

City of Seattle

Shoreline Master Program Update

Reader's guide to the staff draft ordinance discussed at the June 30, 2014 public meeting

INTRODUCTION

The City Council adopted Ordinance 124105 in January 2013 updating the City's Shoreline Master Program (SMP). Updating the SMP is a state mandated requirement under the State of Washington's Shoreline Management Act (SMA), created by citizen referendum in 1972. The SMA establishes policy goals for the management of shorelines, and the state's SMP guidelines establish the requirements on how to achieve the policy goals. For additional background information on the SMP update requirements see the August 2012 Director's Report prepared for the SMP update:

<http://www.seattle.gov/dpd/codesrules/changestocode/shorelineupdate/documents/default.htm>

This reader's guide is intended to help with understanding what is in the staff draft ordinance (June 30, 2014 version), the reason for changes from what was adopted in Ordinance 124105, and the source of changes. Public comments will be accepted until July 31; please let us know if more time is needed.

Department of Ecology (DOE) Review

After the adoption of the updated Shoreline Master Program by the City Council, the state DOE is required to review the regulations for compliance with the Shoreline Master Program Guidelines, take public comment for a minimum of 30 days, and hold a public hearing. At the conclusion of this process DOE issues Conditional Approval of the Shoreline Master Program. DOE issued the Conditional Approval on June 5, 2014, which contains three main components:

1. Assessment of DPD's update process and final ordinance meeting the requirements of WAC 173-26 (Shoreline Master Program Guidelines). DOE's assessment is that DPD met all of the requirements (Attachment A).
2. DOE identified specific changes to the January 2013 adopted SMP ordinance required to make the proposal approvable (Attachment B).
3. Recommended changes to the January 2013 adopted SMP ordinance (Attachment C). These changes include DOE and DPD recommendations.

These three documents, and a staff draft of the ordinance that is intended to respond to the conditional approval, can be found on DPD's website:

<http://www.seattle.gov/dpd/codesrules/changestocode/shorelineupdate/whatwhy/default.htm>

Next Steps

DPD is accepting comments on the staff draft ordinance. We will then work with interested parties and DOE, and forward final recommendations to Mayor Murray in the fall. City Council review will begin after the Mayor's recommended legislation is sent to them.

Summary of Public Participation since Council Adoption, January 2013

In addition to earlier opportunities for public input during the multi-year process to arrive at this point, the Shoreline Master Program Guidelines requirements were met as follows: the Department of Ecology's comment period extended from September 3, 2013, to November 4, 2013, for a total of 62 days and the public hearing was held on September 11. DPD also continued to meet with the Lake Union Liveaboard Association throughout 2013 and 2014 and met with the Shilshole Liveaboard Association in April 18, 2014. Additional meetings and/or correspondence continued up until DPD posted a staff draft of the ordinance to respond to the DOE conditional approval. The staff draft was discussed at an informational public meeting on June 30, 2014.

DOE'S REQUIRED CHANGES

The 29 required changes to the January 2013 SMP adopted ordinance are grouped by general topic and location in DPD's staff draft ordinance as follows:

Summary of Required Changes	DOE Item(s)	DPD Staff Draft Ordinance Section
Include a policy change to allow water-dependent and water related-uses to be located in the migratory habitat of aquatic species without providing an analysis that no feasible alternative location exists.	1-B	Section 1
Remove temporary use regulations that are not consistent with state law.	2-B, 4-B	Sections 2, 5
Include floating on-water residences regulations in accordance with 2014 Senate Bill 6450.	3-B, 9-B, 10-B, 11-B, 30-B	Sections 4, 18, 20, 22, 63
Clarify the Archaeological & Historic Preservation Development Standards.	5-B	Section 7
Clarify the Environmentally Critical Areas definitions.	6-B	Section 9
Include additional management and protection of native vegetation.	7-B, 8-B	Sections 16, 17
Apply standards to minimize impacts to the aquatic environment from vessels containing a dwelling	12-B	Section 23

when moored at a marina.		
Include a requirement to allow aquaculture in all but the Conservancy Preservation shoreline environment as a Conditional Use	13-B, 15-B, 17-B, 27-B	Sections 26, 29, 31, 56
Add an additional standard for nonwater-oriented uses in the Conservancy Management environment to comply with use requirements.	14-B	Section 26
Decrease the distance needed to trigger the requirement for public access for multi-family residential development.	16-B, 20-B, 29-B	Sections 30, 37, 58
Include lists of the uses that are allowed on upland lots in the Urban Commercial (UC), Urban General (UG), Urban Industrial (UI), and the Urban Maritime (UM) shoreline environments.	18-B, 19-B, 21-B, 23-B, 24-B, 25-B, 26-B	Sections 32, 33, 39, 45, 46, 49, 50
Increase the setback required from the ordinary high water mark in the UG environment to meet no net loss of ecological function, to be consistent with DOE Guideline requirements.	22-B	Section 40
Include additional setback standards for the Urban Residential shoreline environment to meet the no net loss of ecological function requirement.	28-B	Section 57

