

City of SeaTac Shoreline Master Program

Gap Analysis Report

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1. Introduction

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

The City of SeaTac (SeaTac) adopted its current SMP in 2010 (Ordinance No. 10-1002). Shorelines of the State in SeaTac are limited to Angle Lake. The SeaTac SMP includes goals and policies, shoreline environment designations, and development regulations that guide the development and protection of these shorelines. Portions of the SMP are also codified as Title 18 of the SMC.

As a first step in the periodic review process, The Watershed Company (Watershed) reviewed the current SMP for consistency with legislative amendments made since its adoption. Watershed staff also reviewed the current SMP for consistency with the policies in the City's Comprehensive Plan, adopted in December 2017 (Ordinance No. 17-1022), and with the implementing development regulations in the SMC. The Department of Ecology has verified that there are no known critical areas within shoreline jurisdiction in SeaTac. Therefore, the SMP does not adopt critical areas regulations specific to shoreline jurisdiction, and a review of consistency between the SMP and the City's CAO is not necessary.

The purpose of this gap analysis report is to provide a summary of the review and inform updates to the SMP. The report is organized into the following sections according to the content of the review:

- **Section 2** identifies gaps in consistency with legislative amendments. This analysis is based on a list of amendments between 2007 and 2017, as summarized by the Washington State Department of Ecology (Ecology) and provided to the City as a Periodic Review Checklist.
- **Section 3** identifies gaps in consistency with the City's Comprehensive Plan, and with implementing sections of the City's development regulations. Specifically, the review includes Titles 13, 14, 15 and 18 of the SMC.
- **Section 4** identifies issues of usability noted by both City staff and the Watershed team.

For each section, the report presents the topic, relevant section(s) in the SMP, a summary of the analysis (consistency or usability), and a recommendation for revisions to the SMP.

This report includes several 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 would improve consistency with state laws, but are not strictly required.
- **“Optional”** indicates revisions that represent ways in which the City could elect to amend its SMP in accordance with state laws or for improved clarity and consistency, but that are not required or recommended for consistency with state laws.

This document attempts to minimize the use of abbreviations; however, a select few are used to keep the document concise. These abbreviations are compiled below in Table 1.

Table 1. Abbreviations used in this document.

Abbreviation	Meaning
CARs	Critical areas regulations
City	City of SeaTac
Ecology	Washington State Department of Ecology
FEMA	Federal Emergency Management Agency
LID	Low Impact Development
RCW	Revised Code of Washington
SAO	Sensitive Areas Ordinance
SMP	Shoreline Master Program
SMA	Shoreline Management Act
WAC	Washington Administrative Code
SMC	SeaTac Municipal Code

2. Consistency with Legislative Amendments

Table 2 summarizes mandatory and recommended revisions to the SeaTac SMP based on the review of consistency with legislative amendments made since SMP adoption. Topics are organized in reverse chronological order of legislative amendments addressed. In general, mandatory changes to the SMP are minor in nature. The majority of them address revised rules with regard to SMP applicability, including updated exemption thresholds and definitions. Note that section numbers will be updated during the revision process. The section numbers listed in the Table below may differ from those in proposed updates to the SMP.

Table 2. Summary of gaps in consistency with legislative amendments, and associated mandatory and recommended SMP revisions.

Row	Summary of change	Review	Action
2017			
a.	OFM adjusted the cost threshold for substantial development to \$7,047.	Title 18 and SMP definitions include outdated cost threshold of \$5,718. Outdated threshold also referenced in SMC 18.705(D)(1), SMP Chapter 7, page 105, and SMP Chapter 8, page 123. Relevant Section(s): SMC 18.200 & 18.705(D)(1), SMP Chapter 2 (page 26), SMP Chapter 7 (page 105), & SMP Chapter 8 (page 123).	Mandatory: Update all references to outdated cost threshold for consistency with updated SMA rules. <i>Note: Section numbers were created in the updated SMP document for ease of reference. The relevant sections in the updated SMP document for these revisions are 7.4.1 and 8.4.1(A)(1).</i> Recommended: Update outdated cost threshold information on City’s Shoreline Exemption Permit Application for consistency with updated SMP.
b.	Ecology amended rules to clarify that the definition of “development” does not include dismantling or removing structures.	Title 18 and SMP definitions do not include language to clarify that dismantling or removing structures is not considered development.	Mandatory: Revise definition of “Development.”

