



Agenda
Planning Commission Workshop
Wednesday, November 18, 2020
Via Zoom (253) 215-8782 or (206) 337-9723
Meeting ID 961 9934 8382

Pursuant to Resolution No. 100-20, this meeting will be conducted remotely via Zoom. The public may attend remotely by calling one of the numbers listed above.

Commission Members: Chair Palmer, Vice-Chair Maier, and Commissioners Eadie, Mealer, Smith and Townsend

Liaisons: Council Liaison Alvarez
Staff Liaison: Planning Manager Stevens

Regular Workshop - 6:00 p.m.

Call to Order/Attendance:

Agenda Items:

- I. CA2020-104 - Shoreline Master Program Update
- Shane O'Neill, Senior Planner

Adjournment

The next Planning Commission Workshop is December 9, 2020

The next Planning Commission Meeting is December 23, 2020

Richland City Hall is ADA accessible. Requests for sign interpreters, audio equipment, and/or other special services must be received 48 hours prior to the meeting by calling the City Clerk's Office at 942-7389.



PLANNING COMMISSION AGENDA ITEM COVERSHEET

Meeting Date: 11/18/2020

Agenda Category: Agenda Items

Prepared By: Shane O'Neill, Senior Planner

Subject:

CA2020-104 - Shoreline Master Program Update

Request:

Core Focus Area I - Promote Financial Stability & Operational Effectiveness

Recommended Motion:

Summary:

The City of Richland is required to perform a periodic update of its Shoreline Master Program.

The Washington State Department of Ecology has mandated that 27 different changes to Shoreline Master Programs (SMP) may be needed in order to bring each jurisdiction's regulations into compliance with current state law. The City of Richland hired AHBL in 2019 to review the SMP Update Checklist provided by Ecology against the City's SMP and concluded that 14 of the items do not need modification, 9 items could be changed and 4 items must be changed/updated in order to meet state law.

City staff has reviewed the 4 required and 9 recommended changes and is recommending that 8 of the 13 items be changed/updated. The 5 items not recommended for change/updating are items that staff is comfortable with the current SMP language.

In addition, staff is proposing one (1) minor mapping amendment to occur in the area of the Columbia Point Boat Marina.

Attachments:

1. Final SMP Checklist MBS Comments for 111820 PCWS
2. SMP Map Change

PROJECT MEMO



TO:	Mike Stevens	DATE:	August 25, 2019
FROM:	Nicole Stickney, AICP	PROJECT NO.:	2190542.30
		PROJECT NAME:	Richland SMP Checklist
SUBJECT:	SMP Review & Checklist		

We have completed the review of the City of Richland's Shoreline Master Program, which is codified in Richland Municipal Code Title 26.

As you will see in the update checklist that we prepared, we evaluated the SMP for the 27 items listed on the checklist, covering the amendments to state law, rules and applicable updated guidance adopted between 2007 and 2017 that may trigger the need for local SMP amendments during your periodic review.

We have identified the following:

Required Updates	4
Updates to Consider	9
Reviewed items where no review is necessary	14

Thank you for the opportunity to review your SMP and provide this evaluation.

CC: Wayne Carlson, AHBL; Colin Poff, AHBL

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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.

Row	Summary of change	Review (Prepared by AHBL, August 2019)	Action
2017			
a.	OFM adjusted the cost threshold for substantial development to \$7,047.	<i>Amend the SMP:</i> In RMC 26.50.020.B.2 the existing cost threshold is \$6,416 or below. Update the threshold to \$7,047 OR replace with a reference to the applicable state code, to eliminate the need to change the value every five years. (Source: RCW 90.58.030(3)(3) and State Register announcement WRC 17-17-007) <i>Additional recommendation:</i> Revise all permit application forms, websites, or other administrative documents to reflect the new cost threshold (note: the city does not need to wait to update the SMP to apply these changes administratively)	Change made, see page 72
b.	Ecology amended rules to clarify that the definition of “development” does not include dismantling or removing structures.	<i>Amend the SMP:</i> The definition of “development” found in RMC 26.80.010 should be updated. Keep existing definition but add to it using the example language in the Ecology guidance document: “Development” does not include dismantling or removing structures if there is no other associated development or re-development.”	Change made, see page 146

Row	Summary of change	Review (Prepared by AHBL, August 2019)	Action
c.	Ecology adopted rules that clarify exceptions to local review under the SMA.	<i>Amend the SMP:</i> While the current SMP includes “shoreline exemptions” in RMC 26.50.020, these are different from Exceptions to local review. Exemptions in RMC 26.50.020 means exempt from a Shoreline Substantial Development Permit but still need to meet the standards in the SMP, whereas some projects do not require any local review at all. Per the Ecology suggestions, the City should create a new “Exceptions to Local Review” section within RMC Chapter 26.50. This would include the following three exceptions, as well as potentially other minor actions that do not require local review: • Remedial hazardous substance cleanup actions (1994 law), • Boatyard improvements to meet NPDES requirements (2012 law), and • Certain WSDOT maintenance and safety projects and activities (2015 law). In addition, the City’s exemption #16, Hazardous Substance Remediation, may need to be removed as it would now be covered under the newly created “exceptions to local review” section.	Changes made, see pages 77 & 78

