

Gap Analysis Report

Shoreline Master Program City of Carnation

January 2019

Prepared on behalf of:



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Report Disclaimer: The information contained in this report is based on the application of technical guidelines currently accepted as the best available science. All discussions, conclusions and recommendations reflect the best professional judgment of the author(s) and are based upon information available at the time the study was conducted. All work was completed within the constraints of budget, scope, and timing. The findings of this report are subject to verification and agreement by the appropriate local, state and federal regulatory authorities. No other warranty, expressed or implied, is made.



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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 Carnation (City) adopted its current SMP in 2012 (Ordinance No. 814). In Carnation, the only Shorelines of the State are the Snoqualmie River and the Tolt River, and the Snoqualmie River is also a Shoreline of Statewide Significance. The City's SMP includes goals and policies, shoreline environment designations, and development regulations that guide the development and protection of these shorelines.

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 August 2015 (Ordinance No. 860) and amended in October 2017 (Ordinance No. 892), and with the implementing development regulations in the Carnation Municipal Code (CMC). Finally, as the periodic review process represents an opportunity to revise and improve the SMP, both City and Watershed staff reviewed the current SMP for overall usability.

The purpose of this gap analysis report is to provide a summary of this review and to 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 the SMP's 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 of the SMP with the City's Critical Areas Ordinance (CAO) (CMC Chapter 15.88). The CAO was most recently updated in August 2015, and applies to critical areas outside of shoreline jurisdiction, while the SMP contains its own separate set of regulations that apply to critical areas within shoreline jurisdiction.
- **Section 4** identifies gaps in consistency with the City's Comprehensive Plan, and with implementing sections of the City's development regulations other than the CAO.

- **Section 5** identifies issues of usability noted by both City staff and residents.

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, 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 Carnation |
| Ecology | Washington State Department of Ecology |
| FEMA | Federal Emergency Management Agency |
| RCW | Revised Code of Washington |
| SMP | Shoreline Master Program |
| WAC | Washington Administrative Code |
| CMC | Carnation Municipal Code |

2. Consistency with Legislative Amendments

Table 1 summarizes mandatory and recommended revisions to the Carnation SMP based on the review of consistency with legislative amendments made since SMP adoption. 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. Ecology has also developed new guidance on regulating nonconforming uses, structures, and development that could be of use to the City in clarifying the nonconformance regulations in its SMP. 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. | SMP R380(a) references WAC 173-27-040 and RCW 90.58. Definition for "Substantial development" cites a cost threshold of \$5,718. Relevant Section: R380(a) and definition for "Substantial development" | Mandatory: The definition for "Substantial development" should be updated to reflect the new threshold. |
| b. | Ecology amended rules to clarify that the definition of "development" does not include dismantling or removing structures. | The SMP does not clarify that removing structures does not constitute development. Relevant Section: Definition for "Development" | Mandatory: Revise definition of "development." |
| c. | Ecology adopted rules that clarify exceptions to local review under the SMA. | The SMP refers to exemptions under WAC 173-27-040, but does not refer to | Mandatory: Add reference to statutory exceptions. |

| <i>Row</i> | <i>Summary of change</i> | <i>Review</i> | <i>Action</i> |
|------------|---|--|--|
| | | <p>exceptions under WAC 173-27-044 or -045.</p> <p>Relevant Sections: R380(a) & definition for “Exempt or Exemption”</p> | <p><i>Note: R385 was created in the revised SMP document to address these revisions.</i></p> |
| d. | <p>Ecology amended rules that clarify permit filing procedures consistent with a 2011 statute.</p> | <p>SMP R390 – R392 establish the permit filing and review process. R392 includes a reference to WAC 173-27-130.</p> <p>Relevant Section: R391</p> | <p>Optional: Modify language for consistency with Ecology’s recommended language.</p> <p><i>Note: In the revised SMP, R396 and R399 were created, and R390 was changed to R395, to address these revisions.</i></p> |
| e. | <p>Ecology amended forestry use regulations to clarify that forest practices that only involves timber cutting are not SMA “developments” and do not require SDPs.</p> | <p>Forest Practices are prohibited in Carnation’s SMP.</p> <p>Relevant Section: R137</p> | <p>No change needed.</p> |
| f. | <p>Ecology clarified the SMA does not apply to lands under exclusive federal jurisdiction</p> | <p>The SMP does not address federal lands.</p> | <p>No change needed. No lands under exclusive federal jurisdiction in Carnation.</p> |
| g. | <p>Ecology clarified “default” provisions for nonconforming uses and development.</p> | <p>The SMP has adopted the provisions of WAC 173-27-080 by reference.</p> <p>Relevant Section: R367 & definition for</p> | <p>Recommended: Update definitions to define nonconforming structures, uses, and lots. Consider incorporating new guidance for</p> |

