

## SHORELINE MASTER PROGRAM PERIODIC REVIEW

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### 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
The Watershed Company: Alex Capron, Environmental Planner	Town of Coupeville	August 19, 2021

Row	Summary of change	Review	Action
<b>2019</b>			
a.	OFM adjusted the <b>cost threshold for building freshwater docks</b>	Not applicable. The Town does not have freshwater shoreline jurisdiction.	<b>No action required.</b>
b.	The Legislature removed the requirement for a shoreline permit for <b>disposal of dredged materials at Dredged Material Management Program sites</b> ( <i>applies to 9 jurisdictions</i> )	Not applicable. There are no Dredged Material Management Program sites within the Town's jurisdiction.	<b>No action required.</b>
c.	The Legislature added <b>restoring native kelp, eelgrass beds and native oysters</b> as fish habitat enhancement projects.	The SMP does not identify specific types of fish habitat enhancement projects. However, the SMP (at CTC 16.30.090, Exemptions from substantial development) includes a reference to the exemptions in WAC 173-27-040, which captures this change.	<b>No action required.</b>
<b>2017</b>			
a.	OFM adjusted the <b>cost threshold for substantial development</b> to \$7,047.	The SMP definition for "substantial development" (at CTC 16.30.110, TTT) includes an outdated cost threshold. However, the SMP (at CTC 16.30.090.C, Exemptions from substantial development), directly references WAC 173-27-040, which includes a reference to this cost threshold, as amended.	<b>Mandatory:</b> Update cost threshold for substantial development (at CTC 16.30.110, TTT).
b.	Ecology permit rules clarified the <b>definition of "development"</b> does not include dismantling or removing structures.	The definition of "development" (at CTC 16.30.110.O) does not clarify that dismantling or removing structures does not constitute "development."	<b>Recommended:</b> Modify the definition of "development" to be consistent with Ecology's example definition.

Row	Summary of change	Review	Action
c.	Ecology adopted rules clarifying <b>exceptions to local review under the SMA</b> .	The SMP does not refer to exceptions to local review under WAC 173-27-044 or -045. The exceptions apply whether or not they are included in the SMP.	<b>Recommended:</b> Add a section to the SMP that addresses exceptions to local review, making sure to differentiate between the list of exemptions. After the list of exemptions at CTC 16.30.090 may be a good location.
d.	Ecology amended rules clarifying <b>permit filing procedures</b> consistent with a 2011 statute.	The SMP includes information on permit filing procedures for variances and conditional use permits (at CTC 16.30.530.C and 16.30.600.D) respectively, but is silent on substantial shoreline development permits simultaneously mailed with a variance or conditional use permit. However, permit filing procedures are not required to be included in SMP.	<b>Optional:</b> Since the SMP contains filing procedures for conditional use and variance permits, consider adding filing procedures for substantial shoreline development permits simultaneously mailed with a variance or conditional use permit for consistency. See Ecology's example language.
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.	CTC 16.30.390, forest management practices, permits timber harvest restricted to selective logging and thinning within 200 feet of the ordinary high-water mark of an designated shoreline environment as a conditional use. Typically, forestry activities are prohibited within Towns and Cities, as this activity may be incompatible with urban development.	<b>Optional:</b> Consider prohibiting forestry activities under CTC 16.30.390 and allowing associated clearing to occur under a clearing and grading permit.
f.	Ecology clarified the SMA does not apply to lands under <b>exclusive federal jurisdiction</b>	Not applicable. There are no federal lands within shoreline jurisdiction.	<b>No action required.</b>
g.	Ecology clarified "default" provisions for <b>nonconforming uses and development</b> .	The SMP contains local provisions regarding nonconforming uses and development (at CTC 16.30.690); therefore, the "default" provisions would not apply. The SMP (at CTC 16.30.110) includes definitions for "nonconforming structure"	<b>Recommended:</b> Update the definitions for "nonconforming structure" and "nonconforming use" in CTC 16.30.110 for consistency with those in WAC 173-27-080, and add a definition for "nonconforming lot."

