City of Sumas Shoreline Master Program Periodic Review and Update
Department of Ecology Checklist(s)

Prepared By: Rollin Harper | **Jurisdiction:** City of Sumas | **Date:** June 30, 2021 (Final DRAFT)

Key to Exhibits referenced below:

- Part One: Shoreline Goals and Policies
- Part Two: Shoreline Regulations – Chapter 16.04 NMC
- Part Three: Adopted by Reference
- Prt Four: Official Shoreline Map

All documents are available on the City's SMP Update webpage: http://www.cityofsumas.com/shoreline_management_master_program.

Table 1. Periodic Review Checklist

Row	*Summary of change*	*Review*	*Action*
2019			
a.	OFM adjusted the **cost threshold for building freshwater docks**	The SMP does not include a cost threshold for the construction of replacement docks, but does include the appropriate cost threshold for the construction of a new dock in fresh water. **Relevant Location(s):** • 15.04.090(8)	No docks are present within City SMP jurisdiction and none are anticpated in the future; therefore, inclusion of a cost threshold for dock replacement is deemed to be unnecessary. **Relevant Location:** • 15.04.090(A)(8)
b.	The Legislature removed the requirement for a shoreline permit for **disposal of dredged materials at Dredged Material Management Program sites**	The SMP does not include this provision. No such sites are locaed in the City. **Relevant Location(s):**	Inserted an exception to permit applicability for disposal of dredge materials at eligible sites.

Row	*Summary of change*	*Review*	*Action*
		• **N/A**	**Relevant Location(s):** • 15.04.080(F)
c.	The Legislature added **restoring native kelp, eelgrass beds and native oysters** as fish habitat enhancement projects.	The SMP does not address this type of activity because no such elements are presnet.	No action deemed necessary.
2017			
a.	The Office of Financial Management (OFM) adjusted the **cost threshold for substantial development** to $7,047.	The SMP currently cites an outdated cost threshold for substantial development in both the definition of "Substantial development" and the list of substantial development exemptions. **Relevant Location(s):** • 15.04.030 • 15.04.090(A)(1)	Inserted updated cost threshold of $7,047.00 for exemptions to substantial development permitting. **Relevant Location:** • 15.04.030 • 15.04.090(A)(1)
b.	Ecology amended rules to clarify that the **definition of "development"** does not include dismantling or removing structures.	The SMP definition of "Development" does not clarify that development does not include dismantling or removing structures. **Relevant Location(s):** • 15.04.030	Revised the definition of "Development" to clarify that development does not include dismantling or removing structures. **Relevant Location:** • 15.04.030
c.	Ecology adopted rules that clarify **exceptions to local review under the SMA.**	The SMP does not include all of the exceptions to local review included in WAC 173-27-044 and -045. **Relevant Location(s):** • 15.04.080	Inserted statutory exceptions to local review. **Relevant Location:** • 15.04.080(E)
d.	Ecology amended rules that clarify **permit filing procedures** consistent with a 2011 statute.	The SMP properly identifies the date of filing consistent with RCW 90.58.140(6), as well as the appropriate 21-day appeal period.	No action deemed necessary. **Relevant Location(s(:** • 15.04.200

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Row	*Summary of change*	*Review*	*Action*
		Relevant Location(s): • 15.04.200 • 15.04.210	• 15.04.210
e.	Ecology amended **forestry use regulations** to clarify that forest practices that only involve timber cutting are not SMA "developments" and do not require Shoreline Substantial Development Permits.	The SMP does not clarify that forest practices involving only timber cutting are not SMA "developments" and do not require Shoreline Substantial Development Permits. **Relevant Location(s):** • 15.04.030	Revised definition of "Development" to clarify that forest practices that involve only timber cutting are not SMA "developments" and do not require a Shoreline Substantial Development Permit or statement of exemption. **Relevant Location:** • 15.04.030
f.	Ecology clarified the SMA does not apply to lands under **exclusive federal jurisdiction**	The SMP does not clarify that the SMP does not apply to lands under exclusive federal jurisdiction. **Relevant Location(s):** • N/A	Revised language to clarify that direct federal activities undertaken within SMP jurisdiction shall comply to the maximum extent practicable. **Relevant Location:** • 15.04.080(D)
g.	Ecology clarified "default" provisions for **nonconforming uses and development**.	The SMP includes a definition of "Non-conforming use, development or structure" that is generally consistent with those in WAC 173-27-080. **Relevant Location(s):** • 15.04.030	No action deemd necessary. **Relevant Location:** • 15.04.030
h.	Ecology adopted rule amendments to clarify the scope and process for conducting **periodic reviews**.	The SMP does not address the process for conducting periodic reviews of the SMP. **Relevant Location(s):** • N/A	No action deemed necessary.
i.	Ecology adopted a new rule creating an **optional SMP amendment process** that allows for a shared local/state public	The SMP does not address the optional SMP amendment process that allows for shared local/state public comment	No action deemed necessary.

