

## SHORELINE MASTER PROGRAM PERIODIC REVIEW

---

### 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.

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).

*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
Tom Jermann	North Bonneville	August 2019

Row	Summary of change	Review	Action
2019			
a.	OFM adjusted the <b>cost threshold for building freshwater docks</b>	Draft SMP Update 7.2 (7) SDP Exemptions does not include the current threshold values.	Revise text as follows: “7. Residential dock... This exception applies if the fair market values of the freshwater dock does not exceed: <del>ten thousand dollars, (\$10,000), but if subsequent construction having a fair market value exceeding two thousand five hundred dollars (\$2,500) occurs within five years of completion of the prior construction, the</del> <u>(A) Twenty-two thousand five hundred dollars (\$22,500) for docks that are constructed to replace existing docks, are of equal or lesser square footage than the existing dock being replaced; or</u> <u>(B) Eleven thousand two hundred dollars (\$11,200) for all other docks constructed in fresh waters. However, if subsequent construction occurs within five years of completion of the prior construction, and the combined fair market value of the subsequent and prior construction exceeds the amount specified above, the</u> subsequent construction shall be considered a substantial development for the purpose of this SMP.”

Row	Summary of change	Review	Action
b.	The Legislature removed the requirement for a shoreline permit for <b>disposal of dredged materials at Dredged Material Management Program sites</b> (applies to 9 jurisdictions)	Draft SMP Update 6.2.3 (5) Dredging & Dredge Disposal	None
c.	The Legislature added <b>restoring native kelp, eelgrass beds and native oysters</b> as fish habitat enhancement projects.	Note: these saltwater species are not present in the City's shorelines;  Draft SMP Update 6.2.5 Restoration & Enhancement;  7.2(13) Exemptions from SDP Requirements – Fish Habitat Enhancement	None
<b>2017</b>			
a.	OFM adjusted the <b>cost threshold for substantial development</b> to \$7,047.	Draft SMP Update 3. Definitions – Substantial development;  7.2 (1) Exemptions from SDP Requirements – Fair Market Value;	None
b.	Ecology permit rules clarified the <b>definition of “development”</b> does not include dismantling or removing structures.	Draft SMP Update 3. Definitions - Development	Revise text as follows: “Development. ...at any stage of water level. (RCW 90.58.030). <u>Development does not include dismantling or removing structures if there is no other associated development or re-development.</u> ”
c.	Ecology adopted rules clarifying <b>exceptions to local review under the SMA.</b>	Note - SMA/SMP exceptions differ from SDP exemptions;  Draft SMP Update 3. Definitions – Exempt Developments;  7.1 Administrative Procedures – Shoreline Permit Requirements	Revise 3. as follows: “Exempt developments. ...those development activities set forth in WAC 173-27-040, <del>and RCW 90.58.030(3)(e), 90.58.140(9), 90.58.147, 90.58.355, and 90.58.515</del> which are not required to obtain a substantial development permit...”

Row	Summary of change	Review	Action
		7.2 Exemptions from SDP Requirements;	<p>Revise 7.2 as follows:  <del>“9. Energy facilities. Any project with certification from the Governor pursuant to RCW 80.50...</del></p> <p><del>14. Hazardous substance remedial actions. The procedural requirements of chapter RCW 90.58 shall not apply to a project for which a consent decree, order or agreed order has been issued pursuant to RCW 70.105D or to Ecology when it conducts a remedial action under RCW 70.105D. Ecology shall, in consultation with the City, assure that such projects comply with the substantive requirements of RCW 90.58, WAC 173-26 and this master program.”</del></p>
d.	Ecology amended rules clarifying <b>permit filing procedures</b> consistent with a 2011 statute.	Draft SMP Update 7.3 Permit Procedures	Revise text as shown in attached ‘Permit Filing Rewrite’; Adjust numbering as needed in ToC and at 7.3.4 – 8 and 7.4
e.	Ecology amended <b>forestry use regulations</b> to clarify that forest practices that only involves timber cutting are not SMA “developments” and do not require SDPs.	Draft SMP Update 6.3.1 prohibits forest practices.	None
f.	Ecology clarified the SMA does not apply to lands under <b>exclusive federal jurisdiction</b>	<p>Note: There are no such lands in the City;</p> <p>Draft SMP Update 1.1 (3) Introduction - Applicability</p>	None
g.	Ecology clarified “default” provisions for <b>nonconforming uses and development</b> .	Draft SMP Update 3. Definitions – Nonconforming use or development	<i>Optional</i> – revise 3. Definitions and 6.1.5 provisions to follow 2017 WAC amendment, per