Row	Summary of change	Review	Action
		(at XX) and “nonconforming use” (at YY). The state standards for nonconforming use and development (at WAC 173-27-080) include three distinct definitions for “Nonconforming use,” “Nonconforming development/structure,” and “Nonconforming lot.”	
h.	Ecology adopted rule amendments to clarify the scope and process for conducting <b>periodic reviews</b> .	The SMP does not describe the scope and process for conducting periodic reviews, nor is it required to.	<b>No action required.</b>
i.	Ecology adopted a new rule creating an <b>optional SMP amendment process</b> that allows for a shared local/state public comment period.	The SMP does not address SMP amendment processes, nor is it required to.	<b>No action required.</b>
j.	<b>Submittal</b> to Ecology of proposed SMP amendments.	The SMP does not address the process for submittal of proposed SMP amendments to Ecology, nor is it required to.	<b>No action required.</b>
<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> .	The SMP does not include this exemption in the list of exemptions (at CTC 16.30.090, Exemptions from substantial development). However, the SMP (at CTC 16.30.090.C) includes a reference to the exemptions in WAC 173-27-040, which captures this exemption.	<b>Optional:</b> This exemption could be added to the list of exemptions (at CTC 16.30.090).
b.	Ecology updated <b>wetlands critical areas guidance</b> including implementation guidance for the 2014 wetlands rating system.	The SMP incorporates the Town’s critical areas regulations by reference in CTC 16.30.260, critical areas, with specified exceptions. CTC 16.34.330.B of the Town’s critical areas regulations specifies wetlands shall be rated according to Ecology Publication #04-06-025 (2004 wetlands rating system) or as revised by Ecology.	<b>Recommended:</b> Update Critical areas regulations (CTC 16.34.330(B)) to explicitly refer to the 2014 wetlands rating system (Ecology Publication #14-06-029).

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<b>2015</b>			
a.	The Legislature adopted a <b>90-day target</b> for local review of Washington State Department of Transportation (WSDOT) projects.	The Town does not contain any highways within shoreline jurisdiction. Therefore, it is not necessary to include these provisions in the SMP.	<b>No action required.</b>
<b>2014</b>			
a.	The Legislature created a new definition and policy for <b>floating on-water residences</b> legally established before 7/1/2014.	Not applicable. SMP policy 16.30.400.B.7 states that floating homes, houseboats, and live-aboard vessels should be prohibited. The Town does not have any existing floating on-water residences. See below Additional Issues line item #1 for further details regarding transient live-aboard vessels.	<b>No action required.</b>
<b>2012</b>			
a.	The Legislature amended the SMA to clarify <b>SMP appeal procedures</b> .	The SMP does not contain specific steps or language for appealing amendments. SMP appeals procedures are not required to be included in the SMP.	<b>No action required.</b>
<b>2011</b>			
a.	Ecology adopted a rule requiring that wetlands be delineated in accordance with the approved <b>federal wetland delineation manual</b> .	The Town's CAO refers to the Washington State Wetland Identification and Delineation Manual (1997) in Section 16.34.330.A. Ecology repealed the State delineation manual rule and replaced it with a rule requiring that identification of wetlands and delineation of their boundaries shall be done in accordance with the approved federal wetland delineation manual and applicable regional supplements.	<b>Mandatory:</b> Update the CAO to use the language within the current WAC 173-22-035. See Ecology's recommended language for guidance.
b.	Ecology adopted rules for new commercial <b>geoduck aquaculture</b> .	The SMP includes Aquaculture provisions (at CTC 16.30.350); however, geoduck aquaculture	<b>Recommended:</b> Aquaculture regulations should be reviewed for consistency with

