

# City of Anacortes Shoreline Master Program

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## Final Draft Gap Analysis Report

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November 2020  
The Watershed Company Reference Number:  
180755

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# 1. Introduction

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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.

The Shorelines of the State in the City of Anacortes (City) include Guemes Channel, Burrows Bay, Fidalgo Bay, Little Cranberry, Heart, and Whistle Lakes, in addition to a portion of both Lake Erie and Padilla Bay within City limits.

The City’s most recent update of its SMP took place in 2010 under Ordinance No. 2838. The City’s SMP outlines goals and policies for the shorelines of the City, and also establishes regulations for development occurring within shoreline jurisdiction. The City’s current SMP establishes its own critical areas regulations within Appendix A.

Since adoption of the SMP, the City-wide critical areas regulations remain largely the same, as codified in Chapter 17.70 (Ordinance # 2702 dated April 18, 2005, #2743 dated August 7, 2006, and #2748 dated October 2, 2006), with a minor amendment to AMC 17.70.020, Statutory authorization, findings of fact, purpose and objectives, Ordinance No. 3031 (2019). The City-wide critical areas regulations are codified under AMC Chapter 17.70, Critical Areas. The City is currently undergoing a critical areas ordinance update and anticipates placing the new critical area regulations under Title 19, Unified Development Code, specifically Chapter 19.70, Critical Areas. As part of the periodic update of the SMP, the City anticipates referencing this new ordinance instead of using the critical area regulations in Appendix A. The critical areas ordinance is set to be adopted prior to the anticipated June 2020 SMP periodic update completion.

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 2019 as summarized by the Washington State Department of Ecology (Ecology) in its Periodic Review Checklist.
- **Section 3** identifies issues with integrating the City’s upcoming 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.
- **“Optional”** indicates legislative amendments that can be adopted at the City’s preference but are not required.
- **“No action necessary”** indicates the current SMP meets the intent of or already contains listed legislative updates, changes to critical areas, comprehensive plan or zoning code.

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
CAO	Critical Areas Ordinance
City	City of Anacortes
Ecology	Washington State Department of Ecology
EIS	Environmental Impact Statement
AMC	Anacortes Municipal Code
RCW	Revised Code of Washington
SMP	Shoreline Master Program
SED	Shoreline Environment Designation
WAC	Washington Administrative Code

## 2. Consistency with State Laws

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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 chronologically by year.

Only a limited number of revisions in Table 2-1 are classified as “mandatory.” Furthermore, 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.

Row	Summary of change	Review	Action
<b>2019</b>			
a.	OFM adjusted the <b>cost threshold for building freshwater docks</b>	This cost threshold update for triggering a shoreline substantial development permit has to do with replacing freshwater docks within a rolling 5-year period. SMP 2.4.E.8.b. outlines an outdated SDP cost threshold for replacing residential freshwater docks.	<p><b>Mandatory:</b></p> <p>The City will update the cost threshold dollar figure for when a SDP is triggered on single-family freshwater pier replacement projects:</p> <p><i>a. In fresh waters the fair market value of the dock does not exceed <u>twenty two thousand five hundred (\$22,500) dollars</u>, but if subsequent construction having a fair market value exceeding two thousand five hundred (\$2,500) dollars occurs within five years of completion of the prior construction, the subsequent construction shall be considered a substantial development for the purpose of these regulations.</i></p>
b.	The Legislature removed the requirement for a shoreline permit for <b>disposal of dredged materials at Dredged Material Management Program sites</b> (applies to 9 jurisdictions)	There is not a Dredged Material Management Program site within the City’s Shoreline Jurisdiction. Therefore, this legislative amendment does not apply.	No action necessary.
c.	The Legislature added <b>restoring native kelp, eelgrass beds and native oysters</b> as fish habitat enhancement projects.	Habitat enhancement is discussed under SMP 2.4.E(16) and references RCW 77.55.181 for fish habitat enhancement projects. This captures the legislative update, referencing these additional options for applicants to consider for mitigation or standalone restoration projects.	No action necessary.