Row	Summary of change	Review (Prepared by AHBL, August 2019)	Action
d.	Ecology amended rules that clarify permit filing procedures consistent with a 2011 statute.	<i>Consider amending the City's SMP:</i> Permit filing procedures are generally described in RMC 26.50; however, it may be helpful to add example language from Ecology to this chapter so the permit filing process is clear. RMC 26.50.070 references filing procedures from WAC 173-27-130; ecology amendments apply to the city, but local amendments are optional.	No changes proposed
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.	<i>No amendments necessary:</i> These amendments are optional, and this provision simply states that timber cutting does not need an SSDP or exemption. The City of Richland does not have commercial forestry along shorelines and this amendment is not necessary.	
f.	Ecology clarified the SMA does not apply to lands under exclusive federal jurisdiction	<i>Consider amending the City's SMP:</i> This amendment is optional, and simply clarifies that areas under exclusive federal jurisdiction (such as military bases) are not subject to the City's SMP. In the City of Richland, there are shoreline lands owned by the Corps of Engineers and leased to the City. The City does not need to list these areas individually, but it is recommended to add	Change made , see page 77

Row	Summary of change	Review (Prepared by AHBL, August 2019)	Action
		the general ecology language in case future issues arise: <i>“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.”</i>	
g.	Ecology clarified “default” provisions for nonconforming uses and development .	<i>Consider amending the City’s SMP:</i> The City of Richland does not appear to have its own tailored provisions for regulating nonconforming uses, lots, or structures specifically within the Shoreline Jurisdiction. The zoning code does briefly mention in RMC 23.66.090 that alteration, repair, or extension of nonconforming uses/structures must be consistent with the master program; however, the SMP (Title 26) should have its own section regarding nonconformities. Additionally, we recommend updating the SMP to include language similar to the template Ecology language for nonconforming structures, uses and lots. Similarly, the definition in RMC 26.80 for “Nonconforming lot, use, structure, or site” should be separated into separate definitions and use the example language from Ecology.	Change made, see page 89 & 90

Row	Summary of change	Review (Prepared by AHBL, August 2019)	Action
h.	Ecology adopted rule amendments to clarify the scope and process for conducting periodic reviews .	<i>Consider amending the City's SMP:</i> This amendment is not required; however, the City could easily add a sentence to RMC 26.01.040 which describes that a periodic review process is undertaken in certain intervals under requirements of RCW 90.58.080 and WAC 173-2-090, which would be helpful information for all readers.	Change made, see page 2
i.	Ecology adopted a new rule creating an optional SMP amendment process that allows for a shared local/state public comment period.	<i>No Amendment Needed:</i> This amendment is optional as the current SMP does not have any impediments for using the shared local/state public comment period, should the City choose to do so. There are advantages and efficiencies to using the shared comment period, but not all jurisdictions favor this option. The City may consider adding to RMC Title 26 to enable the shared comment period; however, this is not necessary.	
j.	Submittal to Ecology of proposed SMP amendments.	<i>No Amendment Needed:</i> The existing SMP does not describe the SMP submittal process to Ecology for review, so it does not need to be updated as the City of Richland relies on state rule. This is an amendment to the guidelines that are applicable to the Department of Ecology.	

Row	Summary of change	Review (Prepared by AHBL, August 2019)	Action
2016			
a.	The Legislature created a new shoreline permit exemption for retrofitting existing structures to comply with the Americans with Disabilities Act .	<i>Amend the SMP:</i> An exemption needs to be added to RMC 26.50.020.B to include the following language: <i>“The external or internal retrofitting of an existing structure with the exclusive purpose of compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.) or to otherwise provide physical access to the structure by individuals with disabilities.”</i>	Change made, see page 77
b.	Ecology updated wetlands critical areas guidance including implementation guidance for the 2014 wetlands rating system.	<i>No Amendment Needed:</i> It appears the City updated its Critical Areas Ordinance in 2017, so there are likely no issues, however, the City should review its Critical Area Ordinance once more to ensure there are no conflicts. The current sensitive areas portion of the existing SMP refers to using the most recent version of Ecology’s Wetland Rating System for Eastern Washington. Because this amendment is mostly directed toward consistency with changes in the new rating system, the City of Richland does not need to update the SMP for compliance. In addition, the City’s SMP refers to the use of “minimization measures” another more recent component of Ecology rules.	

