

City of Arlington Shoreline Master Program

Gap Analysis Report

Prepared on behalf of:



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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 Arlington (Arlington) adopted its current SMP in August 2012 (Ordinance No. 2012-015). Shorelines of the State in Arlington include the south fork and mainstem of the Stillaguamish River, as well as Portage Creek and South Slough. The Stillaguamish River has the additional designation of Shoreline of Statewide Significance. The Arlington 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 September 2017 (Ordinance No. 2017-011), and with the implementing development regulations in the Arlington Municipal Code (AMC).

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

- **Section 2** identifies gaps in consistency with legislative amendments. This analysis is based on a list of amendments between 2007 and 2017, as summarized by the Washington State Department of Ecology (Ecology) and provided to the City as a Periodic Review Checklist and can be found in the Arlington Periodic Review Checklist document.
- **Section 3** identifies gaps in consistency with the City's Critical Areas Ordinance (CAO) (Chapter 20.93 AMC). The CAO was most recently updated in July 2016, and applies to critical areas outside of shoreline jurisdiction, while the SMP contains in Appendix B 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. Specifically, the review includes Titles 16, 20 (excluding Chapter 20.93), and 22 of the AMC.

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

This report includes several tables that identify potential revision actions. Where potential revision actions are identified, they are classified as follows:

- **“Mandatory”** indicates revisions that are required for consistency with state laws.
- **“Recommended”** indicates revisions that would improve consistency with state laws, but are not strictly required.
- **“Optional”** indicates revisions that represent ways in which the City could elect to amend its SMP in accordance with state laws, 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 Arlington
Ecology	Washington State Department of Ecology
FEMA	Federal Emergency Management Agency
RCW	Revised Code of Washington
SMP	Shoreline Master Program
SMA	Shoreline Management Act
WAC	Washington Administrative Code
AMC	Arlington Municipal Code

2. Consistency with Legislative Amendments

Table 2 summarizes mandatory and recommended revisions to the Arlington SMP based on the review of consistency with legislative amendments made since SMP adoption and can be found within the Arlington Periodic Review Checklist document.

3. Consistency with Critical Areas Ordinance

Table 3 summarizes recommended revisions to the Arlington SMP based on a review of consistency with the City’s Critical Areas Ordinance (CAO), codified in Chapter 20.93 AMC and adopted in July 2016. Topics are organized broadly by CAO subject area. Numerous minor inconsistencies exist between the way the CAO and SMP designate and protect critical areas. Many of these appear to be a result of the time difference between adoptions of the two documents. At a minimum, Appendix B of the SMP will need to be amended to correct some of these inconsistencies.

Table 3. Summary of gaps in consistency with Critical Areas Ordinance, and associated recommended SMP revisions.

#	Issue	Review & Relevant Location(s) ^{1, 2}	Action
Applicability			
1	Non-applicable sections of CARs	<p>Review: Section 4.2.1(D) under Ecological Protection and Critical Areas establishes that “pursuant to the Shoreline Management Act, the regulations in Appendix B are distinct” from the City’s codified Environmentally Critical Areas regulations, and that “if there are conflicts between the regulations contained in the SMP, those that are most protective of shoreline ecological functions will apply. The current SMP CARs and Chapter 20.93 both lack many of the sections that may conflict with the SMA, including reasonable use provisions. However, the language in the SMP could clearly state that any provisions that are not consistent with RCW 90.58 shall not apply.</p> <p>Current SMP:</p>	<p>Recommended: In the updated SMP, ensure its clear what CARs apply in shoreline jurisdiction.</p>