Row	Summary of change	Review	Action
<b>2017</b>			
a.	Washington State Office of Financial Management (OFM) adjusted the <b>cost threshold for substantial development</b> to \$7,047.	<p>Page 5.SMP 2.4.E(1), Substantial development permit exemption, references the out of date dollar figure, as well as the RCW reference which adjusts automatically for inflation:</p> <p><i>E. The following shall not be considered substantial development for the purpose of this Master Program.</i></p> <p style="padding-left: 40px;">4. Any development of which the total cost or fair market value, whichever is higher, does not exceed five thousand seven hundred eighteen (\$5,718) dollars or as periodically adjusted per RCW 90.58.030(3)(e)</p>	<p><b>Mandatory:</b></p> <p>The City will reference the updated dollar figure, in addition to leaving the existing RCW reference for future updates. The revised text is underlined as follows:</p> <p><i>E. The following shall not be considered substantial development for the purpose of this Master Program.</i></p> <p style="padding-left: 40px;">4. Any development of which the total cost or fair market value, whichever is higher, does not exceed <u>seven thousand forty-seven (\$7,047) dollars</u> or as periodically adjusted per RCW 90.58.030(3)(e)</p>
b.	Ecology amended rules to clarify that the <b>definition of “development”</b> does not include dismantling or removing structures.	<p>The current SMP definition for development does not include the amended rule. SMP 12.2, Definitions, in addition to SMP 1.5, How the Shoreline Master Program is Used, includes the following definition for Development:</p> <p><i>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 other 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 state of water level (RCW 90.58.030(3d)). See also “Substantial Development.”</i></p>	<p><b>Recommended:</b></p> <p>The City will consider adding to the definition of development to be consistent with Ecology’s recommended language: <u>“Development” does not include dismantling or removing structures if there is no other associated development or re-development.</u></p>
c.	Ecology adopted rules that clarify	There is not a section dedicated to exceptions. In addition, the definition	<b>Mandatory:</b>

<i>Row</i>	<i>Summary of change</i>	<i>Review</i>	<i>Action</i>
	<b>exceptions to local review under the SMA.</b>	of Substantial Development under SMP 12.2, Definitions does not reference this requirement.	The City will update SMP 2.4, Uses Not Constituting "Development" and Exemptions from Substantial Development Permit Requirements with a subsection that refers to the activities otherwise found under WAC 173-27-044, and -045, as amended.
<b>d.</b>	Ecology amended rules that clarify <b>permit filing procedures</b> consistent with a 2011 statute.	Both SMP 11.4, Effective Date, and SMP Chapter 3, Administrative Provisions, do not describe the filing process.	<b>Recommended:</b> The City will consider updating SMP Chapter 3 to describe that all shoreline permits adhere to the date of filing with Ecology, pursuant to WAC 173-27-130. In addition, AMC 18.16.090(e) can reference this WAC section for SMP permitting decisions.
<b>e.</b>	Ecology amended <b>forestry use regulations</b> to clarify that forest practices that only involves timber cutting are not SMA "developments" and do not require SDPs.	Under SMP 5.12, Shoreline Use and Modification Matrix and Development Standards, Table 5.1, forest practices are a prohibited activity in all shoreline environments except conservancy, where a shoreline conditional use permit (SCUP) is required. An additional shoreline development permit or shoreline exemption is not required, however.	<b>Recommended:</b> The City will consider adding a footnote to the forestry use within Table 5.1 to reference additional requirements for a forestry activity, as required by WAC 222-50-020.
<b>f.</b>	Ecology clarified the SMA does not apply to lands under <b>exclusive federal jurisdiction</b>	No SMA lands in Anacortes are under "Exclusive federal jurisdiction."	No action necessary.
<b>g.</b>	Ecology clarified "default" provisions for <b>nonconforming uses and development.</b>	SMP 3.3-3.6, already provides provisions for "nonconforming development", "nonconforming uses", "nonconforming structures", and "nonconforming lots" as well as a definition for "nonconforming use and development" under SMP 12.2, Definitions. Nonconforming lot is not defined.	<b>Recommended:</b> To clarify each nonconforming type (use, development/structure, and lot), the City may consider defining each separately. Ecology sample language is available.
<b>h.</b>	Ecology adopted rule	This is optional and the current SMP does not address the periodic review	No action necessary.

<i>Row</i>	<i>Summary of change</i>	<i>Review</i>	<i>Action</i>
	amendments to clarify the scope and process for conducting <b>periodic reviews</b> .	provision. The SMP 1.2.C. already references WAC 173-26 for amendment procedures.	
<b>i.</b>	Ecology adopted a new rule creating an <b>optional SMP amendment process</b> that allows for a shared local/state public comment period.	The SMP 1.2.C. already references WAC 173-26 for amendment procedures.	No action necessary.
<b>j.</b>	<b>Submittal</b> to Ecology of proposed SMP amendments.	SMP 11.2, Amendments to Master Program already references WAC 173-26 for amendment procedures.	No action necessary.
<b>2016</b>			
<b>a.</b>	The Legislature created a new shoreline permit exemption for retrofitting existing structures to comply with the <b>Americans with Disabilities Act</b> .	SMP 2.2, Applicability, references WAC 173-27-040, as it describes the threshold for substantial development. In addition, SMP 12.2, Definitions, provides a reference to this WAC section under the definition for exempt development.	No action necessary.
<b>b.</b>	Ecology updated <b>wetlands critical areas guidance</b> including implementation guidance for the 2014 wetlands rating system.	The draft critical areas ordinance captures the 2014 wetlands rating system under AMC 19.70.210(B). The City anticipates adopting this critical areas ordinance by reference.	<b>Recommended:</b> As discussed in further detail in Section 3 below, the City will adopt the draft CAO by reference.