| Row | Summary of change | Review | Action |
|------------------|---|--|---|
| | | <p>“Nonconforming use or development”</p> | <p>nonconforming use and development in Carnation.</p> <p><i>Note: R367 was changed to R368 in the revised SMP.</i></p> |
| <p>h.</p> | <p>Ecology adopted rule amendments to clarify the scope and process for conducting periodic reviews.</p> | <p>The SMP includes reference to RCW 90.58.080, but not to WAC 173-26-090.</p> <p>Relevant Section: R372(c)</p> | <p>Recommended: Modify language for periodic review process through reference to RCW 90.58.080 and WAC 173-26-090.</p> <p><i>Note: Section VII(D) and R374 were created in the revised SMP to address this revision.</i></p> |
| <p>i.</p> | <p>Ecology adopted a new rule creating an optional SMP amendment process that allows for a shared local/state public comment period.</p> | <p>The SMP establishes amendment procedure through reference to WAC 173-26-100.</p> <p>Relevant Section: R372(d)(1)</p> | <p>Optional: Consider updating language to include reference to optional joint notice process for SMP amendments (WAC 173-26-104).</p> <p><i>Note: R375 was created in the revised SMP to address this revision.</i></p> |
| <p>j.</p> | <p>Submittal to Ecology of proposed SMP amendments.</p> | <p>The SMP does not include discussion of SMP amendment submittal to Ecology.</p> | <p>Optional: Consider updating language to include reference to submittal process for SMP amendments (WAC 173-26-110).</p> |

| <i>Row</i> | <i>Summary of change</i> | <i>Review</i> | <i>Action</i> |
|-------------|---|--|--|
| | | | <i>Note: Section R373(a)(9) was created in the revised SMP to address this revision.</i> |
| 2016 | | | |
| a. | The Legislature created a new shoreline permit exemption for retrofitting existing structures to comply with the Americans with Disabilities Act (ADA) . | SMP R380(a) references WAC 173-27-040 and RCW 90.58. CMC 15.92.030 lists the specific exemptions. Relevant Section: R380(a) and CMC 15.92.030. | Mandatory: Add ADA exemption to the list under CMC 15.92.030. |
| b. | Ecology updated wetlands critical areas guidance including implementation guidance for the 2014 wetlands rating system. | SMP Appendix A references 2004 wetland rating system. CMC references 2014 wetland rating system. Relevant Section: SMP Critical Areas Regulations (Appendix A) Section 1.300 & CMC 15.88.300 | Mandatory: Revise Appendix A to reference 2014 wetlands rating system. |
| 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. | No change needed. |
| 2014 | | | |
| a. | The Legislature raised the cost threshold for requiring a Substantial Development Permit (SDP) for replacement | The SMP references WAC 173-27-040 and RCW 90.58. CMC 15.92.030 references a dock threshold of \$2,500. | Mandatory: Update the cost threshold for docks under CMC 15.92.030. |

| <i>Row</i> | <i>Summary of change</i> | <i>Review</i> | <i>Action</i> |
|-------------|--|---|--------------------------|
| | docks on lakes and rivers to \$22,500 (from \$11,200). | Relevant Sections: SMP R380(a), definition for “Exempt or exemption,” and CMC 15.92.030. | |
| b. | The Legislature created a new definition and policy for floating on-water residences legally established before 7/1/2014. | Floating on-water residences are prohibited in Carnation’s SMP. Relevant Sections: R197 & R297 | <i>No change needed.</i> |
| 2012 | | | |
| a. | The Legislature amended the SMA to clarify SMP appeal procedures . | Carnation’s SMP does not outline the SMP appeal process. | <i>No change needed.</i> |
| 2011 | | | |
| a. | Ecology adopted a rule requiring that wetlands be delineated in accordance with the approved federal wetland delineation manual . | The SMP refers to the federal delineation manual. Relevant Section: SMP Critical Areas Regulations (Appendix A) Section 1.300.F.1.a | <i>No change needed.</i> |
| b. | Ecology adopted rules for new commercial geoduck aquaculture . | Not applicable: Carnation has no saltwater shorelines. | <i>Not applicable.</i> |
| c. | The Legislature created a new definition and policy for floating homes permitted or legally established prior to January 1, 2011. | Floating on-water residences are prohibited in Carnation’s SMP. Relevant Sections: R197 & R297 | <i>No change needed.</i> |