#	Issue	Review & Relevant Location(s) ^{1, 2}	Action
		<ul style="list-style-type: none"> • Section 4.2.1(D) • Appendix B 	
Wetlands			
2	Ecology modified its wetland buffer guidance in 2014 and again in 2018.	<p>Review: The current SMP CARs specify wetland buffers based on wetland category and habitat scores as determined by the 2004 Ecology wetland rating system. The resulting buffer widths identified in the current SMP are not consistent with recent Ecology guidance published in 2018. See discussion and Tables 4 and 5 below for additional details.</p> <p>Current SMP CARs (Appendix B)</p> <ul style="list-style-type: none"> • SMP.800(a) and SMP.830 <p>Proposed SMP CARs (AMC 20.93)</p> <ul style="list-style-type: none"> • 20.93.800(a) and 20.93.830 	<p>Mandatory: Revise SMP Appendix B to reference 2014 wetland rating system.</p> <p>Recommended: Consider revising wetland buffer provisions in the proposed SMP CARs to be consistent with current Ecology guidance related to habitat scores and wetland buffers.</p>

#	Issue	Review & Relevant Location(s) ^{1, 2}	Action
3	Allowed activities and impacts to Category II, III, & IV wetlands and their buffers.	<p>Review: Both the current SMP CARs and Chapter 20.93 AMC allow for impacts to Category II, III, & IV wetlands and their buffers in certain cases. SMP.820 and AMC 20.93.820 both allow for impacts less than 2,500 square feet to Category III & IV wetlands to allow for access to developable portions of a legal lot, for certain development with no other reasonable alternative location in the buffers of Category III & IV wetlands, including stormwater management facilities in the outer 25% of the buffer (AMC 20.93) or '50-foot management zone' (SMP CARs) of Category II, III, and IV wetlands.</p> <p>Current SMP CARs (Appendix B)</p> <ul style="list-style-type: none"> • SMP.820 <p>Proposed SMP CARs (AMC 20.93)</p> <ul style="list-style-type: none"> • 20.93.820 	<p>Optional: Consider updating stormwater facility language in SMP.820 for improved clarity and consistency with AMC 20.93.820.</p>
Frequently Flooded Areas			
4	Frequently Flooded Areas Section removed from Arlington Critical Areas Regulations.	<p>Review: SMP Appendix B includes sections pertaining to Frequently Flooded Areas. These corresponding sections have been removed from Arlington's CAO and do not exist in the City's updated 2016 regulations.</p> <p>Current SMP CARs (Appendix B)</p> <ul style="list-style-type: none"> • SMP.500-.540 <p>Proposed SMP CARs (AMC 20.93)</p> <ul style="list-style-type: none"> • N/A 	<p>Recommended: Remove sections pertaining to Frequently Flooded Areas from Shoreline CARs for consistency with the updated CAO. Incorporate reference to Chapter 20.64 AMC for guidance on Floodplain Development Regulations.</p>
Fish and Wildlife Habitat Conservation Areas			
5	Updated definition for "Fish and Wildlife Habitat Conservation Areas".	<p>Review: Arlington's current SMP CARs and CAO both include a definition of "Fish</p>	<p>Recommended: Revise definition of "Fish and Wildlife Habitats (of Local Importance)"</p>

#	Issue	Review & Relevant Location(s) ^{1, 2}	Action
		and Wildlife Habitats (of Local Importance)” that is not wholly consistent with the updated definition for “Fish and Wildlife Habitat Conservation Areas” in WAC 365-190-130. <u>Current SMP CARs (Appendix B)</u> • <i>SMP.100</i> <u>Proposed SMP CARs (AMC 20.93)</u> • <i>20.93.100</i>	for consistency with updated definition for “Fish and Wildlife Habitat Conservation Areas” per WAC 365-190-130.
<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 column; these locations are listed to indicate where generally related content is found.</p>			

In July 2018, Ecology updated its guidance for wetland buffers. The change in guidance is the result of Ecology’s continued evaluation of the 2014 wetland rating system as it relates to the 2004 wetland rating system. The wetland buffers referenced in the SMP and in Chapter 20.93 AMC are consistent with each other, but both vary significantly from Ecology’s most recent guidance. With the lone exception of Category IV wetlands where buffer minimization measures are not employed, the City’s wetland buffers are more protective than the buffers suggested by Ecology’s guidance and best available science. To align the SMP provisions with the updated guidance, we recommend updating the SMP CARs to reference the 2014 wetland rating system and that the City revise its buffer provision for Category IV wetlands for consistency with Ecology’s new guidance for wetland buffer widths. The City also has the option of adopting the entire table of buffer widths proposed in Ecology’s 2018 guidance. This would result in an overall lower level of protection than currently provided by Appendix B and Chapter 20.93 AMC, but would still be consistent with best available science for required buffers for wetland protection. Tables 4 and 5 show the different buffer widths under SMP Appendix B, Chapter 20.93 AMC, and Ecology’s most recent guidance.