Row	Summary of change	Review	Action
		<p>DOE suggested language. <i>“Development” means a use consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals; bulkheading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters overlying lands subject to the act at any stage of water level.</i> <i>“Development” does not include dismantling or removing structures if there is no other associated development or re-development.</i></p> <p>Relevant Section(s): SMC 18.200 and SMP Chapter 2.</p>	
c.	Ecology adopted rules that clarify exceptions to local review under the SMA .	The SMP does not include these exceptions to local review under the SMA.	<p>Mandatory: Add reference to statutory exceptions. Create a separate section in the SMP to reference exceptions in WAC 173-27-044, and -045, as amended.</p> <p><i>Note: Section 8.3 was created in the revised SMP document to address these revisions.</i></p>
d.	Ecology amended rules that clarify permit filing procedures consistent with a 2011 statute.	The SMP does not include a thorough discussion of permit filing procedures. The SMP does reference RCW 90.58.140(6) for determining the date of	Recommended: Update language in appeal process section of the SMP to clarify that the 21-day appeal period begins with the date of filing as defined by RCW

Row	Summary of change	Review	Action
		<p>filing, although the discussion of the appeals process references a date of 'receipt.' Forwarding shoreline permits to Ecology is included in the Roles and Responsibilities of the Shoreline Administrator, but there is no reference to WAC 173-27-130 for proper permit filing procedure.</p> <p>Relevant Section(s): SMC 18.700(B)(18), .730(D), .740 and SMP Chapter 8, pages 122, 138, and 140.</p>	<p>90.58.140(6). Add reference to WAC 173-27-130 in the Shoreline Administrator Roles and Responsibilities to clearly reference proper permit filing procedures.</p> <p><i>Note: Section numbers were created in the updated SMP document for ease of reference. The relevant sections in the updated SMP document for these revisions are 8.2(B)(xviii) and 8.6.</i></p>
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 are prohibited within shoreline jurisdiction.	No change needed.
f.	Ecology clarified the SMA does not apply to lands under exclusive federal jurisdiction	There are no lands under exclusive federal jurisdiction on the shoreline of Angle Lake.	No change needed.
g.	Ecology clarified "default" provisions for nonconforming uses and development.	<p>The SMP establishes its own provisions for nonconforming uses and development. The SMP and Title include a definition for "nonconforming use and development" which references WAC 173-27-080.</p> <p>Relevant Section(s): Definitions for "Nonconforming use and development" (SMC 18.200 and SMP Chapter 2, page</p>	Optional: Consider updating definitions section to include distinct definitions for nonconforming use, nonconforming lot, and nonconforming development/structure consistent with WAC 173-27-080.

<i>Row</i>	<i>Summary of change</i>	<i>Review</i>	<i>Action</i>
		19), SMP Chapter 8 (page 128) and SMC 18.735.	
h.	Ecology adopted rule amendments to clarify the scope and process for conducting periodic reviews .	Title 18 references WAC 173-26 to establish procedures for periodic reviews and SMP amendments. The SMP lacks the corresponding <i>Master Program Review</i> section and provision (although it is included in the TOC). Relevant Section(s): SMC 18.750(D).	Recommended: Add <i>Master Program Review</i> section to the SMP document to address the periodic review process for the SMP and include appropriate references to WAC 173-26-090 and RCW 90.58.080. <i>Note: Section 8.8 was created in the revised SMP document to address the periodic review process.</i>
i.	Ecology adopted a new rule creating an optional SMP amendment process that allows for a shared local/state public comment period.	The SMP references WAC 173-26 and RCW 90.58.120 and .200 to establish procedures for SMP amendments. Relevant Section(s): SMC 18.755 and SMP Chapter 8, page 139.	No change needed.
j.	Submittal to Ecology of proposed SMP amendments.	The SMP references WAC 173-26 and RCW 90.58.120 and .200 to establish procedures for SMP amendments. Relevant Section(s): SMC 18.755 and SMP Chapter 8, page 139.	No change needed.
2016			
a.	The Legislature created a new shoreline permit exemption for retrofitting existing structures to comply with the Americans with Disabilities Act .	The SMP does not include this exemption, although the definition for “Exemption” references WAC 173-27-040. The applicability of this code	Mandatory: Add exemption to SMP. Consider adding a reference to WAC 173-27-040 to exemptions section of SMP to improve clarity and consistency.

