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
Jeff Watson	City of Zillah	3/8/2021

Row	*Summary of change*	*Review **	*Action*
2019			
a.	OFM adjusted the **cost threshold for building freshwater docks**	SMP Section 16.D.03.07.7 includes an outdated cost threshold.	**Mandatory:** The City may add the following threshold dollar figure for when an SDP is triggered for freshwater docks: *In fresh waters the fair market value of the dock does not exceed:* *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* b. *Eleven thousand two hundred ($11,200) dollars 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 subsequent construction shall be considered a substantial development for the purpose of this chapter. UDATED LANGUAGE ADDED TO XX.03.07*
b.	The Legislature removed the requirement for a shoreline permit for **disposal of dredged materials at Dredged Material**	There are no DMMP site on the shoreline. Therefore, this legislative amendment does not apply.	No action necessary

	Management Program sites *(applies to 9 jurisdictions)*		
c.	The Legislature added **restoring native kelp, eelgrass beds and native oysters** as fish habitat enhancement projects.	SMP 16D.03.07.15 references fish habitat projects, including reference to RCW 77.55.181, capturing the legislative update.	No action necessary - see XX.03.07.15 no change from Regional SMP. It was carried over into the city's SMP
2017			
a.	OFM adjusted the **cost threshold for substantial development** to $7,047.	SMP 16D.03.07.3, Exemptions for Hydrologically Related Critical Areas Wetlands and Shorelines, references the out of date dollar figure, as well as the RCW reference, which adjusts automatically for inflation:	The City references the updated dollar figure, in addition to leaving the existing RCW reference for future updates.- see XX.03.07.3.
b.	Ecology permit rules clarified the **definition of "development"** does not include dismantling or removing structures.	The current SMP definition for development does not include the amended rule (SMP 16D.02.135, Definitions):	The City added language to the Definition of Development addressing dismantling or removing structures see XX.02.135.
c.	Ecology adopted rules clarifying **exceptions to local review under the SMA.**	SMP Section 16.D.03.05 does not include the updated exceptions.	Language addressing exceptions to local review added see XX.02.03 Exceptions to Local Review.
d.	Ecology amended rules clarifying **permit filing procedures** consistent with a 2011 statute.	SMP Chapter 16D.03, Application and Review Procedures, do not describe the filing process. The SMP was updated in 2010 prior this legislative update.	Language referencing WAC 173-27-130 is identified under XX.03.11.3.
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.	City contains limited forested lands, that if cleared would not trigger a Class IV Forest Practices Permit (lands converted to another use/not likely reforested due to conversion to urban development.	No action necessary
f.	Ecology clarified the SMA does not apply to lands under **exclusive federal jurisdiction**	The City may contain Federal lands.	Add new language to SMP, using Ecology's model language: *'Areas and uses in those areas that are under exclusive federal jurisdiction as established through federal or state statutes are not subject to*

			the jurisdiction of chapter 90.58 RCW.' Language added to XX.01.07.1
g.	Ecology clarified "default" provisions for **nonconforming uses and development**.	SMP Chapter 16D.02, provides definitions for "nonconforming use" and "nonconforming structure". City has adopted tailored provisions during last update.	The City has updated definitions for Nonconforming Development or Non-conforming Structure, Non-conforming Lot and Non-conforming Use, see XX.02.302, 303 and 304.
h.	Ecology adopted rule amendments to clarify the scope and process for conducting **periodic reviews**.	This is optional and the current SMP does not address the periodic review provision.	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 address the amendment process nor is it required to.	No action necessary.
j.	**Submittal** to Ecology of proposed SMP amendments.	This is optional and the Regional SMP does not currently address the amendment process amendment routing requirements pursuant to the requirements of WAC 173-26.	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**.	The Regional SMP does not address the ADA exemption in Section 16D.03.07.	Added new exemption to SMP, using Ecology's recommended language: *'The external or internal retrofitting of an existing structure with the exclusive purpose of compliance with the American with Disabilities Act of 1990 or to otherwise provide physical access to the structure by individuals with disabilities.'* Ecology's suggested language added see XX.03.07.18.
b.	Ecology updated **wetlands critical areas guidance** including	Yakima County Regional SMP references outdated 2004	The city of Zillah ZMC 17.07.070.L notes Wash. State