Row	Summary of change	Review	Action
		is not specifically addressed. The SMP's definition of aquaculture does not address wild geoduck harvest. The SMP includes restrictions on locations where aquaculture is allowed due to environmental constraints. Aquaculture is a conditional use in the historic urban environment and a portion of the aquatic environment.	the geoduck rules, especially siting considerations and permit requirements. A reference to WAC 173-26-241(3)(b) accomplishes this. In addition, add an aquaculture definition within CTC 16.30.110, making sure clarify this does not include wild geoduck harvest, consistent with WAC 173-26-020.
c.	The Legislature created a new definition and policy for <b>floating homes</b> permitted or legally established prior to January 1, 2011.	Not applicable. SMP policy 16.30.400.B.7 states that floating homes, houseboats, and live-aboard vessels should be prohibited. The Town does not have any existing floating homes. See below Additional Issues line item #1 for further details regarding transient live-aboard vessels.	<b>No action required.</b>
d.	The Legislature authorizing a new <b>option to classify existing structures as conforming</b> .	The SMP does not include this option, nor is it required to.	<b>No action required.</b>
2010			
a.	The Legislature adopted <b>Growth Management Act – Shoreline Management Act clarifications</b> .	The SMP does not describe the effective date of SMP amendments, nor is it required to.	<b>No action required.</b>
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.	The SMP does not include relief procedures. The relief procedures apply even if not in the SMP.	<b>No action required.</b>
b.	Ecology adopted a rule for certifying <b>wetland mitigation banks</b> .	The SMP (at CTC 16.30.330.A.5) discusses off-site mitigation options, including wetlands mitigation banking. The provision includes an out-of-date reference to Chapter 90.86 RCW 84 (Wetlands Mitigation	<b>Recommended:</b> Update the RCW in the SMP. Also consider incorporating Ecology's language for consistency: “Credits from a certified mitigation bank may be used

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		Banking). The Town’s critical areas regulations, which are incorporated by reference, define a wetlands mitigation bank, but do not include additional provisions.	to compensate for unavoidable impacts.”
c.	The Legislature added <b>moratoria authority</b> and procedures to the SMA.	The SMP does not address moratoria authority and procedures. It is not necessary to include in the SMP; the Town can rely on the statute for moratoria authority and procedures.	<b>No action required.</b>
<b>Note: SMP Locally Adopted March 25, 2008 (Ord. No. 671)</b>			
<b>2007</b>			
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.	The SMP does not explicitly define “floodway.” However, floodway is not applicable to Coupeville.	<b>No action required.</b>
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.	No new shorelines have been inventoried since the last SMP update in 2008. The SMP identifies the Town’s only shoreline as a 2.4-mile-long stretch along Penn Cove in (at CTC 16.30.040.E). This stretch is shown in the Shoreline Environment Designations map.	<b>No action required.</b>
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.	The SMP does not include this exemption in the list of exemptions (at CTC 16.30.090, Exemptions from substantial development). However, the SMP (at CTC 16.30.090.C) includes a reference to the exemptions in WAC 173-27-040, which captures this exemption.	<b>Optional:</b> Include a simple reference to the relevant WAC statute in the list of Exemptions within CTC 16.30.090, such as: “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.”
<b>Additional Staff-recommended SMP Issues to Consider</b>			

Row	Summary of change	Review	Action
1.	Transient moorage	The Town currently has no time limits for vessels anchored within Town limits.	State law currently prohibits anchoring in the same area for more than 30 consecutive days or for more than a total of 90 days in a year (WAC 332-52-155). The Town could consider adopting shorter time limitations than State law. The enforcement of any shorter time limitations would fall to local law enforcement.
2.	Derelict vessels	A management authority is not defined when the Town encounters a derelict vessel, nor are there timing restrictions for such vessels.	Consider adding a reference to the Washington Department of Natural Resources Derelict Vessel Program to report a derelict vessel. In addition, consider strengthening enforcement provisions of the SMP.
3.	Establish standards for Mooring buoys <sup>1</sup>	Mooring buoys currently lack adequate standards.	Consider adding a swing distance buffer of 100 feet to provide adequate spacing for the Port of Coupeville, the Coupeville Wastewater Treatment Plant Outfall, and launch facilities, in addition to adding provisions for state approved designs. These suggested changes will minimize the impact and nuisances associated with mooring buoys. It is also appropriate to change this to a permitted use from its existing shoreline conditional use. Finally, our suggested edits within this SMP section include adding that, “A permit from Army Corps of Engineers and Washington Department of Natural Resources is required prior to permit issuance.”