Row	Summary of change	Review	Action
		<p>could be clarified, as elsewhere the SMP relies solely on a list of exemptions, rather than including a reference to the WAC.</p> <p>Relevant Section(s): Definition of “Exemption” (SMC 18.200, SMP Chapter 2, page 15), SMC 18.705, SMP Chapter 8, <i>Shoreline Permits and Exemptions</i> (page 123)</p>	<p><i>Note: Section numbers were created in the updated SMP document for ease of reference. The relevant section for these revisions in the updated SMP document is 8.4.1(A).</i></p>
b.	Ecology updated wetlands critical areas guidance including implementation guidance for the 2014 wetlands rating system.	SMP does not contain critical areas regulations. Per Ecology, there are no known critical areas within shoreline jurisdiction in SeaTac.	No change needed.
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. The City notes that a small portion of the I-5 ROW is within shoreline jurisdiction.	<p>Recommended: Consider amending SMP to define special procedures for WSDOT projects per WAC 173-27-125. Ecology has provided example language.</p> <p><i>Note: Section 8.4.3(C) was created in the revised SMP document to address special procedures for WSDOT projects.</i></p>
2014			
a.	The Legislature raised the cost threshold for requiring a Substantial Development	The SMP and Title 18 both reference the outdated threshold of \$10,000 and	Mandatory: Update all references to outdated cost

<i>Row</i>	<i>Summary of change</i>	<i>Review</i>	<i>Action</i>
	Permit (SDP) for replacement docks on lakes and rivers to \$20,000 (from \$10,000).	include references to WAC 173-27-040 for exemptions. Relevant Section(s): Definition of “Substantial Development” (SMC 18.200 and SMP Chapter 2, page 26), SMC 18.705(D)(6), SMP Chapter 7 (page 110), SMP Chapter 8 (page 124)	threshold for consistency with updated SMA rules. <i>Note: Section numbers were created in the updated SMP document for ease of reference. The relevant sections for these revisions in the updated SMP document are 7.5.2 and 8.4.1(a)(vi).</i>
b.	The Legislature created a new definition and policy for floating on-water residences legally established before 7/1/2014.	SeaTac has no existing floating on-water residences.	No change needed.
2012			
a.	The Legislature amended the SMA to clarify SMP appeal procedures .	The SMP does not address SMP appeal process.	No change needed.
2011			
a.	Ecology adopted a rule requiring that wetlands be delineated in accordance with the approved federal wetland delineation manual .	Per Ecology, there are no known critical areas within shoreline jurisdiction in SeaTac. Therefore, the SMP does not include a distinct set of Critical Areas Regulations. SeaTac’s CAO (SMC 15.700) references the approved federal delineation manual. Relevant Section(s): SMC 15.700.015, .275, .285.	No change needed.
b.	Ecology adopted rules for new commercial geoduck aquaculture .	Not applicable. SeaTac has no saltwater shorelines.	Not applicable.

<i>Row</i>	<i>Summary of change</i>	<i>Review</i>	<i>Action</i>
c.	The Legislature created a new definition and policy for floating homes permitted or legally established prior to January 1, 2011.	SeaTac has no existing floating on-water residences.	<i>No change needed.</i>
d.	The Legislature authorized a new option to classify existing structures as conforming.	Title 18 and the SMP do not classify existing residential structures as conforming.	<i>No change needed.</i>
2010			
a.	The Legislature adopted Growth Management Act – Shoreline Management Act clarifications.	Per Ecology, there are no known critical areas within shoreline jurisdiction in SeaTac. Therefore, the SMP does not include a distinct set of Critical Areas Regulations, eliminating potential inconsistencies between shoreline CARs and SeaTac’s CAO. Relevant Section(s): SMC 18.755(B), SMP Chapter 8 (page 141)	Mandatory: Revise language in Chapter 8, page 141 to clarify that amendments to the SMP do not become effective until 14 days from Ecology’s written notice of final action. <i>Note: Section numbers were created in the updated SMP document for ease of reference. The relevant section for this revision in the updated SMP document is 8.9.</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 address this.	<i>No change needed.</i> The City prefers to omit reference to the “relief” procedure for shoreline restoration projects from the SMP.
b.	Ecology adopted a rule for certifying wetland mitigation banks.	Per Ecology, there are no known critical areas within shoreline jurisdiction in SeaTac. Therefore, the SMP does not include a distinct set of Critical Areas	<i>No change needed.</i>