	implementation guidance for the 2014 wetlands rating system.	manual for Eastern Washington. Note: The City updated their CAO in 20XX referencing the most current 2014 manual. The City desires to reference the most current CAO.	Wetland Rating System for Eastern Wash. – Rev Mar. 2007, or as amended.
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 this.	Optional: Consider amending SMP to define special procedures for WSDOT projects per WAC 173-27-125. Language added as XX.03.06.
2014			
a.	The Legislature created a new definition and policy for **floating on-water residences** legally established before 7/1/2014.	The SMP is silent on floating on-water residences. – There are no floating on-water residences in the City of Selah, therefore no amendment is required.	No action necessary.
2012			
a.	The Legislature amended the SMA to clarify **SMP appeal procedures**.	The current SMP does not address appeal procedures. This procedure is already outlined in the WAC.	No action necessary.
2011			
a.	Ecology adopted a rule requiring that wetlands be delineated in accordance with the approved **federal wetland delineation manual**.	Regional SMP 16D.03.18.3 contains outdated wetland delineation manual reference.	**Mandatory:** Strikeout existing language and replace with Ecology example language, reducing the need for future SMP language updates: *Identification of wetlands and delineation of their boundaries shall be done in accordance with the approved federal wetland delineation manual and applicable supplements pursuant to the City of Selah's critical areas ordinance.*

			Revisions made to 16D.03.19(3)(a).
b.	Ecology adopted rules for new commercial **geoduck aquaculture**.	City would only contain freshwater shoreline only, this rule is not applicable.	No action necessary.
c.	The Legislature created a new definition and policy for **floating homes** permitted or legally established prior to January 1, 2011.	Regional SMP prohibits floating homes and houseboats by omission as a permitted use in SMP Chapter 16D.05.32, Floodway Fringe Uses. No floating homes legally established prior to January 1, 2011	No action necessary.
d.	The Legislature authorizing a new **option to classify existing structures as conforming**.	The SMP does not classify existing non-conforming residential structures as conforming.	**Optional**: The City may consider whether to exercise the option to clearly classify existing legally established residential structures as conforming even if they do not meet dimensional standards for setbacks, buffers, height, density, etc. Appurtenant structures are included, but bulkheads and other shoreline modifications and over-water structures are excluded.
2010			
a.	The Legislature adopted **Growth Management Act – Shoreline Management Act clarifications**.	Regional SMP adopted in 2010 by County Board of Commissioners prior to law going into effect. City-wide critical areas regulations have not been adopted by reference in the SMP.	**Recommended:** Revise relevant sections in SMP, to clarify effective date of amendments shall be 14 days from Ecology's written notice of final action. Clarifying language about the effective date of the SMP added as XX.01.08.
2009			
a.	The Legislature created new "relief" procedures for instances in which a **shoreline restoration project within a UGA** creates a	Reginal SMP does not address such relief procedures.	***Recommended:*** Update relief procedure for shoreline restoration projects within a UGA by referencing (WAC 173-27-215) or use

	shift in Ordinary High Water Mark.		following Ecology example language: *The City may grant relief from shoreline master program development standards and use regulations resulting from shoreline restoration projects within urban growth areas consistent with criteria and procedures in WAC 173-27-215.* Ecology's suggested language added as XX.05.02.8.
b.	Ecology adopted a rule for certifying **wetland mitigation banks**.	The SMP Section 16D.07.06 authorizes certified mitigation banks.	No action necessary.
c.	The Legislature added **moratoria authority** and procedures to the SMA.	Yakima County Regional SMP does not address moratoria authority. This procedure is already outlined in the WAC.	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 defined in the Regional SMP Section 16D.02.220 and does not include legislation clarifications related to the SMP and elected use of FEMA maps to define floodways in the city.	**Mandatory:** Remove and replace existing definition to: *"Floodway" means the area that has been established in effective federal emergency management agency flood insurance rate maps or floodway maps. The floodway does not include lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or maintained under license from the federal government, the state or a political subdivision of the state.* Updated definition for "Floodway" in XX.02.220 for consistency with the SMA.

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.	No new shoreline waterbodies identified since 2010 SMP update. However, SMP not explicit on shorelines located in City as City adopted Regional County SMP.	**Mandatory:** List Rivers of state wide significance in SMP introduction. Add map of shorelines of the state to a map with corresponding SEDs. **Optional:** Remove all shorelines listed in Regional SMP not in the City.
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.	SMP Section 16D.03.07.15.d lists a fish habitat enhancement exemption.	No action necessary.
*** This column attempts to capture the primary relevant location(s) of content related to the item described in the Summary of Change column; however, due to length of the SMP and the City's Municipal Code, all relevant locations may not be listed.**			

#	Issue	Relevant Location	Review & Action
1	Public access to Tribal lands	Goals and Policies NS 7.36	Deleted: Provisions for access to shorelines. Toppenish city limits is 500 feet from waters edge which is on YIN Trust land. No jurisdiction or relevance.
2	Proportion of State, federal and public lands	NS 7.36.1	Deleted: No Federal state or public lands in the area.
3	Reliance on other agencies to provide access to their lands	NS 7.36.2	Deleted: No Federal state or public lands in the area.
4	Open to unimproved access	NS 7.36.3	Deleted: No Federal state or public lands in the area.
5	Transportation corridors visual access	NS 7.36.4	Deleted: No transportation corridor limited visual access
6	Commercial water oriented activities	NS 7.36.5	Deleted: No access to actual shoreline
7	Recreational water oriented activities	NS 7.36.6	Deleted: No access to actual shoreline
8	Reliance on commercial activities for additional access	NS 7.36.7	Deleted: No access to actual shoreline
9	Development standards for public developments	NS 7.36.8	Deleted: No access to actual shoreline