Row	Summary of change	Review	Action
<b>2015</b>			
a.	The Legislature adopted a <b>90-day target</b> for local review of Washington State Department of Transportation (WSDOT) projects.	While this is optional, the WSDOT presence is significant with both ferry terminal and Highway 20 within shoreline jurisdiction. In addition, the SMP does not address the process for WSDOT projects. If implemented, this change should go under SMP Chapter 3, Administrative provisions.	<b>Recommended:</b> The City will consider adopting a slightly reduced review timeframe from 120 days for standard shoreline permits to 90 days to assist WSDOT in their permitting timelines. Language from Ecology is available.
<b>2014</b>			
a.	The Legislature created a new definition and policy for <b>floating on-water residences</b> legally established before 7/1/2014.	SMP Table 5.1, Shoreline Use and Modification Matrix, does not allow residential uses in aquatic shoreline designations. Therefore, this regulation does not apply. No stationary floating residences exist in Anacortes.	No action necessary.
<b>2013 – no applicable legislative actions</b>			
<b>2012</b>			
a.	The Legislature amended the SMA to clarify <b>SMP appeal procedures</b> .	The SMP does not address the appeal process of the SMP regulatory document itself, only SMP permit appeal procedures. However, it is not required to describe appeal procedures of the SMP itself and it is standard practice to not include this amendment in the SMP.	No action necessary.
<b>2011</b>			
a.	Ecology adopted a rule requiring that wetlands be delineated in accordance with the approved	The draft CAO captures the federal wetlands manual WAC reference, stating under AMC 19.70.220(C) that, “Identification of wetlands and delineation of their boundaries pursuant to this chapter must be	<b>Recommended:</b> As discussed in further detail in Section 3 below, the City will adopt the draft CAO by reference.

<i>Row</i>	<i>Summary of change</i>	<i>Review</i>	<i>Action</i>
	<b>federal wetland delineation manual.</b>	done in accordance with the adopted Federal wetland delineation manual and applicable regional supplements per WAC 173-22-035.”	
<b>b.</b>	Ecology adopted rules for new commercial <b>geoduck aquaculture.</b>	SMP Section 8.4, Aquaculture, discusses aquaculture policies and development regulations for all types of aquaculture. Ecology provides direction toward new rules for commercial geoduck aquaculture. These include clarifying the aquaculture definition to not include wild geoduck harvest, reviewing siting considerations that can support geoduck aquaculture operations without significant clearing and grading, and considering the use of a Joint Aquatic Resource Permit Application (JARPA) for project proposals at the City level to reduce redundancy between local, state and federal permit requirements.	<b>Recommended:</b> The City will consider amending the definition under SMP 12.2 for aquaculture not to include wild geoduck harvests. In addition, the City will consider referencing the review provisions under WAC 173-26-241(3)(b)(ii-iv) as a specific regulatory mechanism under SMP 8.4 for applicants to demonstrate they comply with in geoduck aquaculture proposals.
<b>c.</b>	The Legislature created a new definition and policy for <b>floating homes</b> permitted or legally established prior to January 1, 2011.	SMP Table 5.1, Shoreline Use and Modification Matrix, does not allow residential uses in aquatic shoreline designations. In addition, the City has no floating homes. Therefore, this new definition should not apply in the future.	No action necessary.
<b>d.</b>	The Legislature authorized a new <b>option to classify existing residential structures as conforming.</b>	SMP 3.5 Nonconforming Structures, establishes legally established structures that are nonconforming can be expanded, so long as they do not increase the non-conformance. The legislative option would allow existing legally established non-conforming residential structures to be treated as conforming.  This legislative action does not impact future development; it merely treats existing legally permitted	No action necessary.  No change, as SMP 3.5, Nonconforming Structures states structures may be maintained and are not in violation, so long as future development is in conformance with the SMP.

