

City of Spokane Valley SMP Periodic Review

Gap Analysis

Prepared on behalf of:



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Attachments

Attachment A: Periodic Review Checklist

1. Introduction

In accordance with the Washington State Shoreline Management Act, local jurisdictions with “Shorelines of the State” are required to conduct a periodic review of their Shoreline Master Programs (SMPs) (Washington Administrative Code [WAC] 173-26-090). The periodic review is intended to keep SMPs current with amendments to state laws, changes to local plans and regulations, changes in local circumstances, and new or improved data and information.

The City of Spokane Valley (City) adopted its current SMP on December 15, 2015 (Ordinance No. 15-024). Shorelines of the State in the City include Shelley Lake and the Spokane River.

The current SMP outlines goals and policies for shorelines in the City and establishes regulations for their development (codified in Spokane Valley Municipal Code [SVMC] Chapter 21.50). The current SMP includes regulations for critical areas in shoreline jurisdiction (SVMC 21.50.460–.560).

As a first step in the periodic review process, the City’s current SMP was reviewed by City staff and consultants. The purpose of this SMP Periodic Review Gap Analysis is to present a summary of the review and inform updates to the SMP. This document is organized into the following sections:

- **Section 2**, in conjunction with **Attachment A**, presents the findings of a review for gaps in consistency between the SMP and state laws, rules and implementation guidance.
- **Section 3** presents the findings of a review for gaps in consistency between the SMP and other local plans and development regulations.

This document includes tables that identify potential revision actions. Where potential revision actions are identified, they are classified as follows:

- **“Mandatory”** indicates revisions that are required for consistency with state laws.
- **“Recommended”** indicates revisions that improve consistency with state laws, but are not strictly required.
- **“Optional”** indicates revisions that amend the SMP in accordance with state laws, but that are not necessarily required or recommended for consistency with state laws.
- **“No action necessary”** indicates the SMP as written is sufficient and no change is needed at this time.

2. State Laws, Rules & Implementation Gap Analysis

The Washington State Department of Ecology’s Periodic Review Checklist summarizes recent amendments to state laws, rules and implementation guidance that may trigger the need for local SMP amendments during periodic reviews. A completed version of the Periodic Review Checklist is appended to this document as Attachment A.

Overall, few mandatory amendments are identified, with several more indicated as recommended or optional. In general, the potential amendments identified in the Periodic Review Checklist are minor in nature. They include items such as exemptions, definitions, and administrative procedures. Overall, few mandatory amendments are identified, with several more indicated as recommended or optional. In general, the potential amendments identified in the Periodic Review Checklist are minor in nature. They include items such as exemptions, definitions, and administrative procedures. Additionally, amendments are proposed to carry over existing language in the City’s Critical Areas Ordinance to the SMP.

3. Other Local Plans & Development Regulations Gap Analysis

The SMP was reviewed for gaps in consistency with other local plans and development regulations, including the zoning code. In general, the review found no major inconsistencies, but did reveal one area where the SMP might be amended to better reflect the priorities of the Comprehensive Plan. Table 3-1 summarizes a potential gap in consistency between the SMP and the Comprehensive Plan.

Table 3-1. Summary of potential gaps in consistency between the SMP and other local plans and development regulations.

No.	Topic	Review	Action
1	Permitting for Accessory Dwelling Units (ADUs)	SVMC 21.50.370.B.6 requires a Shoreline Substantial Development Permit for ADUs, whereas new single-family residences require a shoreline exemption per WAC 173-27-040(2)(g). The 2017 Comprehensive Plan Housing Element encourages additional affordable housing options such as ADUs. The additional procedural requirements for a Shoreline Substantial Development Permit compared to	Proposed action: Amend Table 21.50-1, Shoreline Uses, as well as SVMC 21.50.370, to allow accessory dwelling units as part of a shoreline exemption, consistent with WAC 173-27-040(2)(g). <i>[Optional]</i>

No.	Topic	Review	Action
		a shoreline exemption may be a disincentive to ADU applications.	