Row	Summary of change	Review	Action
	comment period.	period. **Relevant Location(s):** • N/A	
j.	**Submittal** to Ecology of proposed SMP amendments.	The SMP does not address submittal to Ecology of proposed SMP amendments. **Relevant Location(s):** • N/A	No action deemed 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 include an exemption for retrofitting existing structures to comply with the ADA. **Relevant Location(s):** • 15.04.090	Revised language to include shoreline permit exemption for retrofitting existing structures to comply with the ADA. **Relevant Location:** • 15.04.090(A)(17)
b.	Ecology updated **wetlands critical areas guidance** including implementation guidance for the 2014 wetlands rating system.	The SMP includes the requirement to use the 2014 wetand rating system or most recent update. **Relevant Location(s):** • 15.04.471(B)	No action deemed necessary because the SMP already requies use of the 2014 Ecology wetland rating system. **Relevant Location(s):** • 15.04.471(B)
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 the 90-day target for local review of WSDOT projects. **Relevant Location(s):** • N/A	No action deemed necessary. **Relevant Location:** • N/A
2014			
a.	The Legislature created a new definition and policy for **floating on-water residences** legally established before 7/1/2014.	The SMP prohibits new floating on-water residences, and no such	No action deemed necessary.

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Row	Summary of change	Review	Action
		residences currently exist. **Relevant Location(s):** • 15.04.530(H)(3)(m)	**Relevant Location:** N/A
2012			
a.	The Legislature amended the SMA to clarify **SMP appeal procedures**.	The SMP addresses SMP appeal procedures. **Relevant Location(s):** • 15.04.210 (Permits) • 15.04.220 (Enforcement)	No action deemed necessary. **Relevant Location(s):** • 15.04.210 • 15.04.220
2011			
a.	Ecology adopted a rule requiring that wetlands be delineated in accordance with the approved **federal wetland delineation manual**.	The SMP requires use of the federal (Army Corps) wetland delineation manual. **Relevant Location(s):** • 15.04.471(A)	No change deemed necessary. **Relevant Location(s):** • 15.04.471(A)
b.	Ecology adopted rules for new commercial **geoduck aquaculture**.	The SMP jurisdictional area does not include areas suitable for geoduck aquaculture. **Relevant Location(s):** • N/A	No action deemed necessary.
c.	The Legislature created a new definition and policy for **floating homes** permitted or legally established prior to January 1, 2011.	The City does not includd any floating homes legally established prior to January 1, 2011. **Relevant Location(s):** • N/A	There are no legally established floating homes in the City. No action deemed necessary.
d.	The Legislature authorized a new **option to classify existing structures as conforming**.	The SMP does not include provisions that would classify existing residential structures as conforming. **Relevant Location(s):**	Given that this is an optional provision, no action deemed necessary.

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Row	Summary of change	Review	Action
		• N/A	
2010			
a.	The Legislature adopted **Growth Management Act – Shoreline Management Act clarifications**.	The SMP establishes SMP jurisdictional areas, and the CAO establishes that CAO jurisdiction is applicable outside SMP jurisdiction. The SMP does not clarify the effective date of SMP amendments. **Relevant Location(s):** • 15.20.050	Added language to clarify that the effective date of SMP amendments is 14 days from notice of final approval by Ecology. **Relevant Location:** • 15.04.025
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 a provision establishing relief procedures for shoreline restoration projects that create a shift in OHWM. **Relevant Location(s):** • 15.04.540(G)(2)	Incorporated reference to WAC 173-27-215 for criteria and procedures for instances in which a shoreline restoration project creates a shift in OHWM. **Relevant Location:** • 15.04.540(G)(2)(c)
b.	Ecology adopted a rule for certifying **wetland mitigation banks**.	The SMP allows the use of mitigation banks, but does not address rules for certifying such mitigation banks. **Relevant Location(s):** • N/A	No action deemed necessary.
c.	The Legislature added **moratoria authority** and procedures to the SMA.	The SMP does not address moratoria authority. **Relevant Location(s):** • N/A	No action deemed necessary. The City will continue to rely on the state satute that addresses moratoria.
2007			
a.	The Legislature clarified **options for defining "floodway"** as either the area that has been	The SMP "Floodway" definition does not clarify the basis for the area	Revised definition of "Floodway, shoreline" for complete consistency