Row	Summary of change	Review	Action
		nonconforming development as conforming.	
<b>2010</b>			
a.	The Legislature adopted <b>Growth Management Act – Shoreline Management Act clarifications.</b>	SMP 1.2.A., Requirements of the Shoreline Management Act, already contains references to WAC 173-26, State Master Program, which therein references Approval/Amendment Procedures and Master Program Guidelines.	No action necessary.
<b>Anacortes Shoreline Master Program Update, Ordinance No. 2838, adopted 2010.</b>			
<b>2009</b>			
a.	The Legislature created new “relief” procedures for instances in which a <b>shoreline restoration project within a UGA</b> creates a shift in Ordinary High Water Mark.	The SMP 9.10, Shoreline Habitat and Natural Systems Enhancement Projects, does not address such relief procedures.	<b>Recommended:</b> The City will consider referencing relief procedures under SMP 9.10, Shoreline General Development Standards. Example language from Ecology is as follows: <i>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.</i>
b.	Ecology adopted a rule for certifying <b>wetland mitigation banks.</b>	The rule is referenced under AMC 19.70.270(B) of the draft critical areas code, referencing the wetland mitigation bank certification process under WAC 173-700.	No action necessary.
c.	The Legislature added <b>moratoria authority</b> and procedures to the SMA.	Moratoria procedures are not required to be included in SMP. The City may rely on statute: WAC 173-27-085 if they choose to include this provision at a later date.	<b>Recommended:</b> The City will consider adding a section that incorporates moratoria by using Ecology’s example wording.

Row	Summary of change	Review	Action
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 under SMP 12.2, Definitions, and generally covers both Ecology-prescribed options: <i>Floodway as identified in a master program, that either: (i) Has been established in federal emergency management agency flood insurance rate maps or floodway maps; or (ii) consists of those portions of a river valley lying streamward..."</i>	<b>Optional:</b> To improve readability under SMP 12.2 Definitions, the City will consider adding to the "Floodway" definition to reference RCW 90.50.030(2)(b)(ii) as rationale for the biological definition originally provided.
b.	Ecology amended rules to clarify that comprehensively updated SMPs shall include a <b>list and map of streams and lakes</b> that are in shoreline jurisdiction.	The areas of shoreline jurisdiction are shown under SMP Map Figure 5.1 but are not provided as a list in one spot.	<b>Mandatory:</b> Provide a list of shoreline jurisdictional areas. This can be added as a separate subsection under SMP Section 2.3, Shoreline Jurisdiction. Designated and Section 5.5, Shorelines of Statewide Significance. In addition, Padilla Bay is now mentioned under the Urban Designation Legal Description (SMP 5.10(F)).
c.	Ecology's rule listing statutory exemptions from the requirement for an SDP was amended to include <b>fish habitat enhancement projects</b> that conform to the provisions of RCW 77.55.181.	SMP 2.4.E(16), Exemptions from Substantial Development Permit Requirements, already references fish habitat enhancement projects under RCW 77.55.181, which lists this exemption.	No action necessary.

### 3. Integration of Current Critical Areas Regulations

The City’s current SMP has a separate set of shoreline-specific critical areas regulations, listed under Appendix A and adopted in 2010. The City is currently in the process of updating their Critical Areas Ordinance (CAO) and relocating to AMC 19.70 from section 17.70. Accordingly, the City anticipates referencing the upcoming City-wide critical areas regulations in the updated SMP. However, as with the City’s current CAO, these critical areas regulations include some regulations that are inconsistent with the Shoreline Management Act. 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 in order to properly reference the City’s critical areas regulations into the updated SMP. The table is organized by critical areas regulations subject area.

Table 3-1. Summary of consistency with the SMP and Critical Areas Ordinance and potential revisions.

#	Issue	Relevant Location(s) <sup>1</sup>	Review & Action
1	Linkage between CAO and SMP	<b>Location:</b> SMP Appendix A and AMC 19.70 (not yet adopted) Critical Areas Regulations.	<b>Review:</b> The SMP regulates critical areas in shoreline jurisdiction through Appendix A, which is a modified version of the currently effective CAO. Inconsistencies were evaluated between the current SMP and the draft CAO. The result is several inconsistencies between the way critical areas are regulated inside and outside of shoreline jurisdiction. Items 2 and 3 within this table identify specific inconsistencies.  <b>Action</b> <b>Recommended:</b> The City plans to adopt the critical areas regulations by reference within the critical areas section of the SMP in order to bring the SMP into alignment with the soon to be adopted CAO. The critical areas section of the SMP will clarify the sections of the CAO that do not apply in shoreline jurisdiction and will provide the necessary alternative or supplemental regulations.
2	Definitions	<b>Location:</b> SMP Ch. 12; AMC 19.70 - Draft	<b>Review:</b> The definitions for the following terms are inconsistent between the