<sup>1</sup> Proposed changes by a prior City staff member without rationale. These answers represent our best estimation of benefits provided.

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4.	Residential development buffer reduction <sup>1</sup>	CTC 16.30.450.C(3), residential regulations for shoreline buffers, could be further streamlined for applicants.	<p>Consider removing the following statement from CTC 16.30.450.C(3) to avoid asking for a similar requirement twice: <i>...provided that the standard setback of 75 feet shall only be reduced upon demonstration by the applicant that view blockage will occur if the 75 foot setback is required or that reasonable economic use of the property would be denied.</i></p> <p>In addition, replace development within this provision with dwellings.</p>
5.	Shoreline Conditional Use Permit and Shoreline Variance Permit local review authority	<p>Variances (CTC Article VII) and Conditional Uses (CTC Article VIII) are currently decided by the Town Council before transmittal to Ecology for final review. Changing to a hearing examiner decision authority for local review would allow the Town Council to better concentrate on policy-making and can reduce local government liability exposure.</p>	<p>Consider changing to a hearing examiner system for shoreline conditional use and shoreline variance Town decisions, prior to forwarding to Ecology for their final review.</p>
6.	Inclusion of state law and Coupeville Town Code	CTC 16.30.740, Relationship to other plans, could provide more information about the relationship of the SMP to other plans and regulations.	<p>Consider adding more information such as state law references, including the Growth Management Act (RCW 36.70A), Shoreline Management Act (RCW 90.58) and Washington State Environmental Policy Act (43.21C RCW and Chapter 197-11 WAC). In addition, indicate that SMP goals and policies are considered an element of the Coupeville Comprehensive Plan.</p>

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7.	Critical Areas Integration	<p>The SMP currently incorporates a specific dated copy of the Critical Areas Ordinance (CAO) and Flood Damage Prevention. These can be incorporated by dated ordinance or a direct reference, though the latter choice requires amending the SMP concurrently with future CAO and Flood Damage Prevention amendments.</p> <p>The purpose of CTC Chapter 16.45, Flood Damage Prevention, is for National Flood Insurance certification and consistency with state floodplain regulations. These regulations, by-and-large, are building codes. By incorporating these into the SMP, any applicant needing to deviate from specific flood code building standards would need to apply for a shoreline variance, which could be hard to obtain.</p>	<p>Make the necessary changes to the CAO per checklist requirements under legislative amendments 2016b, 2011a, and 2009b and adopt by a specific dated version within the SMP to avoid having the SMP opened concurrently during the next CAO-initiated amendment cycle. Change Flood Damage Prevention to a soft reference (no ordinance reference) as these regulations are not necessary for consistency with RCW 90.58 or SMP guidelines.</p>
8.	SED residential allowance <sup>2</sup>	<p>The Historic Urban designation does not allow standalone single-family residential use, although existing land use patterns may favor this development outside the Town center where existing single-family residences exist.</p>	<p>To allow flexibility on the outer fringe of the Historic Urban designation, allowing standalone residential uses with the option for commercial use provides increased flexibility to promote development that provides a transition from Town Center and surrounding neighborhoods. This change can be made to the Table of Use Classifications – Attachment 2 (suggested as Appendix B) and CTC 16.30.370, Commercial Development, to clarify the</p>

<sup>2</sup> Revision added by City staff and locally adopted, per Town Council August 25, 2020 New Business item #1 (Approval of amendments to the Shoreline Master Program and Chapter 16.13 of the Coupeville Town Code).

