

City of Federal Way Shoreline Master Program

Gap Analysis Report

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January 2019
The Watershed Company Reference Number:
180415

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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.

Shorelines of the State in the City of Federal Way (City) include: the Puget Sound, North Lake, Steel Lake, and the northwestern portion of Lake Killarney, with Star Lake, Lake Dolloff, Lake Geneva, Five Mile Lake, and the remainder of Lake Killarney all existing in potential annexation areas, outside City limits.

The City’s most recent update of its SMP took place in 2011 (Ordinance No. 11-705), establishing regulations under Title 15 Shoreline Management within the Federal Way Revised Code (FWRC) and adding a new chapter, Chapter 11 to the City’s Comprehensive Plan. The City’s SMP, Chapter 11, outlines goals and policies for the shorelines of the City. The City’s current SMP has its own critical areas regulations under Chapter 15.10 which were adopted together with the SMP in 2011.

Since adoption of the SMP, the City-wide critical areas regulations were amended by Ordinance No. 15-797 [2015]. The City-wide critical areas regulations are currently codified as FWRC Chapter 19.145 Environmentally Critical Areas. The City anticipates referencing the most recent version of the City-wide critical areas regulations in the updated SMP.

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 Gap Analysis Report is to provide a summary of the review and inform updates to the SMP. This report is organized into the following sections:

- **Section 2** identifies gaps in consistency with state laws. This analysis is based on a list of amendments between 2007 and 2017 as summarized by the Washington State Department of Ecology (Ecology) in its Periodic Review Checklist.
- **Section 3** identifies issues with integrating the City’s most recent (2015) critical areas regulations into the updated SMP.
- **Section 4** identifies gaps in consistency and implementation between the updated SMP and the City’s Comprehensive Plan and Zoning Code.
- **Section 5** identifies other issues to consider as part of the periodic update process to produce a more effective 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.
- **“None Necessary”** indicates no change to the SMP is required.

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 1-1.

Table 1-1. Abbreviations used in this document.

Abbreviation	Meaning
City	City of Federal Way
Ecology	Washington State Department of Ecology
FWRC	Federal Way Revised Code
RCW	Revised Code of Washington
SMP	Shoreline Master Program
WAC	Washington Administrative Code

2. Consistency with State Laws

Table 2-1 summarizes potential revisions to the City’s SMP based on a review of consistency with amendments to state laws identified in the Periodic Review Checklist provided by Ecology. Topics are organized broadly by SMP subject area.

Only a limited number of revisions in Table 2-1 are classified as “mandatory.” Further, the revisions classified as “mandatory” are anticipated to be minor in effect.

Table 2-1. Summary of consistency with amendments to state laws and potential revisions.

#	Summary of Change (Amendment Year)	Relevant Location(s) ^{1,2}	Review & Action
Applicability			
1	Legislature raised the cost threshold for requiring a Substantial Development Permit for replacement docks on lakes to \$22,500 (from \$10,000) and \$11,200 for all other docks constructed in fresh waters . This is effective November 4, 2018 per the Ecology letter to City Shoreline Administrators to adjust for inflation. (2018)	<p>Current SMP:</p> <ul style="list-style-type: none"> FWRC 15.05.150 Shoreline Substantial Development Permit 	<p>Review:</p> <p>The SMP references the Substantial Development Permit exemptions in WAC 173-27-040 as amended, which include this revised exemption language.</p> <p>Action:</p> <p><i>None necessary:</i> As an option, dollar figures can be added for code readability.</p>
2	Office of Financial Management adjusted the cost threshold for substantial development to \$7,047. (2017)	<p>Current SMP:</p> <ul style="list-style-type: none"> FWRC 15.05.150 Shoreline Substantial Development Permit 	<p>Review:</p> <p>In FWRC 15.05.150, the SMP references an outdated cost threshold (\$5,718) for substantial development; however, the SMP indicates that the cost threshold is updated every five years.</p> <p>Action:</p> <p><i>Recommended:</i> Update the language in FWRC 15.05.150 to reference the RCW 90.58.030.(3)(e) development exemption for development not meeting the cost threshold and the location where the cost threshold can be found.</p>