Table 4. Wetland buffers (in feet) when minimization measures are employed under SMP Appendix B, Chapter 20.93 AMC, and Ecology’s most recent guidance

Wetland Category	Appendix B				AMC 20.93				2018 Ecology Guidance		
	Standard	Habitat Score (2004 Rating)			Standard	Habitat Score (2014 Rating)			Habitat Score (2014 Rating)		
		21-25	26-29	30-36		5	6-7	8-9	3-5	6-7	8-9
Category I: Based on total score	75	105	165	225	75	105	165	225	75	110	225
Category I: Bogs and Wetlands of High Conservation Value	190	190	190	225	190	190	190	225	190	190	225
Category I: Forested	75	105	165	225	75	105	165	225	75	110	225
Category II: Based on score	75	105	165	225	75	105	165	225	75	110	225
Category III: (all)	60	105	165	165	60	105	165	225	60	110	225
Category IV: (all)	40				40				40		

Table 5. Wetland buffers (in feet) when minimization measures are not employed under SMP Appendix B, Chapter 20.93 AMC, and Ecology’s most recent guidance

Wetland Category	Appendix B				AMC 20.93				2018 Ecology Guidance		
	Standard	Habitat Score (2004 Rating)			Standard	Habitat Score (2014 Rating)			Habitat Score (2014 Rating)		
		21-25	26-29	30-36		5	6-7	8-9	3-5	6-7	8-9
Category I: Based on total score	N/A	140	220	300	N/A	140	220	300	100	150	300
Category I: Bogs and Wetlands of High Conservation Value	N/A	255	255	300	N/A	255	255	300	250	250	300
Category I: Forested	N/A	140	220	300	N/A	140	220	300	100	150	300
Category II: Based on score	N/A	140	220	300	N/A	140	220	300	100	150	300
Category III: (all)	N/A	140	220	220	N/A	140	220	300	80	150	300
Category IV: (all)	N/A	40			N/A	40			50		

4. Consistency with Other Development Regulations and Comprehensive Plan

Table 6 summarizes recommended revisions to the Arlington SMP, Arlington Municipal Code, and Comprehensive Plan based on a review of consistency between the documents. The Comprehensive Plan does not include a distinct Shoreline Element, but rather adopts the 2012 SMP as its Shoreline Element. The AMC also does not currently integrate the regulations of the SMP into its code, as Ordinance 2012-015 and code section 20.92 have been repealed. However, the code does apply some catch-all provisions that ensure that the City has the authority to apply the SMP regulations in its operations and permitting, and includes some direct references to the SMP and shoreline jurisdiction. However, there are areas of the code that could be strengthened to provide additional clarity and consistency, and areas of the SMP that could be revised to better align with the AMC. These are summarized in the table below.

Table 6. Summary of recommended SMP, AMC, and Comprehensive Plan revisions to improve consistency.