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			location where this allowance may occur.
9.	Supporting policy to prohibit Industrial use	Coupeville is within Ebey's Landing National Historical Reserve, giving the Town greater control in uses allowed over requirements to plan under the Growth Management Act. CTC 16.30.380, Industry, references the Town's Comprehensive Plan, but not this historical reserve.	Add language to further justify prohibition of industrial use, referencing its inconsistency with the Ebey's Landing National Historical Reserve.
10.	Utilities: major versus minor & definitions	<p>CTC 16.30.480.C indicates minor utilities are allowed as a permitted use; major utilities are a conditional use. This distinction is not reflected in the Use Classifications Table.</p> <p>Further, Accessory, Major, and Minor Utilities are not defined within the Definitions section (CTC, 16.30.120), but within CTC 16.30.480.A, Utilities Introduction.</p>	<p>Distinguish the permit requirements for major and minor utilities in the Use Classifications Table.</p> <p>In addition, add Accessory, Major and Minor Utilities as definitions within CTC 16.30.120, Definitions.</p>
11.	Simplification of SMP attachments	The SMP currently has a list of agencies and their respective permits that may be out of date.	Remove this attachment and re-label the Use Classifications Table as Appendix: Use Table, as well as CTC 16.30.340.G(2) (originally CTC 16.30.330). Keep the SMP map as an attachment, as it is a requirement of the Shoreline Management Act.
12.	Fix citations	Incorrect citations to the RCW and WAC exist under the following SMP provisions: CTC 16.30.030(C), 16.30.110(RR), 16.30.160.A(1), 16.30.240.A(1). Also reword overly-complicated phrases for grammar improvement.	Add the following corrections matching the intended listed code sections in the Review column, respectively, <u>shown in underline</u> : RCW 90.58.090, WAC 173-26-201(2)(e), and RCW 90.58.100(2)(e), and WAC 173-26-201(2)(e).
<b>Additional Watershed-recommended SMP Issues to Consider</b>			

<b>Row</b>	<b>Summary of change</b>	<b>Review</b>	<b>Action</b>
13.	Critical Areas Exceptions	After Critical Areas Goals and Policies listed within CTC 16.30.260(A) and (B), respectively, subsection (C) does not explicitly note that the exceptions where critical areas do not apply are in-fact regulations.	Add a reference to CAO provisions which do not apply within shoreline jurisdiction.
14.	Listing Critical Areas Exceptions	No direct reference to CTC 16.34.140 – Exception – Reasonable Use, is listed under CTC 16.30.260(C). Further, screen for other CAO exceptions that would otherwise require a shoreline permit.	List the following CAO provisions that do not apply: CTC 16.34.140 - Reasonable Use and CTC 16.34.130 Exception – Public agency and utility.
15.	Vegetation Management	CTC 16.30.390 - Forest management practices, provides tree trimming standards for view enhancement purposes. Further, CTC 16.30.360 - Shoreline Modifications Policies and Regulations, contains policies and regulations speaking to shoreline vegetation conservation, as well a permit requirements.	Re-locate tree trimming view enhancement provision from CTC 16.30.390, as well as associated shoreline vegetation policies and regulations to a brand-new Vegetation Conservation Section, CTC 16.30.490.
16.	Clearing and Grading permit requirement	The SMP does not make it clear whether a clearing and grading permit is required for both forestry activities (CTC 16.30.390) and modifications to natural landscapes within the newly proposed Vegetation Conservation Section (CTC 16.30.490, see item #15 above).	Add the following to CTC 16.30.390 and CTC 16.30.490.C.1(a) to ensure clearing and grading permit requirements are met within the SMP: <i>A clearing and grading permit shall be required for clearing activities associated with proposed development.</i>