#	Summary of Change (Amendment Year)	Relevant Location(s) ^{1,2}	Review & Action
3	Ecology permit rules clarified the definition of “development” does not include dismantling or removing structures. (2017)	<p>Current SMP:</p> <ul style="list-style-type: none"> FWRC 15.05.030 - <i>Additional definitions</i> 	<p>Review:</p> <p>The SMP does not clarify that removing structures does not constitute development.</p> <p>Action:</p> <p>Recommended: Revise definition of “Development” to clarify that removing structures does not constitute development. Proposed language is as follows, <i>“Development” does not include dismantling or removing structures landward of the OHWM if there is no other associated development or re-development.</i> (Note: City can opt to amend the existing definition of development recently adopted under the floodplain ordinance 18-856 (FWRC 19.142.040 Definitions) and refer to this definition under FWRC 15.05.030 – Additional definitions.)</p>
4	Ecology adopted rules clarifying exceptions to local review under the Shoreline Management Act. (2017)	<p>Current SMP:</p> <ul style="list-style-type: none"> Article III. <i>Administrative Procedures, FWRC 15.05110 – 15.05.240</i> 	<p>Review:</p> <p>The SMP does not refer to exceptions to local review under WAC 173-27-044 or -045 (though it does refer to exemptions under WAC 173-27-040).</p> <p>Action:</p> <p>Recommended: Create a new section that clearly sets forth exceptions to local review. Exemptions listed include remedial hazardous substance cleanup, boatyard stormwater improvements, and WSDOT maintenance and safety projects. Example language from Ecology is available.</p>
5	Ecology amended forestry use regulations to clarify that forest practices that only involves timber cutting are not Shoreline Management Act “developments” and do not require Substantial	<p>Current SMP:</p> <ul style="list-style-type: none"> FWRC 15.05.070 – <i>Summary of uses, approval criteria, and process</i> 	<p>Review:</p> <p>The SMP indicates that forest practices are prohibited and contains no provisions specific to forest practices.</p> <p>Action:</p> <p>None necessary: This change is not</p>

#	Summary of Change (Amendment Year)	Relevant Location(s) ^{1,2}	Review & Action
	Development Permits. (2017)		applicable to Federal Way, as forest practices are prohibited by the SMP.
6	Ecology clarified the Shoreline Management Act does not apply to lands under exclusive federal jurisdiction. (2017)	Current SMP: • <i>FWRC 15.05.020 Jurisdiction.</i>	Review: The SMP does not address lands with exclusive federal jurisdiction. Action: None Necessary: No Federal lands exist within the City's UGA.
7	The Legislature created a new shoreline permit exemption for retrofitting existing structure to comply with the Americans with Disabilities Act. (2016)	Current SMP: • <i>FWRC 15.05.130 Shoreline exemption.</i>	Review: The SMP references the Substantial Development Permit exemptions in WAC 173-27-040 as amended, which include this revised exemption language. Action: None necessary: Because the SMP references the exemptions in the WAC as amended, the SMP already reflects this revised exemption language.
8	The Legislature clarified options for defining "floodway" as either the area that has been established in Federal Emergency Management Agency maps, or the floodway criteria set in the Shoreline Management Act. (2007)	Current SMP: • <i>Ord 11-705 is now FWRC Chapter 19.142.040, Ord 18-856.</i>	Review: The definition of "floodway" in the SMP is based on the floodway criteria set in the Shoreline Management Act. This definition is essentially a biological definition. Action: Recommended: Consider revising the definition of "floodway" to reflect the most recent Federal Emergency Management Agency maps. Example language from Ecology is available. <i>(Note: While the City anticipates amending the current "floodway" definition in FWRC 19.142.040 as the area established in Federal Emergency Management Agency Maps, there are no FEMA mapped floodways currently documented in the City.)</i>
9	Ecology amended rules to clarify that comprehensively updated SMPs shall include a list and map of streams and lakes that are in shoreline	Current SMP: • <i>Section 11.1 Shoreline Jurisdiction in the Comprehensive Plan (page 8) of Appendix A within</i>	Review: Section 11.1 Shoreline Jurisdiction (page 8) within Appendix A of Ordinance No. 11-705 identifies all SMP waterbodies. Action:

#	Summary of Change (Amendment Year)	Relevant Location(s) ^{1,2}	Review & Action
	jurisdiction. (2007)	<i>Ordinance 11-705.</i>	None necessary: A list and corresponding map of all lakes and marine shoreline is shown within Appendix A of Ordinance 11-705.
10	Ecology’s rule listing statutory exemptions from the requirement for a Substantial Development Permit was amended to include fish habitat enhancement projects that conform to the provisions of Revised Code of Washington (RCW) 77.55.181. (2007)	Current SMP: • <i>FWRC 15.05.130(2)</i>	Review: The SMP references the Substantial Development Permit exemptions in WAC 173-27-040 as amended, which include this revised exemption language. Action: None necessary: Because the SMP references the exemptions in the WAC as amended, the SMP already reflects this revised exemption language.
Use and Development			
11	Ecology updated wetlands critical areas guidance including implementation guidance for the 2014 wetlands rating system. (2016)	Current SMP critical areas regulations (2011): • <i>FWRC 15.10.240</i> Proposed SMP critical areas regulations: • <i>FWRC 19.145.420(1)</i>	Review: FWRC section 15.10.240 refers to the March 1997 Washington State Wetlands Identification and Delineation Manual, Ecology Publication No. 96-94 which also references a WAC section which no longer exists (WAC 173-22-080). The correct reference is found under FWRC 19.145.420(1) which correctly references the most recent 2014 Ecology rating system with updates as needed. Action: Mandatory: Repeal FWRC 15.10, Critical Areas to reference the current Critical Areas Ordinance found under FWRC section 19.145, Environmentally Critical Areas.
12	The Legislature created a new definition and policy for floating on-water residences legally established before 7/1/2014. (2014)	Current SMP: • <i>FWRC 15.05.030</i> <i>Additional definitions.</i>	Review: City has no floating homes. Residential development is prohibited over water. Moorage of floating homes is prohibited. FWRC 15.05.050(k). Action: Recommended: Expand the “residential development” definition to prohibit “tiny