Row	Summary of change	Review	Action
		6.1.5 Non-Conforming Use & Development	PR Checklist Guidance example language.
h.	Ecology adopted rule amendments to clarify the scope and process for conducting <b>periodic reviews</b> .	Draft SMP Update does not address periodic review explicitly; RCW and WAC standards still apply even if not stated in SMP.	None
i.	Ecology adopted a new rule creating an <b>optional SMP amendment process</b> that allows for a shared local/state public comment period.	Draft SMP Update does not address SMP amendment process explicitly; RCW and WAC standards still apply even if not stated in SMP.	None
j.	<b>Submittal</b> to Ecology of proposed SMP amendments.	Draft SMP Update does not address SMP amendment submittal requirements explicitly; RCW and WAC standards still apply even if not stated in SMP.	None
<b>2016</b>			
a.	The Legislature created a new shoreline permit exemption for retrofitting existing structure to comply with the <b>Americans with Disabilities Act</b> .	Draft SMP Update 7.2 (15)	None
b.	Ecology updated <b>wetlands critical areas guidance</b> including implementation guidance for the 2014 wetlands rating system.	Draft SMP Update 1.5 incorporates the CAO by reference (Appendix B);  21.10.070 (II.A.2) Resource lands and critical areas; standards for site-specific analysis; additional critical area report requirements; development standards – Wetlands – Wetlands rating system  Table 21.10.070-1 Buffers Required to Protect Water Quality Functions	Revise SMP 3. Definitions to add:  “ <b>Bog</b> . A low-nutrient, acidic wetland with organic soils and characteristic bog plants.”
<b>2015</b>			
a.	The Legislature adopted a <b>90-day target</b> for local review of	Draft SMP Update 7.3 Permit Procedures	<i>Optional</i> – Add text as follows:

Row	Summary of change	Review	Action
	Washington State Department of Transportation (WSDOT) projects.	RCW and WAC standards still apply even if not stated in SMP.	<p><u>“Special procedures for WSDOT projects.</u></p> <p><u>(i) Permit review time for projects on a state highway. Pursuant to RCW 47.01.485, the Legislature established a target of 90 days review time for local governments.</u></p> <p><u>(ii) Optional process allowing construction to commence twenty-one days after date of filing. Pursuant to RCW 90.58.140, Washington State Department of Transportation projects that address significant public safety risks may begin twenty-one (21) days after the date of filing if all components of the project will achieve no net loss of shoreline ecological functions.”</u></p>
2014			
a.	The Legislature created a new definition and policy for <b>floating on-water residences</b> legally established before 7/1/2014.	<p>Note: There are no existing floating homes or floating on-water residences in the City;</p> <p>Draft SMP Update 3. Definitions –</p> <p>6.3.5 (3) Residential</p>	<p>Revised 3. Definitions to add text as follows:</p> <p><u>“Floating home. A single-family dwelling unit constructed on a float, that is moored, anchored, or otherwise secured in waters, and is not a vessel, even though it may be capable of being towed.”</u></p>
2012			
a.	The Legislature amended the SMA to clarify <b>SMP appeal procedures.</b>	<p>Draft SMP Update 7.3 Permit Procedures;</p> <p>RCW and WAC standards still apply even if not stated in SMP.</p>	None