#	Issue	Review & Relevant Location(s) ^{1, 2}	Recommended Action
1	Comprehensive Plan reference to SMP.	<p>Review: Appendix D of the 2017 Comprehensive Plan references the 2012 SMP and Ordinance 2012-015 to serve as the plan’s Shoreline Element. Ordinance 2012-015 has since been repealed by the City. In the Comprehensive Plan’s Introduction, Section 1.7 on Consistency With Other Plans makes no reference to the SMP or SMA.</p> <p>Comprehensive Plan</p> <ul style="list-style-type: none"> • <i>Introduction, Section 1.7</i> • <i>Appendix D, Section 9</i> 	<p>Future Recommendations:</p> <ul style="list-style-type: none"> • Revise Section 1.7 of the Introduction to the Comprehensive Plan to include reference to consistency with the SMP. • Update outdated references in the Comprehensive Plan to 2012 SMP and Ordinance 2012-015 to reference updated SMP.
2	Internal code references to SMP.	In reference to AMC 20.40, Permissible Uses and AMC 20.44, Clearing and Grading, these code chapters overlap with the SMP in terms of purpose and jurisdiction. A specific reference to shorelines and/or the SMP would help strengthen SMP application.	<p>Future Recommendation: Add provisions specific to shorelines and/or to the SMP to related code chapters in the Arlington Municipal Code for clarity and to strength the application of the SMP.</p>

#	Issue	Review & Relevant Location(s) ^{1, 2}	Recommended Action
		<p><u>Arlington Municipal Code</u></p> <ul style="list-style-type: none"> • 20.40 • 20.44 	
3	Outdated code reference to AMC 20.88.	<p>In reference to Environmentally Critical Areas Regulations, the SMP refers to AMC 20.88, which has been repealed and replaced with AMC 20.93. Additionally, while the SMP establishes in Section 4.2.1(D) that SMP Appendix B is distinct from AMC 20.88 (20.93), and shall apply in Shoreline Jurisdiction, the other reference to AMC 20.88 (20.93) seems to confuse this issue, making it unclear which CARs should be referenced in Shoreline Jurisdiction.</p> <p><u>Current SMP</u></p> <ul style="list-style-type: none"> • Section 4.2.1(D) • Definition for “Critical Habitat” 	Remove reference to outdated code, and replace with current code reference, if applicable. Review references to CAO in the SMP to ensure clarity as to which CARs apply in Shoreline Jurisdiction.
4	Outdated code reference to AMC 20.92 and Ordinance 2012-015.	<p>The SMP, Comprehensive Plan, and Arlington Municipal Code all contain references to AMC 20.92 and/or Ordinance 2012-015, which has since been repealed.</p> <p><u>Arlington Municipal Code</u></p> <ul style="list-style-type: none"> • 20.36.070 <p><u>Current SMP</u></p> <ul style="list-style-type: none"> • Section 7.9(A) <p><u>Comprehensive Plan</u></p> <ul style="list-style-type: none"> • Appendix D, Section 9 	<p>Future Recommendation:</p> <p>Replace references to AMC 20.92 and Ordinance 2012-015 with references to updated SMP or relevant code sections in both the Comprehensive Plan and the Arlington Municipal Code.</p>
5	SMP relationship to Floodplain Development Regulations (AMC 20.64).	<p>AMC 20.64 establishes a Riparian Habitat Zone (RHZ) of 250-feet for Shorelines. SMP Appendix B establishes a 150-foot buffer for Shorelines. Additionally, the sections in Arlington’s CAO regarding Frequently Flooded Areas have been removed. Presumably, the City plans</p>	<p>Review RHZ buffer provisions of AMC 20.64 for consistency with buffer provisions in SMP Appendix B. Consider including reference to AMC 20.64 in updated SMP.</p> <p><i>Note to reader: Section 4.3.2(C) was created to address</i></p>

#	Issue	Review & Relevant Location(s) ^{1, 2}	Recommended Action
		to remove these sections from SMP Appendix B in the SMP update. <u>Arlington Municipal Code</u> <ul style="list-style-type: none"> • <i>20.64</i> <u>Current SMP</u> <ul style="list-style-type: none"> • <i>Appendix B, SMP.730</i> 	<i>Riparian Habitat Zones in the draft revisions to the SMP.</i>
<p>¹ This column attempts to capture the primary relevant location(s) of content related to the item described in the Summary of Change column; however, due to length of the SMP, all relevant locations may not be listed.</p> <p>² Locations in italics indicate that the location does not actually address the specific content described in the Summary of Change column; these locations are listed to indicate where generally related content is found.</p>			