#	Summary of Change (Amendment Year)	Relevant Location(s) ^{1,2}	Review & Action
			home” temporary or transient floating homes. In addition, boats mooring or dropping anchor within City shoreline jurisdiction should have a clear time limit for transient habitation of a small cabin located under a boat’s hull.
13	Ecology adopted a rule requiring that wetlands be delineated in accordance with the approved federal wetland delineation manual . (2011)	<p>Current SMP critical areas regulations (2006):</p> <ul style="list-style-type: none"> • FWRC 15.10.240 <p>Proposed SMP critical areas regulations:</p> <ul style="list-style-type: none"> • FWRC 19.145.420(1) 	<p>Review: Refer to FWRC 19.145.410(1) within the updated CAO which refers to this update.</p> <p>Action: Mandatory: Repeal FWRC 15.10, Critical Areas to reference the Critical Areas Ordinance FWRC section 19.145, Environmentally Critical Areas.</p>
14	Ecology adopted rules for new commercial geoduck aquaculture . (2011)	<p>Current SMP:</p> <ul style="list-style-type: none"> • FWRC 15.050.030 <i>Additional definitions.</i> 	<p>Review: The new Ecology definition clarifies that aquaculture does not include wild geoduck harvest.</p> <p>Action: None necessary: Aquaculture is a prohibited use in all shoreline environments according to FWRC 15.05.070.</p>
15	The Legislature created a new definition and policy for floating homes permitted or legally established prior to January 1, 2011. (2011)	<p>Current SMP:</p> <ul style="list-style-type: none"> • <i>Not listed under FWRC 15.05.070 Summary of uses, approval criteria, and process.</i> • FWRC 15.05.030 <i>Additional definitions.</i> 	<p>Review: The term “floating home” is not used in the SMP.</p> <p>Action: Recommended: Add the “floating home” definition to address ambiguities and steer future development away from this development type through explicitly prohibiting this development type under FWRC 15.05.070. Example language from Ecology is available. See #12 above for a discussion of temporary floating residences.</p>
16	The Legislature created new “relief” procedures for instances in which a shoreline restoration project	<p>Current SMP:</p> <ul style="list-style-type: none"> • FWRC 15.05.050 <i>Shoreline Modifications.</i> 	<p>Review: The SMP does not address such relief procedures.</p>

#	Summary of Change (Amendment Year)	Relevant Location(s) ^{1,2}	Review & Action
	<p>within an Urban Growth Area creates a shift in Ordinary High Water Mark. (2009)</p>		<p>Action: Recommended: Incorporate Ecology’s rule to provide relief for shoreline restoration projects, referencing WAC 173-27-215 as the parameters for granting such a request.</p>
17	<p>Ecology adopted a rule for certifying wetland mitigation banks. (2009)</p>	<p>Current SMP critical areas regulations (2011):</p> <ul style="list-style-type: none"> • FWRC 15.10.260 <p>Proposed SMP critical areas regulations:</p> <ul style="list-style-type: none"> • FWRC 19.145.430(4)(b) 	<p>Review: The current critical areas regulations allow the use of mitigation banks and requires that they be certified.</p> <p>Action: Required: Reference the Critical Areas section which incorporates the certification requirement for mitigation banks.</p>
Nonconformance			
18	<p>Ecology clarified “default” provisions for nonconforming uses and development. (2017)</p>	<p>Current SMP:</p> <ul style="list-style-type: none"> • <i>Section 7 – SMP Definitions Resolution 10-597, page 2</i> • <i>FWRC 15.05.030 Additional Definitions</i> 	<p>Review: The SMP meets the definition except for the addition where, “Development” does not include dismantling or removing structures if there is no other associated development or re-development.</p> <p>Action: Recommended: Code definitions for Nonconforming development, nonconforming lot and nonconforming structure added to SMP. Provide a provision under FWRC 15.05.220(1), where minor repairs to non-conforming structures under the monetary threshold can apply for a shoreline exemption.</p>
19	<p>SMPs may classify legally established residential structures and appurtenant structures as conforming even if they do not meet dimensional or bulk standards. Redevelopment, expansion, and replacement consistent with the SMP would be allowed. (2011)</p>	<p>Current SMP:</p> <ul style="list-style-type: none"> • <i>FWRC 15.05.220 Replacement, alteration, or reconstruction of nonconforming use or development</i> 	<p>Review: The SMP does not currently exercise this option.</p> <p>Action: Recommended: The City will adopt these Ecology provisions and classify past permitted non-conforming structures as conforming. Unpermitted non-conforming structures can be enforced upon</p>