Row	Summary of change	Review	Action
2011			
a.	Ecology adopted a rule requiring that wetlands be delineated in accordance with the approved <b>federal wetland delineation manual</b> .	Draft SMP Update, Appendix B. Chapter 21.10 'CAO' @ .020 Definitions; and .070 Resource lands and critical areas; standards for site-specific analysis; additional critical area report requirements; development standards;	
b.	Ecology adopted rules for new commercial <b>geoduck aquaculture</b> .	N/A	None
c.	The Legislature created a new definition and policy for <b>floating homes</b> permitted or legally established prior to January 1, 2011.	Note: There are no existing floating homes or floating on-water residences in the City;  Draft SMP Update 3. Definitions –  6.3.5 (3) Residential	None.  See also #2014.a above.
d.	The Legislature authorizing a new <b>option to classify existing structures as conforming</b> .	Draft SMP Update 6.1.5(2)	None
2010			
a.	The Legislature adopted <b>Growth Management Act – Shoreline Management Act clarifications</b> .	Draft SMP Update 1.1(5) – Introduction – Purpose – Effective Date;  4.2.9 Critical Areas Element;  6.1.2 Critical Areas;	None
2009			
a.	The Legislature created new "relief" procedures for instances in which a <b>shoreline restoration project within a UGA</b> creates a shift in Ordinary High Water Mark.	Draft SMP Update 6.2.5(5) Restoration & Enhancement	None
b.	Ecology adopted a rule for certifying <b>wetland mitigation banks</b> .	Draft SMP Update, Appendix B 21.10 'CAO' @ .070 (II.6) Wetland & Wetland Buffer Mitigation	None

Row	Summary of change	Review	Action
c.	The Legislature added <b>moratoria authority</b> and procedures to the SMA.	Draft SMP Update 7.3.7 Administrative Interpretation & Moratoria	None
2007			
a.	The Legislature clarified <b>options for defining "floodway"</b> as either the area that has been established in FEMA maps, or the floodway criteria set in the SMA.	Draft SMP Update 3. Definitions - Floodway	None
b.	Ecology amended rules to clarify that <b>comprehensively updated SMPs shall include a list and map of streams and lakes</b> that are in shoreline jurisdiction.	Draft SMP Update 1.3 Jurisdiction;  1.4 Official Shorelines Map  Appendix A Official Shorelines Map	None
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.	Draft SMP Update 7.2 (13) Exemptions from Substantial Development Permit Requirements	None

### Additional Amendments

#	Issue	Review	Action
1	SMP – CAO consistency	Draft SMP Update 6.1.9 (3) Water Quality, Stormwater, and Nonpoint Pollution	Revise text as follows: "The use of herbicide, pesticide, fungicide, fertilizer and other such chemicals for lawn care, weed and pest control, and maintenance of ornamental gardens, lawns and landscaping, and other property management chemical applications are discouraged, shall be the minimum necessary, and all manufacturer's instructions must be followed. <u>WA Department of Ecology regulates the use of herbicides to control nuisance weeds and algae in lakes and streams.</u> Non-toxic methods are always preferred whenever feasible."

### 7.3.1 Substantial Development Permits

#### Criteria.

A Substantial Development Permit shall be granted by the Shoreline Administrator only when the development proposed is consistent with the following criteria:

1. Goals, objectives, policies and use regulations of this Program;
2. North Bonneville Comprehensive Plan and Municipal Code; and
3. The policies, procedures, guidelines, and regulations of the SMA (RCW 90.58, WAC 173-26 and WAC 173-27); and
4. The permit may include conditions as necessary to assure consistency with the act and this SMP.

If any application does not substantially comply with the criteria listed in this section, the City Council may deny such application or attach any terms or conditions needed to achieve the purpose and objectives of this SMP. Upon the City Council's determination of compliance with the criteria listed in this section, the Shoreline Administrator shall issue the permit, or issue the permit with conditions.