| <i>Row</i> | <i>Summary of change</i> | <i>Review</i> | <i>Action</i> |
|-------------|---|---|--|
| d. | The Legislature authorized a new option to classify existing structures as conforming. | SMP R368 classifies existing residential structures as conforming. Relevant Section: R368 & definition for “Nonconforming use or development” | No change needed. Consider updating the definition for “Nonconforming use or development” to clarify that existing residential structures are classified as conforming. |
| 2010 | | | |
| a. | The Legislature adopted Growth Management Act – Shoreline Management Act clarifications. | Shoreline critical areas are addressed in Appendix A. Relevant Section: R372(d)(2) | No change needed. |
| 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. | Recommended: Reference relief procedure for shoreline restoration projects within a UGA (WAC 173-27-215). <i>Note: R367 was created in the revised SMP to address this revision.</i> |
| b. | Ecology adopted a rule for certifying wetland mitigation banks. | The SMP Critical Area Regulations authorize the use of mitigation banks. Relevant Sections: SMP Critical Area Regulations | No change needed. |

| <i>Row</i> | <i>Summary of change</i> | <i>Review</i> | <i>Action</i> |
|-------------|--|---|--|
| | | (Appendix A) Sections 1.200.G.3 & 1.200.I.1. | |
| c. | The Legislature added moratoria authority and procedures to the SMA. | The SMP does not address this. | Optional: Consider addressing moratoria authority. Ecology has provided example language. <i>Note: Section VII(E) and R376 were created in the revised SMP to address this revision.</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. | The SMP defines "Floodway" as the area that has been established in FEMA maps. Relevant Section: Definition of "Floodway" in SMP and Appendix A (Section 1.800.6.3) | No change needed. |
| 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. | SMP Sections K & R address Environment Designation and Shoreline Environment Designation Interpretation, respectively. Appendix C provides a map of Shoreline Environment Designations. Relevant Sections: Section K, Section R, Appendix C | No change needed. |
| c. | Ecology's rule listing statutory exemptions from the | SMP R380(a) references WAC 173-27-040 for | Mandatory: Add fish and wildlife habitat |

| <i>Row</i> | <i>Summary of change</i> | <i>Review</i> | <i>Action</i> |
|------------|--|--|--|
| | requirement for an SDP was amended to include fish and wildlife habitat enhancement projects that conform to the provisions of RCW 77.55.181. | exemptions. CMC 15.92.030 lists the specific exemptions. Relevant Section: R380(a) and CMC 15.92.030 | enhancement exemption to the list under CMC 15.92.030. |

3. Consistency with Critical Areas Ordinance

The SMP regulates critical areas in shoreline jurisdiction through Appendix A of the SMP. Elsewhere throughout the City, critical areas are regulated by the City’s Critical Areas Ordinance (CAO), codified in Chapter 15 CMC and updated in 2015. The result is some inconsistency between the way critical areas are regulated inside and outside of shoreline jurisdiction. Inconsistencies between critical areas regulations in Appendix A of the SMP and Chapter 15 CMC, resulting from the time difference between the adoptions of the two documents, include wetland classification systems and wetland buffers.

Table 3 below summarizes issues to be resolved in order to integrate the City’s 2015-updated CARs into the updated SMP. The table is organized by critical areas regulations subject area.

Table 3. Issues to be resolved to integrate the City’s 2015 CARs into the updated SMP.

| # | Issue | Review & Relevant Location(s) ^{1, 2} | Action |
|----------------------|--|---|--------------------------|
| Applicability | | | |
| 1 | Non-applicable sections of CARs | <p>Review: Section III.D Critical Areas indicates that “These critical areas regulations do not include provisions that are inconsistent with the SMA or Shoreline Master Program Guidelines, such as a reasonable use exception and administrative exemptions.” The SMP contains a distinct set of CARs in Appendix A, and does not adopt a CAO by reference, eliminating the need to specify which section apply in shoreline jurisdiction and which sections do not.</p> <p>Current SMP:</p> <ul style="list-style-type: none"> • Section III.D. (page III-7) | <i>No change needed.</i> |
| 2 | Amendments to the Growth Management Act and Shoreline Management Act clarified that critical areas in shorelines must be regulated to “assure no net loss of shoreline ecological function” as provided in Ecology’s SMP Guidelines. | <p>Review: In the context of critical areas, Section I.D. Relationship of Shoreline Master Programs to Other Regulatory Programs states that “This Shoreline Master Program contains in Appendix A critical area regulations applicable only in shoreline jurisdiction that</p> | <i>No change needed.</i> |