#	Summary of Change (Amendment Year)	Relevant Location(s) ^{1,2}	Review & Action
			accordingly.
Administration			
20	Ecology amended rules clarifying permit filing procedures consistent with a 2011 statute. Filing replaces date of receipt for shoreline permits sent to Ecology. (2017)	<u>Current SMP:</u> <ul style="list-style-type: none"> • <i>Article III. Administrative Procedures - FWRC 15.05.110 - Shoreline management permits and enforcement procedures</i> 	<u>Review:</u> The SMP does not describe the filing process, but indicates that filing with Ecology shall be done pursuant to WAC 173-27-130. <u>Action:</u> None necessary: SMP consistent with statute.
21	Ecology adopted a new rule creating an optional SMP amendment process that allows for a shared local/state public comment period. (2017)	<u>Current SMP:</u> <ul style="list-style-type: none"> • <i>FWRC 15.05.240 Amendments to this chapter.</i> 	<u>Review:</u> The SMP does includes language regarding the process for SMP amendments through referencing WAC 176-26-110 and 176-26-120. <u>Action:</u> None necessary: If the City anticipates using the optional SMP amendment process for joint state and local public comment, no code amendment is required to exercise this option. Therefore, no action will be taken by the City.
22	Ecology adopted rule amendments to clarify the scope and process for conducting periodic reviews . (2017)	<u>Current SMP:</u> <ul style="list-style-type: none"> • <i>FWRC 15.05.240 Amendments to this chapter.</i> 	<u>Review:</u> The SMP does not include language specific to conducting periodic review of the SMP pursuant to RCW 90.58.080 and WAC 173-26-090. <u>Action:</u> None necessary: Description of the scope and process for conducting periodic reviews is not required in SMP.
23	Submittal to Ecology of proposed SMP amendments. (2017)	<u>Current SMP:</u> <ul style="list-style-type: none"> • <i>FWRC 15.05.240 Amendments to this chapter.</i> 	<u>Review:</u> SMP already references a description of the SMP amendment submittal process. <u>Action:</u> None necessary: FWRC 15.05.240 Amendments to this chapter correctly references WAC 176-26-110 and WAC 176-26-120 where amendments are proposed.

#	Summary of Change (Amendment Year)	Relevant Location(s) ^{1,2}	Review & Action
24	The Legislature adopted a 90-day target for local review of Washington State Department of Transportation projects. (2015)	<p>Current SMP:</p> <ul style="list-style-type: none"> • <i>FWRC 15.05.110 Shoreline management permit enforcement procedures, adoption by reference.</i> 	<p>Review: The SMP does not address this target.</p> <p>Action: Recommended: Add a reference to WAC 173-27-125 under FWRC 15.05.110 to include these target review timelines.</p>
25	The Legislature amended the Shoreline Management Act to clarify SMP appeal procedures . (2012)	<p>Current SMP:</p> <ul style="list-style-type: none"> • <i>FWRC 15.05.200 Appeals.</i> 	<p>Review: The SMP does not address SMP appeal procedures (the SMP addresses appeals of shoreline permit decisions, but not the SMP itself).</p> <p>Action: None necessary: A Description of SMP appeal procedures is not required in SMP, therefore no change is needed.</p>
26	The Legislature adopted Growth Management Act – Shoreline Management Act clarifications . (2010)	<p>The City has already previously updated its CAO and the SMP and therefore addressed the issue of overlapping critical area regulations. The City’s SMP also includes no net loss provisions. However, the SMP does not indicate the 14-day rule for Ecology approval.</p> <p>Current SMP (no net loss statement):</p> <ul style="list-style-type: none"> • <i>FWRC 15.05.040 General development standards.</i> 	<p>Review: The SMP indicates that critical areas in shorelines must be regulated to assure no net loss of shoreline ecological function.</p> <p>Action: Recommended: Update SMP to indicate that it is effective 14 days after Ecology’s approval letter.</p>
27	The Legislature added moratoria authority and procedures to the Shoreline Management Act. (2009)	<p>Current SMP:</p> <ul style="list-style-type: none"> • <i>FWRC 15.05.110 - Shoreline management permit and enforcement procedures</i> 	<p>Review: The SMP does not address moratoria.</p> <p>Action: None necessary: Moratoria procedures not required to be included in SMP. City may rely on statute: WAC 173-27-085.</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.

² Locations in italics indicate that the location does not actually address the specific content described in the

#	Summary of Change (Amendment Year)	Relevant Location(s) ^{1,2}	Review & Action
Summary of Change column; these locations are listed to indicate where generally related content is found.			