Attachment A: Periodic Review Checklist

The periodic review 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. Per guidance from the Department of Ecology, the city completed the periodic review checklist to document review considerations and determine if local amendments are needed to maintain compliance, see WAC 173-26-090(3)(b)(i).

To ease review and track potential amendments, the draft amendments to the city’s SMP have been cross-referenced with the row of the checklist below. For each proposed amendment there is a comment bubble that references the row in the checklist. For example, the proposed amendment at 21.50.020 D. has the comment “*Gap Analysis Attachment A, 2017c*”, which means the proposed amendment was in response to a change made in 2017 at row c.

Prepared By	Jurisdiction	Date
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Row	Summary of change	Review	Action
2019			
a.	OFM adjusted the cost threshold for building freshwater docks	SVMC 21.50.110.G includes outdated cost threshold for freshwater docks and does not fully align with the language in WAC 173-27-040 or RCW 90.58.030(3).	Proposed action: Reference the current cost threshold, in addition to WAC 173-27-040 to ensure the SMP always reflects the most current exemption language. <i>[Optional]</i>
b.	The Legislature removed the requirement for a shoreline permit for disposal of dredged materials at Dredged Material Management Program sites (<i>applies to 9 jurisdictions</i>)	There are no DMMP sites in City limits. Therefore, this legislative amendment does not apply.	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.

Row	Summary of change	Review	Action
2017			
a.	OFM adjusted the cost threshold for substantial development to \$7,047.	SVMC 21.50.110.A includes outdated cost threshold for substantial development, though it references RCW 90.58.030 and the Office of Financial Management for automatic cost threshold updates.	Proposed action: Reference current cost threshold under SVMC 21.50.110.A. In addition, include, “WAC 173-27-040 and RCW 90.58.030(3), or as amended” under SVMC 21.50.110 to ensure the SMP will reflect the most current exemption language. <i>[Mandatory]</i>
b.	Ecology permit rules clarified the definition of “development” does not include dismantling or removing structures.	Definition of “Development” (Appendix A1, Definitions) does not clarify that removing structures does not constitute “development.”	Proposed action: Modify the definition of “Development” to be consistent with Ecology’s example definition. <i>[Recommended]</i>
c.	Ecology adopted rules clarifying exceptions to local review under the SMA.	SVMC 21.50.020.D indicates that remedial actions are exempt from procedural requirements of the SMP.	Proposed action: Reference the exceptions in WAC 173-27-044 and -045 at SVMC 21.50.020.D. <i>[Recommended]</i>
d.	Ecology amended rules clarifying permit filing procedures consistent with a 2011 statute.	The SMP does not include specific guidance on permit filing procedures.	Proposed action: Add specific guidance on permit filing procedures to SVMC 21.50.050.B.9 consistent with Ecology example language. <i>[Recommended]</i>
e.	Ecology amended forestry use regulations to clarify that forest	Forestry uses are prohibited by the current SMP (Table	No action necessary.

Row	Summary of change	Review	Action
	practices that only involves timber cutting are not SMA “developments” and do not require SDPs.	21.50-1: Shoreline Uses, within SVMC 21.50.190, Shoreline Uses Table).	
f.	Ecology clarified the SMA does not apply to lands under exclusive federal jurisdiction	No federal lands exist within City shoreline jurisdiction.	No action necessary.
g.	Ecology clarified “default” provisions for nonconforming uses and development .	The SMP contains its own provisions regarding nonconforming uses, structures and lots under SVMC 21.50.150. SMP Appendix A-1, Definitions, includes definitions of “Nonconforming structure” and “Nonconforming use,” but not for “Nonconforming lot.”	Proposed action: Add a definition for “nonconforming lot” consistent with Ecology’s example language. <i>[Recommended]</i>
h.	Ecology adopted rule amendments to clarify the scope and process for conducting periodic reviews .	The SMP does not include procedures for periodic reviews, nor is required.	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 include procedures for the optional amendment process, nor is required.	No action necessary.
j.	Submittal to Ecology of proposed SMP amendments.	The SMP does not include procedures for submittal to Ecology of proposed SMP amendments.	No action necessary.
2016			
a.	The Legislature created a new shoreline permit exemption for retrofitting existing structure to comply with the Americans with Disabilities Act .	SVMC 21.50.110 does not include this exemption.	Proposed action: Reference WAC 173-27-040 and RCW 90.58.030(3) to ensure the SMP always reflects the most current exemption language.