Row	Summary of change	Review (Prepared by AHBL, August 2019)	Action
2015			
a.	The Legislature adopted a 90-day target for local review of Washington State Department of Transportation (WSDOT) projects.	<i>Consider amending the City's SMP:</i> This is optional to add. However, because the City of Richland has state owned highways within the shoreline jurisdiction, it may make sense to add these provisions to ensure compliance with the 90-day review target. Example Ecology language could be added to RMC Chapter 26.50.	No change made proposed. City meets this time requirement already.
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).	<i>No Amendment Needed:</i> The fair market value is up to date (found in RMC 26.50.020.B.7)	
b.	The Legislature created a new definition and policy for floating on-water residences legally established before 7/1/2014.	<i>No Amendment Needed:</i> The City does not have any existing floating on-water residences so no amendment is necessary.	
2012			
a.	The Legislature amended the	<i>No Amendment Needed:</i>	

Row	Summary of change	Review (Prepared by AHBL, August 2019)	Action
	SMA to clarify SMP appeal procedures .	The City does not outline an SMP appeal process, so no amendments are necessary. This is in regards to appeal procedures for the SMP itself, not individual permits.	
2011			
a.	Ecology adopted a rule requiring that wetlands be delineated in accordance with the approved federal wetland delineation manual .	<i>Consider amending the City's SMP:</i> Per RMC 26.60.025, the SMP currently states that wetlands should be delineated using the 1987 U.S. Army Corps of Engineers Wetlands Delineation Manual and Arid West Regional Supplement. To eliminate issues arising from future updates to the federal /local manual, consider updating this reference to simply say "Identification of wetlands and delineation of their boundaries shall be done in accordance with the approved federal wetland delineation manual and applicable regional supplements."	Change made, see page 98 Reference should be RMC 26.60.024
b.	Ecology adopted rules for new commercial geoduck aquaculture .	<i>No amendments necessary:</i> The City of Richland has no saltwater shorelines and no geoduck aquaculture.	
c.	The Legislature created a new definition and policy for floating	<i>No amendments necessary:</i>	

Row	Summary of change	Review (Prepared by AHBL, August 2019)	Action
	homes permitted or legally established prior to January 1, 2011.	The City does not have any existing floating homes, therefore no amendment is necessary.	
d.	The Legislature authorized a new option to classify existing structures as conforming .	<i>Consider amending the City's SMP:</i> This is an optional amendment. However, as stated earlier in this checklist (see row "g" of 2017), the City does not currently have robust standards for nonconforming structures in the SMP. In the update, the City should consider opting-in to add language clarifying that existing legally established structures can be considered conforming, even if they do not meet current dimensional standards.	No change proposed
2010			
a.	The Legislature adopted Growth Management Act – Shoreline Management Act clarifications .	<i>No amendments necessary:</i> The Richland SMP has an effective date (June 2014) after these amendments to the SMP Guidelines were established, and no amendments are necessary.	
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.	<i>No amendments necessary:</i> This has been addressed in a previous update, as the language in RMC 26.50.140 mimics Ecology's suggested language.	
b.	Ecology adopted a rule for certifying wetland mitigation	<i>No amendments necessary:</i>	

Row	Summary of change	Review (Prepared by AHBL, August 2019)	Action
	banks.	The potential use of a mitigation bank to compensate for unavoidable impacts is already enabled in RMC 26.60.028.A	
c.	The Legislature added moratoria authority and procedures to the SMA.	<i>Consider amending the City's SMP:</i> This is an optional amendment. The City already addresses Shoreline moratorium in RMC 26.50.150, and simply adopts procedures in RCW 90.58.590. However, per the Ecology guidelines, the City may choose to outline moratorium procedures further, including holding a public hearing, notifying the department of Ecology, and frequency of renewing the moratorium.	No change proposed
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.	<i>Consider amending the City's SMP:</i> The current definition of "Floodway" within RMC 26.80.010 includes both the FEMA maps definition and the floodway criteria set in the SMA. The definition language is not identical to the sample Ecology language but very similar. Ecology has indicated in the past that using both definitions can create internal inconsistency. To avoid this issue, the City may choose the definition it prefers from one of the two options,	No change necessary per Dept. of Ecology

Row	Summary of change	Review (Prepared by AHBL, August 2019)	Action
		consistent with the example Ecology language, and strike out the remaining option	
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.	<i>No amendments necessary:</i> No new streams or lakes have been identified since the last update and do not need to be added to the existing map or list. The map shown on page 36 of the Richland Comprehensive Plan is up to date.	
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.	<i>No amendments necessary:</i> Fish habitat enhancement projects are already listed as an exemption in the SMP, per RMC 26.50.020.B.15	

Proposed SMP Map Change	
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