3. Integration of Current Critical Areas Regulations

The City’s current SMP incorporates the City-wide critical areas and flood damage prevention regulations of Ordinance No. 11-705 (2011) through chapter subsections 15.10 and 15.15, respectively. Since adoption of the SMP, the City-wide critical areas regulations have been amended most recently in 2015 by Ordinance No. 15-797. Flood Damage Prevention FWRC Chapter 15.15 was recently amended in on November 6th, 2018, under Ordinance 18-745 to reference FWRC 19.142, removing its duplicate code. The critical areas regulations are codified as FWRC Chapter 19.145 Critical Areas are more current than ones listed within SMP subsection 15.10. Therefore, the City’s current SMP includes critical areas regulations that are out of date and no longer consistent with the critical areas regulations that currently apply in non-shoreline areas of the City.

Accordingly, the City anticipates referencing the current City-wide critical areas and regulations in the updated SMP. However, as with the 2015 critical areas regulations, these critical areas regulations include some regulations that are inconsistent with recent Department of Ecology guidance. The inconsistent regulations need to be identified and resolved as part of the periodic SMP update process.

Table 3-1 below summarizes issues to be resolved both guidance-wise and referencing the City’s current critical areas regulations into the updated SMP. The table is organized by critical areas regulations subject area.

Table 3-1. Summary of gaps in consistency with current critical areas regulations and associated recommended SMP revisions.

#	Issue	Relevant Location(s)	Review & Action
Applicability			
1	Critical Areas	<ul style="list-style-type: none"> Chapters FWRC 15.10 and FWRC 19.145 Critical Areas 	<p>Review: FWRC 15.10 can be deleted and cross-referenced to capture the critical areas regulations within the FWRC chapter 19.145.</p> <p>Action: Recommended: delete language in FWRC 15.10 and cross reference to FWRC 19.145, Critical Areas.</p>
2	Critical Areas - Wellhead capture zone	<p>Zoning Code:</p> <ul style="list-style-type: none"> FWRC 19.145.070, FWRC 19.145.460 Classification of wellhead capture zones (FWRC 15.10.290 to be removed). 	<p>Review: The current code exclusively calls out the capture zones, or wellhead protection areas (WHPAs), associated with Lakehaven wells, but at the same time, .460 refers to, “the city’s public water source wells”. There are more public water systems than</p>

#	Issue	Relevant Location(s)	Review & Action
			<p>what is listed in code.</p> <p>Action: Recommended: Revise “the city’s public source wells” to “Group A and Group B public water supplies” and reference WAC 365-196-485(1)(d) under FWRC 19.145.460 to capture all water systems subject to Critical Aquifer Recharge Areas (CARAs) regulations. In addition, the Washington State Department of Health Source Water Assessment Program Map is an appropriate citation for providing an inventory of WHPAs over the Lakehaven Utility District capture zone map cited in 19.145.070(4)(b).</p>
Wetlands			
3	Wetland buffer table change.	<p>Current critical areas regulations:</p> <ul style="list-style-type: none"> • <i>FWRC 19.145.420(2), Wetland rating and buffers</i> 	<p>Review: Department of Ecology provided revised wetland buffer guidance in July of 2018. The revised guidance indicates that wetlands scoring of 5 habitat points may use the same standard buffer width as wetlands scoring 3-4 habitat points.</p> <p>Action: Recommended: Consider revising the existing wetland buffer provisions in FWRC 19.145.420(2) of the critical areas regulations for consistency with Ecology guidance, related to habitat scores and wetland buffers. A discussion is provided below.</p>

Continuing discussion on item #3 in Table 3-1, newly recommended wetland buffer widths are based upon review of wetland category and habitat score, reflecting best available science by Department of Ecology. In a survey of reference wetlands, Ecology determined more were similarly distributed to scoring between 3-5 points for habitat score than 3-4 points as the original low habitat break point (Ecology 2018). Therefore, the breaks and revised wetland buffer table are as follows below under Table 3-2 below.

Wetland buffer impact minimization measures can also be used in allowing buffer averaging for development. The following minimization measures under Table 3-3 allow buffer averaging to no less than 75% of the original buffer requirement (Ecology 2016). A request for buffer averaging requires a wetland report by a qualified professional detailing no net loss of wetland

functions. In addition to applying all minimization measures, if a conservation easement corridor connects WDFW priority habitats within a wetland buffer with moderate habitat scores, a buffer reduction to 110 feet is allowed (Ecology 2018). This change is shown in Table 3-2 below.

To align with the updated guidance, we recommend adopting the revised wetland buffers listed in Table 3-2 below under FWRC 19.145.420 to avoid inconsistent buffer application for future development proposals.

Table 3-2. Wetland buffer widths (in feet) under FWRC Chapter 19.145 and under Ecology’s most recent guidance (Ecology 2018).

