's written notice of final action.
2009			
a.	The Legislature created new "relief" procedures	The SMP does not address this.	Recommended: Adopt Ecology rule by reference to include relief procedure for

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	for instances in which a shoreline restoration project within a UGA creates a shift in Ordinary High Water Mark.		shoreline restoration projects within a UGA (WAC 173-27-215). Section VIII(G)3 is a good location.
b.	Ecology adopted a rule for certifying wetland mitigation banks.	The SMP does not include authorization of certified mitigation banks. The CAO includes a section (Section IV(G)(8)) on wetland mitigation banks that references WAC 173-700 the use of certified mitigation banks.	Recommended: Consider using Ecology's recommended language for consistency: <i>Credits from a certified mitigation bank may be used to compensate for unavoidable impacts.</i>
c.	The Legislature added moratoria authority and procedures to the SMA.	The SMP does not address moratoria authority in the SMP, nor with the City opt to include the provision.	No action necessary.
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 is defined in Section IX, 'Definitions'.	No action necessary.
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.	No new shoreline waterbodies have been identified since the comprehensive update. Mount Vernon's shorelines under the SMP are limited to portions of the Skagit River "Big Bend Reach" that occur within the City's corporate limits. The SMP identifies the Skagit River as the only waterbody within shoreline jurisdiction in Section IV(A). Subsequent Shoreline Environment Designation maps also illustrate this.	No action necessary.
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.	SMP Section III(B)(1)(xv) lists public or private projects designed to improve fish or wildlife habitat or fish passage projects as exempt from the requirement for an SDP.	Recommended: Consider using Ecology's recommended language for clarity and consistency: <i>Consistent with WAC 173-27-040, a public or private project designed to improve fish or wildlife habitat or fish passage, that conforms to the provisions of RCW 77.55.181.</i>

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.

Issue No.	SMP Section	Summary of change(s)	Discussion
1.	Mount Vernon Shoreline Master Program Shoreline Environment Designation (SED) Official Map, Appendix E	<p>Update SED inset map and create an Official SED Map to incorporate two undesignated areas defined under the SMA as shoreline jurisdiction landward of the ordinary highwater mark:</p> <ul style="list-style-type: none"> • Areas associated with Barney Lake in Unincorporated Skagit County • Expanded Nookachamps Areas 	<p>There are areas within the City of Mount Vernon’s shoreline jurisdiction errantly omitted during the City’s Comprehensive Shoreline Master Program Update. Several shorelines of the state are located in unincorporated Skagit County, impacting areas within city limits.</p> <p>Please see the Mount Vernon Cumulative Impacts Analysis Addendum for further discussion.</p>
2.	Table of Contents	Create an automatic table of contents incorporated into the primary document versus being a separate document.	N/A
3.	Appendix C ‘Shoreline Critical Area Regulations’	Revise existing SMP Critical Areas Ordinance by striking existing superseded CAO and inputting up to date CAO, removing all non-compliant SMA provisions.	The City’s critical areas ordinance was comprehensively updated in 2016 with a subsequent update in 2017. Certain provisions in Appendix C do not comply with current Ecology guidance and Best Available Science.

4.	I. Introduction	Add statement to clarify that references to State and City code regulations, RCWs, and WACs throughout the SMP are intended to refer to the code/regulation as it is currently written and as it may be amended in the future.	City staff initiated amendments in order to improve section flow and document clarity.
5.	Section I. Introduction	Add Table 1. 'Abbreviations used in this document.	Abbreviations used throughout document, good to have a central location on meaning.
6.	Section III.A.2.	Remove the following provision: <i>"The City will periodically review the cumulative effect of actions taken within the shoreline to ensure that the goal of no net loss of shoreline environmental functions is being met."</i>	A review of the cumulative effect of shoreline actions will be a required component of the next Comprehensive SMP update; however, it is not required to be explicitly stated in the City's SMP.
7.	Section III.A.5-6	Relocate and consolidate permit classifications and approval processes for developments subject to the SMP into one provision. Remove permit classification types in other locations.	City staff initiated amendments in order to improve section flow and document clarity, making frequently used information easier to find and current with present permit processing.
8.	Section III.A.13-14	Relocate Permit Review Procedures from Section III.B.11 to Section III.A.5-6.	City initiated amendments in order to improve section flow and document clarity.

<p>9.</p>	<p>Section VI.A. 2 'General Provisions- Policies and Regulations Applicable to All Shorelines'.</p>	<p>Strike the following SMP provisions:</p> <p><i>Director of the Development Services Department will periodically initiate review of conditions on the shoreline and conduct appropriate analysis to determine whether or not other actions are necessary to protect and restore the ecology, protect human health and safety, upgrade visual qualities, and enhance residential, commercial, and recreational uses on the City's shorelines. Specific issues to address in such evaluations include, but are not limited to:</i></p> <ul style="list-style-type: none"> <i>i. — Water quality;</i> <i>ii. — Conservation of aquatic vegetation (control of noxious weeds and enhancement of vegetation that supports more desirable ecological and recreational conditions);</i> <i>iii. — Upland vegetation;</i> <i>iv. — Changing visual character as a result of new development, including redevelopment and individual vegetation conservation practices; and</i> <i>v. Shoreline stabilization and modifications.</i> 	<p>A cumulative effect of actions on the shoreline will be a required component of the next comprehensive SMP update (WAC 173-26-201), however it is not required to be explicitly stated the City's SMP.</p>
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10.	Throughout SMP	<p>Community and Economic Development Department (CEDD) stricken and replaced with <u>Development Services Department</u> in SMP.</p> <p>Remove definition of CEDD in definitions (Section IX).</p>	Revise department name throughout the document for organizational consistency and accuracy.
11.	Throughout SMP	Several SMP sections were re-arranged without substantive changes to the provision.	City initiated several amendments to improve section flow, clarity, formatting errors and typos. This will make the SMP more user friendly for development applicants and staff.
12.	Section III.A.12 Section III.B.1.b.i-xvi Section XI, Wetlands definition	Omit text to consolidate section by relying solely on a reference to the applicable RCW, WAC, or MVMC.	Housekeeping amendment. Per discussions with the Department of Ecology and City, amendments aim to simplify SMP and avoid necessary amendments as a result of legislative updates to the Shoreline Management Act. The City staff during shoreline permit review reference online and updated state law (RCW and WAC).
13.	Section IV	<p>Revise description and purpose of shoreline jurisdiction.</p> <p>Include statement that shorelines not found to be mapped or designated will be assigned the Urban Conservancy designation.</p>	City initiated amendment

14.	Sections VI, VII, and VIII	Added and clarified shoreline modification provisions to ensure this sub-section is consistent with currently adopted Federal and State regulations and with the requirements of the portions of the City's CAO adopted within Appendix C.	City initiated amendments
15.	XI Definitions	<p>Associated jurisdictional wetlands' amended to include <i>Associated wetlands</i> and the subsequent definition.</p> <p>'Setback' definition expanded with an illustration.</p> <p>"Ecological", "Ecosystem-wide processes", "Fill", "Floodplain", and Hyporheic zone" definitions amended to be consistent with Appendix C.</p>	City initiated amendments, both definitions updated for additional clarity.