#### Notice to Ecology.

~~Ecology shall be notified within eight (8) days of any Shoreline Substantial Development Permit decisions made by the City Council. The Shoreline Administrator shall file the following with the Department of Ecology and the Attorney General:~~

- ~~1. A copy of the complete application pursuant to WAC 173-27-180;~~
- ~~2. Findings and conclusions that establish the basis for the decision;~~
- ~~3. The final decision of the City Council;~~
- ~~4. The permit data sheet and transmittal form (Appendix A to WAC 173-27-990);~~
- ~~5. Where applicable, the Shoreline Administrator shall also file the applicable documents required by RCW 43.21C, the State Environmental Policy Act, or a statement summarizing the actions and dates of such actions taken under RCW 43.21C; and~~
- ~~6. Affidavit of public notice.~~

~~When the project has been modified in the course of the local review process, the plans or text that clearly indicate the final approved plan shall be provided by the applicant.~~

### 7.3.2 Conditional Use Permits

#### General Provisions.

The purpose of a Shoreline Conditional Use Permit is to allow case-by-case review of uses which may have a greater potential for individual or cumulative impacts without project-specific conditions, while providing flexibility in varying the application of the use regulations of this SMP in a manner consistent with the policies of RCW 90.58.020. Ecology is the final reviewing authority for Shoreline Conditional Use Permits pursuant to WAC 173-27.

Uses that are not classified or set forth here may only be authorized as conditional uses if the applicant can demonstrate that the criteria set forth for conditional uses and any criteria for specific conditional uses are met. Unclassified uses approved as conditional uses should also remain consistent with the policies of RCW 90.58.020 and should not produce substantial adverse effects on the shoreline environment.

#### Criteria.

Pursuant to WAC 173-27-160, the criteria below shall constitute the minimum criteria for review and approval of a Shoreline Conditional Use Permit. Uses classified as conditional uses by the regulations of this SMP may be authorized provided that the applicant can demonstrate all of the following:

1. That the proposed use will be consistent with the policies of RCW 90.58.020, the policies of this SMP, the City of North Bonneville Comprehensive Plan and other applicable plans, programs and/or regulations;
2. That the proposed use will not interfere with the normal public use of public shorelines;
3. That the proposed use of the site and design of the project will be compatible with other permitted uses within the area and with uses planned for the area under the comprehensive plan and shoreline master program;
4. That the proposed use will cause no significant adverse effects to the shoreline, will not result in a net loss of ecological functions, and will not be incompatible with the environmental designation or zoning classification in which it is to be located;
5. That the public interest suffers no substantial detrimental effect; and

6. That the proposed use is in the best interest of the public's health, safety or welfare.
7. That consideration of the cumulative impact of additional requests for like actions in the area has been given and assures that the above criteria will still be satisfied. For example, if conditional use permits were granted for other developments in the area where similar circumstances exist, the total of the conditional uses shall also remain consistent with the policies of RCW 90.58.020 and shall not produce substantial adverse effects to the shoreline environment. Other uses which are not classified or set forth in this Program may be authorized as conditional uses provided the applicant can demonstrate consistency with the requirements of this section and the requirements for conditional uses contained in this Program.
8. Uses which are specifically prohibited by this Program may not be authorized pursuant to this section.

Notice to Ecology:

~~Within eight (8) days of the City Council's final decision the Shoreline Administrator shall file the following with the Department of Ecology and the Attorney General:~~

- ~~1. A copy of the complete application pursuant to WAC 173-27-180;~~
- ~~2. Findings and conclusions that establish the basis for the decision;~~
- ~~3. The final decision of the City Council;~~
- ~~4. The permit data sheet and transmittal form (Appendix A to WAC 173-27-990);~~
- ~~5. Where applicable, the Shoreline Administrator shall also file the applicable documents required by RCW 43.21C, the State Environmental Policy Act, or a statement summarizing the actions and dates of such actions taken under RCW 43.21C;~~
- ~~6. Affidavit of public notice;~~
- ~~7. When the project has been modified in the course of the local review process, plans or text that clearly indicate the final approved plan.~~

**7.3.3 Variances**

General Provisions.

The purpose of a Variance Permit is strictly limited to granting relief from specific bulk, dimensional or performance standards set forth in this SMP, and where there are extraordinary or unique circumstances relating to the physical character or configuration of property such that the denial of the permit would impose unnecessary hardships on the applicant or thwart the SMA policies stated in RCW 90.58.020. Requests for allowing uses different than those specifically identified as allowed in the shoreline environment cannot be considered in the variance process. Construction pursuant to this permit shall not begin nor can construction be authorized except as provided in WAC 173-27. In all instances, extraordinary circumstances shall be shown and the public interest shall suffer no substantial detrimental effect. Ecology is the final approving authority for Variance Permits.