10	Promote and enhance public access	NS 7.36	Deleted: No access to actual shoreline
11	Access to recreational areas	NS 7.37	Deleted: No access to actual shoreline
12	Access and water dependent use conflict	NS 7.40	Deleted: No access to actual shoreline
13	Construction of road and railroad facilities	NS 7.41	Deleted: No access to actual shoreline
14	Marina location	NS 7.50	Deleted: No access to actual shoreline
15	Preservation of recreational opportunities	NS 7.55	Deleted: No access to actual shoreline
16	Public lands for recreational facilities	NS 7.57	Deleted: No access to actual shoreline
17	Location of major highways & setbacks	NS 7.60	Nominal shoreline jurisdiction
18	Location of access roads and parking	NS 7.61	Deleted: No access to actual shoreline
19	Loops or spurs of old highways retained as bike-ped routes	NS 7.63	Deleted None in the area
20	Aquaculture	NS 7.66 & 7.67	Deleted: No access to actual shoreline
21	Boating Facilities and Marinas	NS 7.68 & 7.69	Deleted: No access to actual shoreline
22	Forest Practices	NS 7.70 - 7.72	Deleted:No forest lands in city limits
23	In Stream Structures	NS 7.86 & 7.87	Deleted: No access to actual shoreline
24	Shore Stabilization	NS 7.90 - 7.92	Deleted: No access to actual shoreline
25	Dredging	NS 7.96 – 7.98	Deleted: No access to actual shoreline
26	Critical Areas Goals and policies	Verbatim from city's CAO	Changes to numbering and, addition of WAC notes, and removal of county references.

Integration and Consistency of Critical Areas Ordinance

The City of Toppenish adopted a Critical Areas Ordinance (2011-6) and incorporated into Chapter TMC 17.70 in 2011. The update was approved by City Council and no updates have be adopted since that time. References from the Yakima County Critical Areas Ordinance have been removed from the updated SMP, and the regulatory elements from TMC 17.70 incorporated into the SMP to regulate critical areas within the SMP.

Comprehensive Plan, Development Regulation and Code Consistency

The City of Toppenish Comprehensive Plan does not include a Shoreline Element Chapter. However, references to the SMP and the document authority are included in the Natural Systems, Land Use and Administration Elements of the Comprehensive Plan. A review of the current SMP was conducted to ensure consistency with the Comprehensive Plan updated in 2017. No changes to the SMP were identified at this time for consistency with the comprehensive plan.

The following ordinances adopted by the Toppenish City Council pertaining to Development Regulations were reviewed by Staff for conformance and consistency with the Shoreline Master Program; no conflicts or inconsistencies were found.

2008-12 Adopts shoreline master program and Title 19, shoreline master program regulations
2008-24 Amends comprehensive plan (Special)
2008-25 Amends Chs. 17.28, 17.32, 17.40, 17.44 and 17.46, zoning (17.28, 17.32, 17.40, 17.44, 17.46)
2009-5 Rezone (Special)
2009-6 Rezone (Special)
2009-7 Rezone (Special)
2009-10 Amends § 15.30.060, basis for establishing the areas of special flood hazard (15.30)
2010-8 Amends § 15.30.160(A), flood damage prevention (15.30)
2010-9 Rezone (Special)
2010-12 Amends §§ 15.01.010 and 15.01.050; repeals and replaces §§ 15.01.020 and 15.01.040; repeals§ 15.01.030, buildings and construction (Repealed by 2020-10)
2011-6 Adds Ch. 17.70, critical areas (17.70)
2011-11 Annexation (Special)
2013-18 Adopts Parks and Recreation Plan 2014-2019 (Special)
2015-18 Rezone (Special)
2016-03 Adds § 2.05.057, notice of public hearings before city council (2.05)
2016-09 Rezone (Special)
2016-10 Rezone (Special)
2017-01 Adds § 3.01.070; amends §§ 1.16.040… … 18.04)
2018-13 Adds § 2.01.005, comprehensive plan (2.01)
2019-16 Repeals and replaces Ch. 17.16, zoning conformance review (17.16)
2019-17 Repeals and replaces Ch. 17.56, special property uses (17.56)
2020-09 Amends § 13.28.050; repeals Ord. 94-28, sewer connections in floodplains (13.28)
2020-12 Amends §§ 17.28.020, 17.28.030, 17.32.020(A) and (B), 17.32.030(A) and (B) and 17.40.020(A) and (B), dwellings (17.28, 17.32, 17.40)