| # | Issue | Review & Relevant Location(s) ^{1, 2} | Action |
|--|--|--|--|
| | | provide a level of protection to critical areas assuring no net loss of shoreline ecological functions....” Current SMP: <ul style="list-style-type: none"> • Section I.D. (page I-4) | |
| Wetlands | | | |
| 3 | Ecology modified its wetland buffer guidance in 2014 and again in 2018. | Review: The current SMP CARs specify wetland buffers based on wetland category and intensity of adjacent land use, as determined by the 2004 Ecology wetland rating system. The resulting buffer widths identified in the current SMP are not consistent with the most recent Ecology guidance, published in 2018, or with Chapter 15 CMC. See discussion and Table 4 below for additional details. SMP Appendix A: <ul style="list-style-type: none"> • SMP Appendix A 1.300(C) Chapter 15 CMC <ul style="list-style-type: none"> • CMC 15.88.300(D) | Recommended: Update wetland buffers to provide a level of protection consistent with Ecology guidance and Chapter 15.88 CMC. |
| Buffer Reduction | | | |
| 4 | Consistency with updated Ecology guidance on buffer reduction provisions | Review: The current SMP CARs include a general buffer reduction provision which applies to both wetland and stream buffers. Ecology’s most recent guidance does not support buffer reduction measures for wetland buffers. SMP Appendix A: <ul style="list-style-type: none"> • SMP Appendix A 1.200(B)(5) Chapter 15 CMC CMC 15.88.200(B)(5) | Recommended: Remove provision allowing for reduction of stream and wetland buffers in shoreline jurisdiction from SMP Appendix A. |
| 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. | | | |

| # | Issue | Review & Relevant Location(s) ^{1, 2} | Action |
|---|-------|---|--------|
| 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. | | | |

There are some discrepancies between the buffer widths currently in the SMP and Chapter 15 CMC, some higher and some lower, which could result in buffers being applied inconsistently throughout Carnation based on project location. Chapter 15 CMC was recently updated, and it is protective of critical areas based on best available science, which includes guidance from Ecology. We recommend updating the Shoreline Critical Areas Regulations to follow Ecology’s guidance and to be consistent with Chapter 15 CMC. Table 4 shows the different buffer widths under SMP Appendix A, Chapter 15 CMC, and Ecology’s guidance.

Table 4. Wetland buffer widths under SMP Appendix A, Chapter 15 CMC, and Ecology’s most recent guidance

| Category | SMP Appendix A | | | Chapter 15 CMC | | | Proposed Per 2018 Ecology Guidance | | |
|----------|--------------------------------|----------|-----|--------------------------------|----------|-----|------------------------------------|----------|-----|
| | Intensity of Adjacent Land Use | | | Intensity of Adjacent Land Use | | | Intensity of Adjacent Land Use | | |
| | High | Moderate | Low | High | Moderate | Low | High | Moderate | Low |
| 1 | 300 | 250 | 200 | 300 | 225 | 150 | 300 | 225 | 150 |
| 2 | 200 | 150 | 100 | 300 | 225 | 150 | 300 | 225 | 150 |
| 3 | 100 | 75 | 50 | 150 | 110 | 75 | 150 | 110 | 75 |
| 4 | 50 | 35 | 35 | 50 | 40 | 25 | 50 | 40 | 25 |

4. Consistency with Other Development Regulations and Comprehensive Plan

The Carnation Comprehensive Plan does not include a specific Shoreline Element. The current SMP is incorporated into the Land Use Element of the Comprehensive Plan by reference. A review of the current SMP was conducted to ensure consistency with the Comprehensive Plan, and no necessary changes to the SMP were identified at this time.

5. Other Recommendations

The Carnation City Council approved a resolution to annex a property known as the “Falkenberg Property,” east of the City limits, and within the City’s Urban Growth Boundary. A portion of this property falls within shoreline jurisdiction, and the area was pre-designated as Natural environment. We recommend revising the City boundary in the SMP to account for the annexation. No other change to environment designation should be needed.