Existing FWRC Chapter 19.145					Proposed Per 2018 Ecology Guidance					
Category	Habitat Scores				Without minimization measures			With minimization measures		
	3-4	5	6-7	8	Habitat Score			Habitat Score		
	Minimum Buffer Width				Low	Moderate	High	Low	Moderate	High
1*	190	190	190	225	250	250	300	190	190	225
1^	75	105	165	225	100	150	300	75	110	225
2	75	105	165	225	100	150	300	75	110	225
3	60	105	165	225	80	150	300	60	110	225
4	40	40	40	40	50			40		

*Bogs and wetlands of high conservation value. ^Forested and based on function score

Table 3-3. Wetland buffer impact minimization measures (Ecology 2016).

Disturbance	Required Measures to Minimize Impacts
Lights	<ul style="list-style-type: none"> Direct lights away from wetland
Noise	<ul style="list-style-type: none"> Locate activity that generates noise away from wetland If warranted, enhance existing buffer with native vegetation plantings adjacent to noise source For activities that generate relatively continuous, potentially disruptive noise, such as certain heavy industry or mining, establish an additional 10’ heavily vegetated buffer strip immediately adjacent to the outer wetland buffer
Toxic runoff	<ul style="list-style-type: none"> Route all new, untreated runoff away from wetland while ensuring wetland is not dewatered Establish covenants limiting use of pesticides within 150 feet of wetland Apply integrated pest management
Stormwater runoff	<ul style="list-style-type: none"> Retrofit stormwater detention and treatment for roads and existing adjacent development Prevent channelized flow from lawns that directly enters the buffer Use Low Intensity Development (LID) techniques where appropriate (for

Disturbance	Required Measures to Minimize Impacts
	more information refer to the drainage ordinance and manual)
Change in water regime	<ul style="list-style-type: none">• Infiltrate or treat, detain, and disperse into buffer new runoff from impervious surfaces and new lawns
Pets and human disturbance	<ul style="list-style-type: none">• Use privacy fencing OR plant dense vegetation to delineate buffer edge and to discourage disturbance using vegetation appropriate for the ecoregion• Place wetland and its buffer in a separate tract or protect with a conservation easement
Dust	<ul style="list-style-type: none">• Use best management practices to control dust

4. Consistency with Comprehensive Plan & Other Development Regulations

Table 4-1 below summarizes recommended revisions to the City’s SMP based on a review of consistency with FWRC Title 19 of the zoning code, outside of Critical Areas Regulations, Section 19.145. The Federal Way Comprehensive Plan is consistent with the SMP as it adopts the goals and policies and places them in the Shoreline Element, Chapter 11 of the Comprehensive Plan.

Table 4-1. Summary of recommended SMP and FWRC revisions to improve consistency.

#	Topic	Relevant Location(s)	Review & Action
1	<p>Impervious Surfaces within shoreline setbacks. Maximum footprint of 150 square feet per structure; 300 square feet total per lot</p>	<p>Zoning Code: <i>FWRC 15.05.070(6)</i> <i>Standards table.</i> FWRC 15.05.030</p>	<p>Review: It is unclear if pavers and other types of impervious surfaces (i.e. gravel paths, paths, concrete steps etc.) should be counted towards maximum “footprint”.</p> <p>Action: Recommended: Add to definition of structure in FWRC 19.05, to include access pathways. Include a definition for footprint under section FWRC 15.05.030 referencing impervious surfaces as pavers, gravel paths, and concrete steps. In addition, make note that grass-grid pavers are 100% lot coverage and still count against the maximum footprint of 300 square feet per lot under FWRC 15.05.070(6).</p>

5. Other Issues to Consider

In addition to the issues discussed in the previous sections of this report, several other issues in the current SMP could be addressed as part of the periodic update process to produce a more effective SMP. These other issues are described in Table 5-1 below.

Table 5-1. Other issues that could be addressed to produce a more effective SMP.

#	Issue	Relevant Location(s) ¹	Review & Action
General			
1	Amendments to SMP	Zoning Code: <i>FWRC 15.05.240</i> <i>Amendments to this chapter</i>	Review: Incorrect WAC reference. Should be WAC 173-26-110 and 173-26-120. Action: Required: Change reference to WAC 173-26-110 and 173-26-120.
Use and Development			
2	Archaeological and historic resources. It is unclear when the City routes to Department of Archeology and Historic Preservation (DAHP) to require an archeologic study.	Zoning Code: <i>FWRC 15.05.040(6)</i> <i>General development standards, Archaeological and historic resources.</i>	Review: In the instance where one or more items of archeological significance are located, a professional archeologist shall be obtained to provide an inadvertent discovery plan. Action: Recommended: Provide a code requirement for the applicant to apply for an Archeological Excavation and Removal Permit if archeological items are found during excavation, referencing the process in WAC 25-48.
3	Shoreline Modifications. Address height of bulkheads for bluff development. Can there be a more streamlined process for bulkhead development applications?	Zoning Code: • <i>FWRC 15.05.050 Shoreline modifications.</i>	Review: Existing bulkheads on many shoreline properties are taller than the bulkhead height maximum of 1 foot above mean higher high water mark. Therefore, all resulting expansions in height will require a variance. The permitting process also requires a conditional use permit for newly constructed bulkheads in urban conservancy shoreline designations. This scenario was observed in a past shoreline variance decision (Pallisades Retreat Center Bulkhead and Beach Access