#	Issue	Relevant Location(s) <sup>1</sup>	Review & Action
			<p>SMP and AMC 19.70 – Draft Critical Areas Ordinance:</p> <ul style="list-style-type: none"> <li>• Alteration</li> <li>• Best management practices</li> <li>• Erosion</li> <li>• Floodplain</li> <li>• Floodway</li> <li>• Mitigation</li> <li>• Native vegetation</li> <li>• Noxious weed</li> <li>• “Repair or maintenance” – CAO vs “normal maintenance” and “normal repair” – SMP</li> <li>• Restoration</li> <li>• Stream</li> </ul> <p><b>Action</b> <i>Recommended:</i> The City will use the most up-to-date definition available that is consistent with the City’s use of the term in any other relevant regulations under AMC 19.70, the reserved code chapter, once the new critical areas regulations ordinance is adopted.</p>
3	Sections exempt from adoption into SMP	<p><b>Location:</b> AMC 19.70 – Draft 2<sup>nd</sup> Draft – PC Recommendations <a href="https://www.anacorteswa.gov/DocumentCenter/View/17027/Exhibit-B">https://www.anacorteswa.gov/DocumentCenter/View/17027/Exhibit-B</a></p>	<p><b>Review:</b> These sections from the CAO draft should not be adopted into the SMP due to inconsistencies with the SMA requirements or the current draft of the SMP.</p> <ul style="list-style-type: none"> <li>• 19.70.XXX Critical Areas Review</li> <li>• 19.70.040 Exempt Activities</li> <li>• 19.70.XXX Permitted Alterations</li> <li>• 19.70.XXX Reasonable Use Exception Variance</li> <li>• 19.70.XXX(B) Wetlands – General Development Standards - Exemptions</li> </ul>

#	Issue	Relevant Location(s) <sup>1</sup>	Review & Action
			<ul style="list-style-type: none"> <li>• 19.70.XXX(B) Fish and wildlife habitat – Specific standards for streams - Exemptions</li> <li>• 19.70.XXX(B) Geologically hazardous areas – General development standards - Exemptions</li> </ul> <p><b>Action</b> <i>Mandatory:</i> The City will exclude these sections in order to comply with the SMA and the no net loss requirement.</p>
4	<b>What triggers a critical area report?</b>	SMP Section 2.4, Uses Not Constituting “Development” and Exemptions from Substantial Development Permit Requirements	<p><b>Review:</b> Alteration or development may not meet the threshold or requirements of a SDP but may be adjacent to or within a critical area. If this was within shoreline jurisdiction, would a shoreline permit need to be obtained or a critical areas permit?</p> <p><b>Action:</b> Upon further review, the City’s Shoreline Exemption permit already captures the Critical Areas report requirement, as necessary. The applicability section of SMP Section 2.4 will reference critical area-regulated activities normally exempt from permit requirements that still need to be evaluated for shoreline permit requirements. In addition, SMP section 6.6 provides a specific list of those activities that need to be evaluated for critical area impacts in shoreline jurisdiction.</p>
5	<b>When is a habitat assessment report required?</b>	<b>Location:</b> SMP Section 6.7, Fish and Wildlife Habitat Conservation Areas	<b>Review:</b> There is a lack of clarity for projects adjacent to the marine environment whether projects have to provide a habitat assessment report to calculate buffers off critical saltwater habitat.

#	Issue	Relevant Location(s) <sup>1</sup>	Review & Action
			<p><b><u>Action:</u></b> The City may consider requiring the applicant prove whether a vegetated buffer critical saltwater habitat exists and is intersected by the development proposal. Critical saltwater habitat includes a primary association to ESA “Threatened” species or specifically mapped habitat areas. The SMP has a primary association list of marine resource examples. However, only when the vegetation buffer is impacted or when in-water impacts are proposed may a habitat assessment report be required.</p>
6	<b>Biologist Definition</b>	<p><b><u>Location:</u></b> SMP Section 12.2, Definitions</p>	<p><b><u>Review:</u></b> The definition says qualifications but lacks specificity.</p> <p><b><u>Action:</u></b> Refer to the qualified professional definition under AMC 19.70 of the current draft CAO for capturing this definition.</p>
<p><sup>1</sup> 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>			

## 4. Consistency with Comprehensive Plan & Other Development Regulations

Based on a review of the City’s Comprehensive Plan and AMC Title 19, there are several inconsistencies observed within the City’s SMP. The Environment and Conservation Element of the Anacortes Comprehensive Plan references the SMP as the lead regulatory document for the City in addressing development and activities within designated shoreline areas.