DOE'S RECOMMENDED CHANGES

The 109 recommended edits to the January 2013 SMP adopted ordinance are primarily minor non-substantive edits that add clarity, correct typos, and improve internal consistency. The City requested some of these edits, and some are recommended by DOE in response to comments received. Included in the table below are examples illustrating the three types of recommended changes, grouped by general topic with the location of the change in DPD's staff draft ordinance indicated. The changes that are not listed in the table are primarily minor non-substantive edits that add clarity, correct typos, and improve internal consistency.

Summary of Recommended Changes	DOE Item(s)	DPD Staff Draft Ordinance Section
Allow more flexibility in siting	10-C, 12-C, 16-C	Sections 8, 12, 16

required mitigation and ecological restoration.		
Provide more specificity to standards, such as preventing debris from entering the water, and best management practices for protecting the aquatic environment.	9-C, 15-C, 17-C, 19-C, 25-C, 27-C	Sections 6, 15, 16, 18, 21, 23
Provide more consistency between sections for the same standards, such as the verification process for various types of living over water.	20-C, 25-C, 27-C	Sections 20, 21, 27

ADDITIONAL DPD CHANGES TO THE STAFF DRAFT

In addition to the changes reflected in DOE’s feedback, DPD is proposing revisions related to comments received, as well as revisions that are primarily clarifications, formatting and corrections. These changes are reflected in the staff draft of the ordinance, highlighted in yellow, which is posted on DPD’s website

(http://seattle.gov/dpd/cs/groups/pan/@pan/documents/web_informational/s048788.pdf). More notable changes are as follows:

Summary of DPD Changes	DPD Staff Draft Ordinance Section
Adds a reference to flood plain area identification as adopted by the City Council in Ordinance 124447, which became effective in April 2014. These floodplain provisions were adopted in response to federal government requirements. This is intended as a clarifying reference.	Section 9
<p>Clarifies provisions for floating homes:</p> <ul style="list-style-type: none"> • Floating home sites may be added to moorages that exist as of the effective date of the ordinance; • Allows five (rather than only two) floating home moorages or sites to be added in the UC Environment; • Allow modifications to the setback and float separation requirements when moorage in other locations is lost, consistent with fire and life safety codes (‘Safe Harbor’ provision); • Provides flexibility to reconfigure an existing floating home moorage to accommodate up to two displaced floating homes when moorage in other locations is lost (‘Safe Harbor’ provision); • Clarifies that a City determination does not convey compliance with other state or federal requirements on waters managed by Washington State Department of 	Section 19

<p>Natural Resources;</p> <ul style="list-style-type: none"> • Provides flexibility for reconfiguring floating home sites that extend into rights-of-way (ROW) as long as the amount of the extension into the ROW is not increased overall; • Clarifies that replacement of existing Styrofoam floats is required only to the extent of any proposed repair or replacement work; • Makes surface of the water the starting point for the application of height limits, consistent with the approach proposed for floating on-water residences. 	
<p>Clarifies provisions for floating on-water residences:</p> <ul style="list-style-type: none"> • Structures and additions shall not exceed the height limit. • Floating on-water residences may be replaced to the same size and configuration as a verified existing residence and is considered conforming to regulations even if it exceeds the height limit; • The City is not precluded from carrying out its enforcement responsibilities related to the state required verification process whether or not a decision of the Director of DPD is appealed to the Hearing Examiner. 	Section 20
<p>Clarifies for floating structures (that are not floating on water residences or floating homes) and house barges:</p> <ul style="list-style-type: none"> • The City is not precluded from carrying out its enforcement responsibilities related to the existing City required verification process whether or not a decision of the Director of DPD is appealed to the Hearing Examiner; • Structures and additions shall not exceed the height limit. 	Section 21
<p>Adds language to provisions for vessels that contain dwelling units to provide for an appeal process for decisions of the Director that a) a vessel does not qualify as a conventional recreational vessel; and b) the proposed verification process, consistent with the process proposed for appeals related to floating homes and floating on water residences.</p>	Section 23
<p>Adds specificity to the definition of “vessel” for use with 23.60A.214.D.1.a (related to being designed and used for navigation) and that otherwise compliance with this definition would be determined by a naval architect. This was intended to provide clarity about how to make such a determination, but is subject to change.</p>	Section 74