Row	*Summary of change*	*Review*	*Action*
	established in FEMA maps, or the floodway criteria set in the SMA.	considered shoreline floodway. **Relevant Location(s):** • 15.04.030	with Ecology's recommended language to clarify use of the shoreline floodway (non-FEMA) criteria established in the SMA. **Relevant Location:** • 15.04.030
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 SMP includes text and a labeled map that identify the streams that are within shoreline jurisdiction. **Relevant Location(s):** • Part One – Section 5.1 • 15.04.030 (Shorelands) • 15.04.060 (Geographic Jurisdiction) • Part Four: Official Shoreline Map	No changes to streams included in shoreline jurisdiction. SMP text and Official Shoreine Map updated to reflect shoreline jurisdictional area. **Relevant Location:** • Part Four – Official Shoreline Map
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 includes an exemption for fish habitat enhancement projects. **Relevant Location(s):** • 15.04.090(16)	No action deemed necessary. **Relevant Location(s):** • 15.04.090(16)

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Table 2. Additional Locally Initiated Amendments

Note: Apart from the required amendments listed in Table 1, the City Council directed staff to make other amendments, which are shown in this table.

Topic	Discussion	Action
Eliminate Optional Shoreline Jurisdictional Area	The City proposes to eliminate the previously adopted optional jurisdictional area adjacent to associated wetlands within the 100-year floodplain. The area adjacent to associated wetlands located outside mandatory shoreline jurisdiction can be regulated under the City's CAO, which contains the same buffer and mitigation requirements as those in the SMP.	Revised the following provisions to eliminate the optional 50-foot SMP jurisdictional area adjacent to associated wetlands within the 100-year floodplain: • Part One – Section 5.1 • 15.04.030 (Shorelands) • 15.04.060 (Geographic Jurisdiction) • Part Four - Official Shoreline Map
Urban Conservancy-Wetland Purppose and Designation Criteria	The area to which the Urban Conservancy-Wetland environment would be applicable needs to be clarified, especially in light of the proposed change to SMP jurisdiction to eliminate the optional 50-foot jurisdictional area adjacent to associated wetlands.	Revised the Purpose and Designation Criteria for the Urban Conservancy-Wetland environment to clarify that the Urban Conservancy-Wetland environment applies to associated wetlands within the 100-year floodplain. **Relevant Location(s):** • Part One – Section 5.8
Shoreline Floodway Definition	The City is proposing to define the shoreline floodway based on the criteria in the SMA rather than based on the mapping of the FEMA floodway. Based on data from Whatcom County and the City that track the frequency of major flooding events where floodwaters extend beyond the Top of Bank adjacent to the Sumas River and Johnson Creek, which occur approximately once every five years, the	Revised the definition of the "Floodway, Shoreline" to establish the Top of Bank as being the extent of the Shoreine Floodway.

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Topic	Discussion	Action
	City is proposing to define the Shoreline Floodway as being the Top of Bank.	**Relevant Location(s):** 15.04.030
References to Regulations Adopted by Reference	The City's Critical Aeas Ordinance was updated in 2016 and the City's Flood Damage Prevention ordinance was updated in 2018. The references to the ordinances adopted by reference need to be updated for consistency.	Updated the references to the ordinances adopted by reference. **Relevant Location(s):** • 15.04.470
Conservancy versus Urban-2 Wetlands	The City is proposing to add text to clarify the designation and regulation of Conservancy and Urban-2 wetlands as defined in the SMP and depicted on the Official Shoreline Map.	Added new section clarifying the designation of Conservancy and Urban-2 wetlands. **Relevant Location(s):** • 15.04.473(A)(5)
Threshold for Public Access Requirement	The SMP is not consistent in its establishment of the threshold for requiring public access in relation to residential development. Requiring public access for developments creating more than four lots is appropriate.	Minor revisions to the following provisions to establish a consistent threshold for public access : • 15.04.490(H) • 15.04.530(H)(3)(h)
Updated Regulations Adopted by Reference	Copies of the chapters of the City's Municipal Code adopted by reference need to be updated based on ordinances adopted since adoption of the City's SMP in 2015.	Updated attached SMC Chapters adopted by reference and incorporated in Part Three, including: • SMC 15.20 • SMC 14.30
Updated Official Shoreine Map	Based on the proposed elimination of the optional 50-foot SMP jurisdictional area adjacent to associated wetlands, the Oficial Shoreline Map needs to be updated.	Updated Oficial Shoreline Map: • Part Four – Oficial Shoreline Map

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Table 3. Comprehensive Update Table

Note: This table is not required for a Periodic Review and Update.

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