Table 4-1 below summarizes changes that can improve the consistency and administration of the SMP.

Table 4-1. Summary of recommended SMP, AMC, and Comprehensive Plan revisions to improve consistency

#	Issue	Relevant Location(s) <sup>1</sup>	Review & Action
<b>Administration</b>			
1	<b>Organization of SMP regulations</b>	<b>AMC 18.16, Shoreline Master Plan</b>	<p><b>Review:</b> The SMP regulations are currently split between a separate regulatory document and AMC section 18.16, which provides for the shoreline permitting process for projects within shoreline jurisdiction. The current arrangement is cumbersome for both City staff and applicants to review both the document and code when administering the SMP.</p> <p><b>Action:</b> The City will codify all regulatory sections of the SMP and bring them over to newly designated AMC Chapter 19.72, Shorelines. AMC 18.16 Shoreline Master Plan will be migrated to Chapter 19.20 Application Procedures to have all land use procedures in one location.</p>
<b>Development</b>			
As development activities and citizen inquiries have come about, the City's SED map may benefit from minor revisions. In addition, policies and regulations may be tweaked to become more consistent with the City's development regulations and comprehensive plan. The following are issues identified by City staff to examine and determine if an SED map or text change to the SMP is warranted.			
2	<b>SED Designations #1: Urban Designation near Anacortes Ferry Terminal</b>	SMP Figure 5.1 – Official Shoreline Environment Designation Map	<p><b>Review:</b> Land use development patterns have shifted away from a potential resort site and marina in Ship Harbor to lower density single family residences. As such, the ecological resources outlined in both the Fidalgo Bay EIS and City's Inventory and Characterization Plan combined with these land uses would make it difficult to permit and costly to construct a marina.</p> <p><b>Action:</b> The City may consider changing the SED from Urban to the split of Conservancy for the first 100' to Shoreline Residential for the latter 100' from the OHWM. This will match the zoning designation of R2 (Residential Low Density) for this area.</p>

#	Issue	Relevant Location(s) <sup>1</sup>	Review & Action
3	<b>SED Designations #2:</b> Former canneries under Urban SED	SMP Figure 5.1 – Official Shoreline Environment Designation Map	<p><b>Review:</b> Two dilapidated cannery structures are within the Aquatic SED and have an Urban SED landward of both structures. The Urban SED landward of the OHWM is inconsistent with the underlying single-family residential zoning designations R2A and Old Town. Potential impacts to surrounding single family areas would need to be accounted for in any re-development proposal.</p> <p><b>Action:</b> The City may consider changing the Urban SED to Shoreline Residential or leaving the designations as-is. Future use and development of these sites will need to account for this underlying single-family zoning and future land use designated per the City’s Comprehensive Plan.</p>
4	<b>SED Designations Change #3:</b> residential property straddling City limits on Lake Erie	SMP Figure 5.1 – Official Shoreline Environment Designation Map, SMP Table 5.2. Shoreline Development Standards Matrix	<p><b>Review:</b> A residential property straddles City limits and unincorporated Skagit County on a parcel that was originally left undesignated under the original SMP update process.</p> <p><b>Action:</b> Any undesignated properties in City shoreline jurisdiction are designated Conservancy. Coincidentally, this designation appears to be appropriate based upon the largely undisturbed character of the shoreline. Therefore, the Conservancy designation appears to be the best fit for this property.</p>
5	<b>SED Designations Change #4:</b> Aquatic Shoreline Environment Designation is not showing	Figure 5.1 – Official Shoreline Environment Designation Map	<p><b>Review:</b> The Aquatic layer is not graphically represented waterward of the OHWM within the City’s shorelines.</p> <p><b>Action:</b> Recommend adding this layer to the legend.</p>