#	Issue	Relevant Location(s) ¹	Review & Action
			<p>Stair Shoreline Variance, Conditional Use and Substantial Development Permit). Bulkhead height needed to exceed the height maximum to account for “king” tides in the Puget Sound which have otherwise matched the height of the pre-existing bulkhead.</p> <p>Action: Recommended: The intent is to remove the variance requirement which would otherwise be required for slight increases in bulkhead height. Changing bulkhead maximum height from 1 foot above mean higher high water mark to minimum necessary for protection of upland structures will help avoid unnecessary variances. Minimum necessary requirements can be supported by recorded tidal events and geotechnical documentation.</p>
4	Vegetation Conservation Areas	<p>Zoning Code: <i>FWRC 15.05.070(6) Standards table. FWRC 19.120.130 Tree and vegetation retention standards.</i></p>	<p>Review: Vegetation Conservation Areas do not have clear standards referenced for submittal requirements to demonstrate compliance as part of a development proposal.</p> <p>Action: Recommended: In addition to the standards listed in FWRC 15.05.070(6), the City should consider referencing Tree revegetation standards under FWRC 19.120.130 for development proposals which may affect vegetation retention standards in the shoreline setback. In addition, the City should consider a tree management and vegetation in shoreline setback set of standards in an effort to capture no-net-loss requirements of the SMP.</p>
5	Enforcement of Vegetation	<p>Zoning Code:</p>	<p>Review:</p>

#	Issue	Relevant Location(s) ¹	Review & Action
	<p>Conservation Areas</p>	<ul style="list-style-type: none"> FWRC 15.05.070(6) Standards table, FWRC 19.120.130 Tree and vegetation retention standards, and FWRC 19.120.220 Revegetation. 	<p>It is unclear if over time when folks have cleared the vegetation conservation area whether they need to rehab the area or not as the City does not monitor the shoreline. It's a question of legal nonconformances.</p> <p>Action: Recommended: As a shoreline process advisement, Vegetation Conservation Area requirements can be enforced during development proposals. Using aerials from 2011-12 (SMP Adoption year) as a benchmark for City review, development proposals shall provide a vegetation inventory, referencing tree and vegetation standards prescribed under FWRC 19.120.130 as a footnote beside Vegetation conservation area column within the Shoreline Environment Standards table (FWRC 15.05.070(6)). For sites where vegetation removal has been observed within shoreline setbacks since SMP adoption, development applications shall demonstrate rehabilitation efforts consistent with revegetation provisions FWRC 19.120.220 to restore lost vegetation to the retention percentages prescribed under FWRC 15.05.070(6).</p>
6	<p>Setbacks. Marine shorelines require a setback of 50 feet from OHWM whereas freshwater require a stringline setback or 50 foot setback, whichever is greater. Consider use of a stringline setback on marine shorelines.</p>	<p>Zoning Code:</p> <ul style="list-style-type: none"> FWRC 15.05.080(5) 	<p>Review: The intent of the stringline setback is to prevent future development from encroaching into previously undisturbed areas and to affect views from neighboring properties and preserving the no-net-loss goals of the SMP. There are far less marine vacant parcels according to the SMP Cumulative Impact Analysis, so the use of stringline provisions along the marine shoreline may be more effective during re-development scenarios rather than new development.</p> <p>Action:</p>

#	Issue	Relevant Location(s) ¹	Review & Action
			<p>Recommended: At the City’s discretion, the stringline requirement can be added and can be used if it is greater than the 50-foot buffer from marine shorelines to be consistent with all shorelines of the state within City limits, adjusting this provision under FWRC 15.05.080(5)(C). This provision assists with preserving view impacts associated with new construction along the shoreline.</p>
7	<p>Shoreline Exemption Application submittal requirements are unclear.</p>	<p>Zoning Code: • FWRC 15.05.070 Summary of Uses, approval criteria, and process, FWRC 15.05.130 Shoreline Exemption, FWRC 15.05.140 Application Requirements.</p>	<p>Review: The criteria requirements for a complete application to submit for a shoreline exemption are not readily identified for the single-family homeowner. While prescribed in WAC 173-27-040, no checklist exists to identify whether a project is exempt. Exemptions must also demonstrate consistency with FWRC 15.05.070, specifically FWRC 15.05.070(5) and FWRC 15.05.070(6) Permitted use table and standards table respectively.</p> <p>Action: Recommended: The City could provide application requirements as a qualitative list for an applicant to check off each WAC 173-27-040 exemption requirement, the applicable use listed (FWRC 15.05.070) and provide the necessary documentation for siting, design and dimensional requirements (FWRC 15.05.070(6)). This could be done through a separate checklist provided by City staff. The City could also codify scaled site plan requirements under FWRC 15.05.130(2) to document the proposal meets use, setback, vegetation conservation area, height, footprint, and specific design requirements per FWRC 15.05.070(6). (Note: City does not plan to codify submittal requirements for shoreline exemptions.)</p> <p>Furthermore, providing a clear definition</p>