<i>Row</i>	<i>Summary of change</i>	<i>Review</i>	<i>Action</i>
		Regulations. SeaTac’s CAO (SMC 15.700) allows for the use of certified wetland mitigation banks. Relevant Section(s): SMC 15.700.310(D)(4)(b)	
c.	The Legislature added moratoria authority and procedures to the SMA.	The SMP does not address moratoria authority.	<i>No change needed.</i>
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.	Title 18 and SMP definitions include both the FEMA maps definition and the SMA definition. There are only minor discrepancies between the updated language and the definitions included in these documents. Relevant Section(s): SMC 18.200 and SMP Chapter 2 (page 16)	Optional: Update definition of “Floodway” to be wholly consistent with updated Ecology guidance.
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.	Neither Title 18 nor the current SMP include the necessary maps.	Mandatory: Update maps and include in updated SMP.
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.	Title 18 and the SMP both include this exemption. Relevant Section(s): SMC 18.705(D)(12) and SMP Chapter 8 (page 126)	<i>No change needed.</i>

3. Consistency with Development Regulations and Comprehensive Plan

Table 3 below summarizes recommended revisions to the SeaTac SMP, SeaTac Municipal Code, and Comprehensive Plan based on a review of consistency between the documents. The Comprehensive Plan adopts the goals and policies of the SMP as an element of the plan by reference, but also includes goals and policies related to shorelines in its text. The SMC establishes the applicability of the SMP in places, applying some catch-all provisions that ensure that the City has the authority to apply the SMP regulations in its operations and permitting, and includes some direct references to the SMP and shoreline jurisdiction. However, there are areas of the code that could be updated to provide additional clarity and consistency and strengthen the application of the SMP. These are summarized in the table below.

A primary source of confusion on the issue of shoreline regulation in SeaTac is a lack of clarity over the applicability of the SMP document itself and Title 18 of the SMC, Shoreline Management Code. These two documents are not fully consistent with one another, which creates confusion among planners and residents as to which document to consult for information and direction on shoreline regulations. This is particularly problematic because Title 18 has been updated since the adoption of the SMP, incorporating Low Impact Development regulations in 2016, but these same updates were not applied to the SMP document itself. The City has expressed interest in repealing Title 18 and moving forward with an updated SMP document to simplify and clarify shoreline regulations in SeaTac.

The SeaTac SMP is also unique in that it does not contain any critical areas regulations of its own, nor does it adopt the City's Sensitive Areas Ordinance (SAO) by reference. This owes to the fact that the SMP is limited to a single lake, with no known critical areas along its shorelines. However, there is confusion among the SMP, SAO, and Comprehensive Plan about how critical areas are regulated within shoreline jurisdiction. While the determination of no known critical areas was made, it's important to note that critical areas are by their very nature dynamic. It's entirely possible that either critical areas do exist within shoreline jurisdiction that simply were not captured during the previous review, or that critical areas (e.g., wetlands) may form in shoreline jurisdiction in the future. It's important that the City consider how to handle these potential issues, and establish clarity and consistency among its development regulations.

Table 3. Summary of recommended SMP, SMC, and Comprehensive Plan revisions to improve consistency.

#	Issue	Review & Relevant Location(s) ^{1, 2}	Recommended Action
Comprehensive Plan			
1	Relationship between the SMP and the Comprehensive Plan	<p>Review: The Comprehensive Plan establishes that the SMP goals and policies are considered an element of the Comprehensive Plan. Title 16A of the SeaTac Municipal Code also establishes that the SMP is adopted by reference into the Comprehensive Plan. The Comprehensive Plan also includes goals and policies related to shorelines in its text. These goals and policies appear to be pulled directly from the SMP, although some of the text has been amended slightly in the transition.</p> <p>Comprehensive Plan:</p> <ul style="list-style-type: none"> • Goals and Policies – Shorelines <p>SMP:</p> <ul style="list-style-type: none"> • Chapter 3 <p>SMC:</p> <ul style="list-style-type: none"> • 16A.25.020 	<p>Recommended: Update the text of the goals and policies in the SMP for consistency with the updated language in the Comprehensive Plan.</p>
Development Regulations			
2	Relationship between development regulations and the SMP	<p>Review: SMC provisions for clearing and grading in shoreline areas (SMC 13.190.120) are vague, and do not reference the SMP. Title 15 – Zoning Code does not include a reference to the SMP or shoreline jurisdiction. SMC 16A.03.020 and .030 reference Title 18 for Shoreline Management Development Standards, rather than the SMP.</p>	<p>Future Recommendation: Consider modifying code language to more clearly establish the applicability of the SMP and shoreline regulations to promote clarity and consistency of application.</p>