#	Issue	Relevant Location(s) <sup>1</sup>	Review & Action
<b>Regulations</b>			
6	<b>Commercial requirement for mixed use development</b>	SMP 5.10.E., Urban Development Regulations	<p><b>Review:</b> In light of the new zoning regulations, increased flexibility of residential uses exists over the current regulation under DR-5.10.4.e. which limits use to commercial only on the ground floor. This regulation undermines development proposals that may have a ground floor lobby area or other proposal that is otherwise compliant with Block Frontage Standards provided under AMC 19.61.</p> <p><b>Action:</b> The City will consider removing Urban SED regulation DR-5.10.4.e. and amending the DR-5.10.4 to refer to AMC 19.61. Review of specific zoning standards is needed to ensure consistency with AMC 19.61, Block Frontage Standards.</p>
<b>Code references</b>			
7	<b>Definitions</b>	AMC 19.12, Definitions & Interpretation; SMP 12.2 Definitions, 5.12 Shoreline Use and Modification Matrix and Development Standards	<p><b>Review:</b> Zoning Code sections AMC 19.12 and 19.70 as well as SMP section 12.2 form a complementary set of definitions that apply within shoreline jurisdiction. This relationship is not defined in either section.</p> <p><b>Action:</b> Reference in the SMP that definitions not covered here may be captured under AMC code sections 19.12 and 19.70. In instances where definitions need to be clearly defined in shoreline jurisdiction, such as building height or impervious surface, these have been added to the SMP. Due to the complexity of building height calculations and scenarios, its definition has been re-located to Section 5.12.</p>
8	<b>Use - Advertising and Signs</b>	SMP Chapter 8.2 Advertising and Signs, page 110	<p><b>Review:</b> The sign code reference is incorrect.</p> <p><b>Action:</b></p>

#	Issue	Relevant Location(s) <sup>1</sup>	Review & Action
	- incorrect reference	Page 110: The reference to sign standards	Update reference in SMP from Chapter 17 of the AMC to 19.67 for new sign code regulations.
9	Use - Commercial Development - incorrect reference	SMP Chapter 8.5 Commercial Development, page 114	<b>Review:</b> The design standards reference is out of date.  <b>Action:</b> Update reference in SMP from Chapter 17 of the AMC to 19.66, Building Design, for new design code regulations.
10	Title 19 update	Entire SMP	<b>Review:</b> The entire SMP is referencing older code provisions that either have been edited or no longer exist.  <b>Action:</b> Amend and correct references to all non-CAO code references. The CAO update is discussed above under Section 3 of this Gap Analysis
<sup>1</sup> 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.			

## 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) <sup>1</sup>	Review & Action
<b>General</b>			
1	Use of plain language	Document-wide	<b>Review:</b> The use of shall needs to be replaced with must to keep consistent with a standard use of plain language throughout SMP development regulations.  <b>Action:</b>

			The City will consider replacing shall with must throughout the SMP document.
2	<b>Definitions – Act listed twice</b>	SMP 12.2, Definitions	<p><b>Review:</b> A duplicate definition of ‘Act’ exists with similar responses.</p> <p><b>Action:</b> Use the definition response as follows: <i>Act means the Washington State Shoreline Management Act, Chapter 90.58 RCW.</i></p>
3	<b>Chapter 5: Aquaculture considerations in Aquatic environment</b>	Table 5.1 Shoreline Use and Modification Matrix; SMP 8.4, Aquaculture; SMP 9.9, Mooring Buoys; SMP 12.2, Definitions; Aquatic DR 5.6.1	<p><b>Review:</b> Aquaculture types come in many different forms and levels of impact. Sea cucumber cultivation is one example of a species that is cultured and grown in-part by using waste byproducts of other animals along with ocean water withdrawals. As a use, Aquaculture for commercial activity is a conditional use in the Urban and Urban Maritime SEDs and prohibited in all others.</p> <p><b>Action:</b> The City may consider changing the Aquatic SEDs to conditionally permit aquaculture types that create little to no waste byproducts and do not necessarily need to occupy beaches, fish pens, or otherwise occur directly within the Aquatic environment. Adding clarity and preference to less impactful aquaculture will encourage economic development in under- utilized locations along the shoreline, without significant environmental impact.</p>
4	<b>Provisions for reviewing building height above 35’.</b>	Chapter 5: Table 5.2 – Building height, 5.12.B.2 – Building Height	<p><b>Review:</b> For development projects where building height is proposed to exceed 35’, more straightforward provisions are needed to provide guidance for applicants, thereby meeting state requirements. In addition, clarity on the</p>