#	Issue	Relevant Location(s) ¹	Review & Action
			<p>of appurtenant structures for single family accessory structures will reduce the ambiguity when applying for an exemption. An example is as follows, <i>“Appurtenance, residential” means an improvement necessarily connected to the use and enjoyment of a single-family residence when located landward of the OHWM, the perimeter of a wetland and outside their corresponding required buffers. Appurtenances may include, but are not limited to, a garage; driveway; utilities; water craft storage (upland); swimming pools; hot tubs; shoreline stabilization; retaining walls; fences; yards; saunas; cabanas; antennas; decks; walkways; and grading which does not exceed 250 cubic yards and which does not involve placement of fill in any wetland or waterward of a marine or freshwater OHWM. Appurtenances do not include secondary sleeping areas and accessory dwelling units, which undergo a separate review and are considered exempt from the shoreline substantial development permit. The terms “appurtenant” and “accessory” are synonymous.</i></p>
8	<p>Application Requirements. It is unclear as to when is a Habitat Assessment necessary.</p>	<p>Zoning Code: <i>FWRC 15.05.140 Application requirements.</i></p>	<p>Review: This requirement stems from whether a shoreline project intersects with a WDFW-defined priority habitat species (PHS) mapped location. The requirement for a Habitat Assessment is specifically identified under FWRC 15.05.140(10).</p> <p>Action: Recommended: Development proposals which expand into critical habitats, as identified by WDFW PHS maps, should provide a Habitat Assessment Plan. Therefore, under FWRC 15.05.140, complete application requirements, subsection (10), consider adding a reference to FWRC 19.142.060</p>

#	Issue	Relevant Location(s) ¹	Review & Action
			<p>which will subsequently reference WDFW PHS mapping, and the applicable sections of the Fish and Wildlife Habitat Conservation Areas section of the critical areas regulations (FWRC 19.145.260, 19.145.390, and 19.145.400), which refer to actions which trigger a Habitat Assessment study. The City should ultimately confirm whether a Habitat Assessment is needed, utilizing WDFW PHS mapping as a SMP code-identified source.</p>
9	<p>Routing Application to Ecology It is unclear when a shoreline decision is routed to Ecology.</p>	<p>Zoning Code: <i>FWRC 15.05.180 Final approval of shoreline permits.</i></p>	<p>Review: Ecology reviews shoreline conditional use and variance permit applications; these should be forwarded within five days of the City’s decision. As a best practice for benefit of the applicant, it is beneficial to route both shoreline conditional use and shoreline variance applications to Ecology for advance review so that they may review during the notice of application process.</p> <p>Action: Recommended: Change wording to, ‘notify and forward’ from ‘notify’ for routing the decision to Ecology under FWRC 15.05.180(1). Routing shoreline conditionals use and variance applications for review can occur at notice of application.</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.

In addition to the gaps provided by City staff under this section, the issue concerning nonconforming structures in shoreline management areas was introduced. While methods exist to trigger structure conformance, these changes must be weighed in-balance between property owner rights and no-net loss of shoreline ecological functions.

One possible method includes setting an assessed value threshold for redevelopment, where over a certain threshold, the entire structure shall conform with the current SMP. While the City has chosen an approach of allowing non-conforming structures to become legally conforming (see page 7, Section 2: #19), structure redevelopment may give the City an opportunity to

require current SMP regulations be met. Options for addressing nonconforming structures within SMP jurisdiction will be discussed further as the City proceeds with its recommended code amendments.

6. References

Ecology (Washington State Department of Ecology). July 2018. July 2018 Modifications for Habitat Score Ranges. Modified from Wetland Guidance for CAO Updates: Western Washington Version. Ecology Publication No. 16-06-001. Accessed November 2018. <https://fortress.wa.gov/ecy/publications/parts/1606001part1.pdf>

Ecology (Washington State Department of Ecology). June 2016. Wetland Guidance for CAO Updates: Western Washington Version. Ecology Publication No. 16-06-001. Accessed November 2018. <https://fortress.wa.gov/ecy/publications/documents/1606001.pdf>