Criteria.

Pursuant to WAC 173-27-170, the criteria below shall constitute the minimum criteria for review and approval of a Shoreline Variance Permit.

A. Variance Permits for development that will be located landward of the ordinary high water mark (per RCW 90.58.030(2)(b) definition) and/or landward of any wetland may be authorized provided the applicant can demonstrate all of the following:

1. That the strict application of the bulk, dimensional or performance standards set forth in this Program precludes, or significantly interferes with, reasonable use of the property;
2. That the hardship described above is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size, or natural features and not, for example, from deed restrictions or the applicant's own actions;
3. That the design of the project is compatible with other permitted activities within the area and with uses planned for the area under the comprehensive plan and shoreline master program and will not cause adverse impacts to the shoreline environment;
4. That the variance will not constitute a grant of special privilege not enjoyed by other properties in the area;
5. That the variance requested will be the minimum necessary to afford relief; and
6. That the public interest will suffer no substantial detrimental effect.

B. Variance Permits for development that will be located waterward of the ordinary high water mark or within any wetland, may be authorized provided the applicant can demonstrate all of the following:

1. That the strict application of the bulk, dimensional or performance standards set forth in this Program precludes all reasonable use of the property;
  2. That the proposal is consistent with criteria A.2 – 6 above; and
  3. That the public rights of navigation and use of the shorelines will not be adversely affected by the granting of the variance.
- C. In the granting of all Variance Permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if variances were granted to other developments in the area where similar circumstances exist, the total of the variances should also remain consistent with the policies of RCW 90.58 and should not cause substantial adverse effects to the shoreline environment or result in a net loss of ecological functions.
- D. Variances from the use regulations of this SMP are prohibited.

Notice to Ecology:

The same procedure identified for Conditional Use Permits shall be required for Variance Permits.

**7.3.4 Permit Filing**

After all local permit administrative appeals or reconsideration periods are complete and the permit documents are amended to incorporate any resulting changes, the City will mail the permit using return receipt requested mail to the Department of Ecology regional office and the Office of the Attorney General. Projects that require both Conditional Use Permits and/or Variances shall be mailed simultaneously with any Substantial Development Permits for the project.

- (i) The permit and documentation of the City’s final decision will be mailed together with:
  - a. The complete permit application;
  - b. A findings and conclusions letter;
  - c. A permit data form cover sheet (WAC 173-27-990); and
  - d. Applicable SEPA documents.
- (ii) 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:
  - a. SDP - For projects that only require a Substantial Development Permit: the date that Ecology receives the City’s decision.
  - b. CUP/VAR - 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 the City.
  - c. SDP + CUP/VAR - For SDPs simultaneously mailed with a CUP or VAR to Ecology: the date that Ecology’s decision on the CUP or Variance is transmitted to the applicant and the City.

... ..

**~~7.3.7 Administrative Interpretation and Moratoria~~**

- ~~1. An administrative interpretation of the SMP shall be a Type I-A process as defined under NBMC 18.01.200. Administrative interpretations of the SMP shall be made in consultation with the Washington State Department of Ecology as provided under WAC 173-26-140.~~
- ~~2. The city may adopt moratoria or other interim official controls as necessary and appropriate to implement this Program and the SMA, subject to the limitations of RCW 90.58.590.~~

Re-number subsequent sections as follows:

- 7.3.5 Application
- 7.3.6 Public Notice
- 7.3.7 Appeals
- 7.3.8 Revision of Shoreline Permits
- 7.4 Administrative Interpretations & Moratoria

Move Interpretations & Moratoria out of Permit Procedures as separate item

**7.4 Administrative Interpretation and Moratoria**

1. An administrative interpretation of the SMP shall be a Type I-A process as defined under NBMC 18.01.200. Administrative interpretations of the SMP shall be made in consultation with the Washington State Department of Ecology as provided under WAC 173-26-140.
2. The city may adopt moratoria or other interim official controls as necessary and appropriate to implement this Program and the SMA, subject to the limitations of RCW 90.58.590.