			<p>building height measurement provisions would be helpful.</p> <p><b>Action:</b> Adding provisions for a visual impact assessment will address impacts for projects where view impacts may occur. This can be achieved through view analysis showing proposed buildings in relation to impacted views, referencing RCW 90.58.320 and DR-6.4.18 in underneath Table 5.2. Building height calculation standards have been added to SMP 5.12.B.2 Building Height.</p>
5	<p><b>Strengthening Vegetation Conservation provisions</b></p>	<p>SMP Section 6.5, Vegetation Conservation, specifically DR-6.5.9:</p> <p><i>Trimming of trees and vegetation is allowed within shoreline setback areas without a landscape plan, provided:</i></p> <p><i>a. This provision is not interpreted to allow clearing of vegetation,</i></p> <p><i>b. Trimming does not include topping, stripping or imbalances; a minimum of 60% of the original crown shall be retained to maintain tree health,</i></p> <p><i>c. Trimming does not directly impact the nearshore functions and values including fish and wildlife habitat,</i></p> <p><i>d. Trimming is not within a wetland or wetland buffer, and e. Trimming in landslide and erosion hazard areas does not impact soil stability.</i></p>	<p><b>Review:</b> No direct provisions exist for pruning and unauthorized vegetation removal activities within the shoreline environment.</p> <p><b>Action:</b> The City may consider including more specific vegetation management standards, to achieve improved aesthetics while conserving habitat values, in addition to a more straight-forward permitting approach so applicants understand what is permitted when removing vegetation for view enhancement. One example includes setting maximum crown reduction of 25%, as a permitted pruning activity with a shoreline exemption permit.</p>
6	<p><b>Dock/Pier repair regulations are</b></p>	<p>SMP 9.5.14 – Docks, Piers and Floats Regulation –</p>	<p><b>Review:</b> The terms “substructure” and “pile subsection” are not defined. This makes</p>

	<b>difficult to understand</b>	<i>DR-9.5.14 Repair proposals which replace only decking or decking substructure and less than 50 percent of the existing piles subsections shall be considered minor repairs and are permitted, consistent with all other applicable codes and regulations. If cumulative repairs of an existing pier or dock over three years would make a proposed repair exceed the threshold established above, the repair proposal shall be reviewed as a new pier or dock.</i>	<p>it difficult for both City staff and the applicant to determine what can be done to meet this regulation.</p> <p><b><u>Action:</u></b> The City may consider removing reference to “substructure” and define “pile subsection” to add clarity to this regulation.</p>
7	<b>Prioritize Restoration Plan</b>	Appendix B of existing SMP	<p><b><u>Review:</u></b> Amend the SMP Restoration Plan (proposed Appendix A) to (1) account for projects document what restoration projects have been completed since 2010 and, (2) prioritize the remaining projects based on applicable factors, such as ecological benefit, financial feasibility, and overall suitability.</p> <p><b><u>Action:</u></b> The City will explore a prioritized restoration after discussion with stakeholders.</p>
8	<b>Cumulative Impact Analysis Addendum</b>	City Cumulative Impacts Analysis (CIA)	<p><b><u>Review:</u></b> The City will review potential future capital facilities projects against the existing CIA for changes and impact(s) not previously accounted for.</p> <p><b><u>Action:</u></b> The City will explore providing an addendum memo to the CIA to account for potential city capital projects in shoreline jurisdiction.</p>
9	<b>Code updates and references</b>	SMP Policy 8.11.4, Table 5.2 – Dimensional Standards	<b><u>Review:</u></b>

			<p>Policy documents and development regulations have changed since original SMP adoption. In addition, the zoning code does not need to be referenced in the dimensional standards table.</p> <p><b>Action:</b> Update references to current ordinances for the Comprehensive Plan and Development Regulations.</p>
10	<b>Impervious Surface not listed</b>	SMP DR-5.9.10 Shoreline Residential Design Elements, 12.2 Definitions	<p><b>Review:</b> No definition exists for impervious surface in the SMP.</p> <p><b>Action:</b> The definition for impervious surface has been brought into SMP 12.2 Definitions from the City’s Stormwater Management Program 2019.</p>
11	<b>Chapter 5: Percent slope and impervious surface limits in Conservancy and Shoreline Residential Designations</b>	DR 5.8.6, Conservancy Design Elements; DR 5.9.10, Shoreline Residential Design Elements	<p><b>Review:</b> Percent slope regulations are difficult to administer as the lot and buildable land area portions are not defined clearly, making it difficult to determine what impervious surface maximums apply and on what portion of the lot.</p> <p><b>Action:</b> The City may consider being explicit in what constitutes lot and replacing buildable area with remaining area in the code.</p>
<p><sup>1</sup> 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>			

## 6. References

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Revised Final Integrated Fidalgo Bay-Wide Plan and EIS. City of Anacortes, Ordinance No. 2520. January 2000. <https://www.anacorteswa.gov/DocumentCenter/View/863/Revised-Final-Integrated-Fidalgo-Bay-Wide-Plan-and-EIS-PDF>