Row	Summary of change	Review	Action
			Add this exemption to SVMC 21.50.110. <i>[Mandatory]</i>
b.	Ecology updated wetlands critical areas guidance including implementation guidance for the 2014 wetlands rating system.	The SMP references the 2004 wetlands rating system and does not include the most recent wetland critical areas guidance.	Proposed action: Update the SMP wetland regulations in SVMC 21.50.520 to reference the 2014 wetland rating system. <i>[Mandatory]</i>
2015			
Note: SMP Locally Adopted December 15, 2015			
a.	The Legislature adopted a 90-day target for local review of Washington State Department of Transportation (WSDOT) projects.	The SMP does not acknowledge WSDOT review timelines, nor is it required to.	No action necessary.
2014			
a.	The Legislature created a new definition and policy for floating on-water residences legally established before 7/1/2014.	The City does not have any floating on-water residences, nor does the SMP allow them per SVMC 21.50.370.B.4.	No action necessary.
2012			
a.	The Legislature amended the SMA to clarify SMP appeal procedures .	SMP does not contain specific steps or language for appealing amendments, nor is it required to.	No action necessary.
2011			
a.	Ecology adopted a rule requiring that wetlands be delineated in accordance with the approved federal wetland delineation manual .	The SMP, as well as the Citywide critical areas regulations in SVMC Chapter 21.40, Critical Areas, require the use of the current	No action necessary.

Row	Summary of change	Review	Action
		approved federal wetland delineation manual.	
b.	Ecology adopted rules for new commercial geoduck aquaculture .	There are no saltwater shorelines in City limits. Therefore, this legislative amendment 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.	Not applicable. The City does not have any floating homes, nor does the SMP allow them per SVMC 21.50.370.B.4.	No action necessary.
d.	The Legislature authorizing a new option to classify existing structures as conforming .	The SMP does not classify existing structures as conforming, nor is it required to. Maintenance and repair of existing structures is allowed. Alterations to existing structures that do not increase nonconformity are also allowed under SVMC 21.50.150.B.4.	No action necessary.
2010			
a.	The Legislature adopted Growth Management Act (GMA) – Shoreline Management Act (SMA) clarifications .	The SMP critical area regulations in SVMC 21.50.460 through 21.50.560 do not reflect the GMA - SMA clarifications.	Proposed action: Update the SMP to reflect the GMA – SMA clarifications. <i>[Mandatory]</i>
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.	The SMP does not include or reference the relief criteria or procedures in WAC 173-27-215.	Proposed action: Reference the relief criteria and procedures in WAC 173-27-215. <i>[Recommended]</i>

Row	Summary of change	Review	Action
b.	Ecology adopted a rule for certifying wetland mitigation banks .	The SMP, as well as the Citywide critical areas regulations in SVMC Chapter 21.40, Critical Areas, address wetland mitigation banks.	No action necessary.
c.	The Legislature added moratoria authority and procedures to the SMA.	SMP does not reference moratoria authority. The City can rely on statute for moratoria authority and procedures.	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 not defined in the SMP. However, “floodway” is defined in SVMC Appendix A consistent with the FEMA definition.	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.	The list of shoreline jurisdictional areas is located under SVMC 21.50.020.B and Appendix B, Figure 51 of the adopted Comprehensive Plan includes streams and lakes within the shoreline jurisdiction.	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	This exemption is included at SVMC 21.50.110.O.	No action necessary.

Row	Summary of change	Review	Action
	conform to the provisions of RCW 77.55.181.		