#	Issue	Review & Relevant Location(s) ^{1, 2}	Recommended Action
		<p>SMC:</p> <ul style="list-style-type: none"> • 13.190.120 • 15.100 • 16A.03.020 & .030 	
3	Title 18 – Low Impact Development Regulations and Definitions	<p>Review:</p> <p>Title 18 of the SMC was updated in 2016 to incorporate regulations on Low Impact Development. However, these updates were not applied to the actual SMP document, nor were they approved by Ecology as part of the SMP amendment process.</p>	<p>Recommended: Incorporate the 2016 LID regulation updates from Title 18 into the updated SMP document.</p>
<p>¹ 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, all relevant locations may not be listed.</p> <p>² Locations in italics indicate that the location does not actually address the specific content described in the Summary of Change column; these locations are listed to indicate where generally related content is found.</p>			

4. Staff Recommendations & Other Issues for Consideration

City of SeaTac planning staff have also proposed modifications to the SMP. Table 4 discusses these proposed changes, rationale, and input from The Watershed Company, as well as some additional issues for consideration to improve the usability of the document.

Table 4. Staff Recommendations and Other Issues for Consideration

#	Issue	Review & Relevant Location(s) ^{1, 2}	Recommended Action
Definitions			
1	Definition of “Qualified Professional”	<p>Review:</p> <p>City staff noted that the current SMP does not contain a definition for “Qualified Professional,” although the term is used several times throughout the SMP. This lack of clarity creates issues with project reports being completed by under-qualified professionals.</p> <p>SMP:</p> <ul style="list-style-type: none"> • Chapter 2 	<p>Recommended: Add definition for “Qualified Professional” to the SMP.</p>

#	Issue	Review & Relevant Location(s) ^{1, 2}	Recommended Action
		<p>SMC:</p> <ul style="list-style-type: none"> • 18.200 	
Formatting and Consistency			
2	SMP Document Organization	<p>Review: City staff have noted the current SMP’s organizational numbering system makes it difficult to reference. SMP policies and regulations are distributed throughout several sections of the SMP, and in each section both the policies and regulations are number 1, 2, 3, etc. This system makes it very difficult and confusing to cite or reference specific sections, policies, or regulations. City staff have expressed an interest in updating the numbering system in the SMP to more simply and clearly organize policies and regulations.</p>	<p>Recommended: Update numbering organization in the SMP to make it easier to reference specific policies and regulations.</p>
3	Table of Contents	<p>Review: During the review process, instances of incorrect page numbers were found in the Table of Contents and at least one section listed in the Table of Contents that didn’t exist in the body of the SMP.</p>	<p>Recommended: Update the Table of Contents to accurately reflect the contents of the updated SMP.</p>
4	References to the Hughes Property	<p>Review: There are many references throughout the SMP to the previously City-owned “Hughes property” or the “former Hughes property.” This property has recently been sold, and City staff have raised the question or how best to reference this property in the updated SMP.</p>	<p>Recommended: Update references to this property with parcel numbers throughout the revised SMP document.</p>
5	Administrative Clarity	<p>Review: City staff have noted references to outdated titles/positions in the introduction to the SMP. City</p>	<p>Recommended: Update the introduction to the SMP to reflect the current administrative makeup</p>

#	Issue	Review & Relevant Location(s) ^{1, 2}	Recommended Action
		staff also have interest in updating the introduction to the SMP to include discussion of the current SMP review and update process.	of the City and the current SMP review and update process.
<p>¹ 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, all relevant locations may not be listed.</p> <p>² Locations in italics indicate that the location does not actually address the specific content described in the Summary of Change column; these locations are listed to indicate where generally related content is found.</p>			

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