

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.

KENMORE SHORELINE MASTER PROGRAM PERIODIC UPDATE – JUNE 2019.

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Row	Summary of change	Review	Action
2017			
a.	OFM adjusted the cost threshold for substantial development to \$7,047.	No change required. KMC 16.75.010 links to RCW and WAC and does not specifically state exemptions.	No change required or made.
b.	Ecology amended rules to clarify that the definition of “development” does not include dismantling or removing structures.	KMC 16.10.130 Development links to RCW 90.58 as hereafter amended. It should also link to definitions in WAC 173-27-030 and WAC 173-26-020.	Amended to reference rules. See KMC 16.10.130
c.	Ecology adopted rules that clarify exceptions to local review under the SMA.	KMC 16.75.010.C references WAC 173-27-050 regarding exceptions. The text should also reference new rules about exceptions and development not subject to the Shoreline Management Act per WAC 173-27-044 and WAC 173-27-045. Ecology provides example language for consideration.	Amended to include new KMC 16.75.015 based on WAC 173-27-044 and WAC 173-27-045.
d.	Ecology amended rules that clarify permit filing procedures consistent with a 2011 statute.	Terms such as date of filing replace date of receipt (see KMC 16.75.080 for two references). Address concurrent filing requirements for SDP, CUP, Variance.	Amended KMC 16.75.080 to address new terminology and clarify permit process and submittal requirements.
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.	Forest Practices appear to be referenced in Critical Area Regulations but do not appear to be addressed in the SMP, potentially because of the urban condition of the shoreline and lack of applicability. Ecology has sample language. The reference to new WAC rules is optional.	Not applicable to shoreline conditions in Kenmore. No change required or made.
f.	Ecology clarified the SMA does not apply to lands under exclusive federal jurisdiction	Lands in exclusive federal jurisdiction include national parks or military bases.	Not applicable to shoreline conditions in Kenmore. No change required or made.

Row	Summary of change	Review	Action
g.	Ecology clarified “default” provisions for nonconforming uses and development .	Kenmore has adopted its own nonconforming rules at 16.75.050, and the Ecology clarifications do not apply. To the extent that Kenmore revisits its nonconforming rules it can consider the Ecology rules as a source of ideas.	No change required or made.
h.	Ecology adopted rule amendments to clarify the scope and process for conducting periodic reviews .	It is optional to reference the WAC rule on periodic reviews. Ecology has example language.	No change required or made.
i.	Ecology adopted a new rule creating an optional SMP amendment process that allows for a shared local/state public comment period.	It does not appear that the City’s SMP regulations limit the potential for the joint review by the City and Ecology.	No change required or made.
j.	Submittal to Ecology of proposed SMP amendments.	It does not appear that the City’s SMP regulations address submittal of SMP amendments to Ecology; consider whether to add reference to how Ecology defines the effective date of an SMP if helpful in interpretation.	No change required or made.
2016			
a.	The Legislature created a new shoreline permit exemption for retrofitting existing structures to comply with the Americans with Disabilities Act .	No change required. KMC 16.75.010 links to RCW and WAC and does not specifically state exemptions.	No change required or made.
b.	Ecology updated wetlands critical areas guidance including implementation guidance for the 2014 wetlands rating system.	Address changes in CAR and SMP.	The wetland regulations in KMC 18.55.300-- .330 were revised substantially for consistency with the most recent Ecology guidance documents.
2015			
a.	The Legislature adopted a 90-day target for local review of Washington State Department of Transportation (WSDOT) projects.	Optional to include permit review target. Ecology has example language.	No change required or made.

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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).	No change required. KMC 16.75.010 links to RCW and WAC and does not specifically state exemptions.	No change required or made.
b.	The Legislature created a new definition and policy for floating on-water residences legally established before 7/1/2014.	Confirm no existing floating residences; then not applicable.	No floating residences are found in Kenmore. Definition of floating home modified (KMC 16.10.200), and floating homes prohibited in 16.50.030.B.9.
2012			
a.	The Legislature amended the SMA to clarify SMP appeal procedures .	Not applicable. SMP does not address appeal of the post-Ecology SMP deliberation.	No change required or made.
2011			
a.	Ecology adopted a rule requiring that wetlands be delineated in accordance with the approved federal wetland delineation manual .	Applicable rule to CAR; not specified in SMP.	Updated in KMC 18.55.300.
b.	Ecology adopted rules for new commercial geoduck aquaculture .	Not applicable. No marine aquaculture.	Not applicable to shoreline conditions in Kenmore. No change required or made.
c.	The Legislature created a new definition and policy for floating homes permitted or legally established prior to January 1, 2011.	Amend definition of floating home in 16.10.200 to match definition. Confirm no existing floating homes; then other rules not applicable.	Definition of floating home modified in KMC 16.10.200.
d.	The Legislature authorized a new option to classify existing structures as conforming .	Consider whether revisions to nonconforming rules are desired. Optional approach.	No change made.
2010			
a.	The Legislature adopted Growth Management Act – Shoreline Management Act clarifications .	Not applicable. SMP adopted after 2010.	No change required or made.
2009			
a.	The Legislature created new “relief” procedures for instances in which a shoreline restoration project within a UGA creates a	Consider adding. It applies whether stated in SMP or not.	New section KMC 16.75.055 added.

Row	Summary of change	Review	Action
	shift in Ordinary High Water Mark.		
b.	Ecology adopted a rule for certifying wetland mitigation banks .	Addressed already in 18.55.330.I.	No change required or made.
c.	The Legislature added moratoria authority and procedures to the SMA.	Procedures on moratoria are not required to be in an SMP.	No change required or made.
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.	KMC 16.10.220 Floodway appears to be similar to Option 2 in Ecology guidance but not identical.	KMC 18.20.1125 was modified; included coordination with Ecology and FEMA.
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.	List and Map is provided in Shoreline Element of Comprehensive Plan. List is not in municipal code.	No change required or made.
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.	KMC 16.75.010 links to RCW and WAC and does not specifically state exemptions.	No change required or made.