

FINDINGS OF FACT

The Pierce County Council finds that:

1. In 1971, the Washington State Legislature passed the State Shoreline Management Act (Act). In 1972, the public adopted the Act in a statewide referendum vote. The Act required local governments, including Pierce County, to develop Shoreline Master Programs (SMPs). As part of the Act, in 1972 the State adopted guidelines which local governments were required to follow in drafting their SMPs. The existing County maps and policies were adopted in 1974, and the implementing regulations were adopted in 1975.
2. Per Revised Code of Washington (RCW) 90.58.020, "The legislature finds that the shorelines of the state are among the most valuable and fragile of its natural resources and that there is great concern throughout the state relating to their utilization, protection, restoration and preservation. ... It is the policy of the state to provide for the management of the shorelines by planning for and fostering all reasonable and appropriate uses. ... Uses shall be preferred which are ... unique to or dependent upon use of the state's shoreline. ... Alterations of the natural condition of the shorelines of the state, in those limited instances when authorized, shall be given priority for single-family residences and their appurtenant structures, ports, shoreline recreational uses including but not limited to parks, marinas, piers, and other improvements facilitating public access to shorelines of the state, industrial and commercial developments which are particularly dependent on their location on or use of the shorelines of the state and other development that will provide an opportunity for substantial numbers of the people to enjoy the shorelines of the state. ..."
3. RCW 36.70A.480 provides that the goals and policies contained in a local shoreline master program shall be considered an element of the local comprehensive plan required by the Growth Management Act (GMA). All other portions of the local shoreline master program, including the use regulations, are considered a part of the local development regulations required by the GMA.
4. RCW 90.58.080 provides a timetable for local governments to amend master programs based on new guidelines and laws which recognize the significant changes that have taken place in land use regulation and planning since the early 1970s. The date prescribed therein for Pierce County was December 2011. The County has worked diligently to meet that prescribed timeline, but due to budget cuts and staff shortages, the deadline was missed.



- 1 5. The SMP update project is considered a comprehensive update to the existing
2 Master Program for shoreline development. The update process began in 2006
3 when the County hired a consultant to conduct an inventory and characterization of
4 County shorelines to use as a baseline to monitor changes over time. In addition
5 to the consultant, a technical group consisting of representatives from County,
6 State, Federal, and Tribal governments, was formed to provide input. The Draft
7 Inventory and Characterization Report was completed in October 2007.
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- 9 6. In addition, the Inventory and Characterization data helps the County document
10 shoreline conditions and monitor to ensure that unmitigated negative impacts on
11 the current environmental condition do not result from new development. That
12 State requirement is called "no net loss."
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- 14 7. The Inventory and Characterization data was also used to inform the assignment
15 of Shoreline Environment Designations to the individual parcels in shoreline
16 jurisdiction.
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- 18 8. As required by criteria provided in the State Shoreline Guidelines, the Pierce
19 County SMP update contains a system to classify shoreline areas into specific
20 shoreline environment designations. This classification system is based on the
21 existing use pattern, the biological and physical character of the shoreline, and the
22 goals and aspirations of Pierce County as expressed through comprehensive
23 plans, as well as the criteria in WAC 173-26-211. The classification system is
24 consistent with that described in WAC 173-26-211(4) and (5) and includes policies
25 for each environment that includes: (1) Purpose, (2) Classification Criteria, and (3)
26 Management Policies which are consistent with the prescribed guidelines.
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- 28 9. On February 19, 2008, the County Council adopted Resolution No. R2008-12s to
29 form the Shoreline Citizens Advisory Committee (SCAC), with members appointed
30 from a variety of interest groups, to work on draft policies, regulations, and maps.
31 A total of 29 full committee meetings were held by the SCAC from March 2008 to
32 February 2010. In addition, there were more subcommittee meetings on the topics
33 of Aquaculture, Water Access Facilities, and Agriculture. Staff met with the SCAC
34 again on May 22, 2012, and May 24, 2012, to explain how their recommendations
35 were considered when creating the draft proposal.
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- 37 10. The Pierce County Council adopted Resolution No. R2009-56 that directed
38 Planning and Land Services to initiate a process to consolidate and reduce the
39 complexity of the Pierce County Development Regulations and provide
40 recommendations for Code consolidation and simplification. In keeping with these
41 Code consolidation efforts, staff has relied on existing regulations to meet the State
42 Legislature requirements for the SMP update wherever possible.
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- 44 11. The Draft SMP includes 880.90 total miles of freshwater shoreline (stream center
45 and lake shore). The total number of miles is higher than the 414.44 miles in the
46 1974 maps due to greater mapping and stream gage accuracy, and the increase in



1 accuracy resulted in additional lakes and stream miles being included in shoreline
2 jurisdiction.

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- 4 12. The Pierce County SMP includes 223.95 total miles of marine waters (measured at
5 ordinary high water mark). The total number of miles is greater than the 185.99
6 miles in the 1974 maps due to greater mapping accuracy and detail.
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- 8 13. In 2012, the assessment of existing development and the environmental condition
9 of the shorelines was refined by Pierce County staff by revisiting the draft
10 Shoreline Environmental Designation Maps on a parcel-specific basis, which is
11 reflected in the draft Shoreline Environment Designation Maps. The Draft SMP
12 now includes Shoreline Environment Designations that more accurately reflect
13 development patterns and shoreline conditions.
14
- 15 14. The draft regulations place greater emphasis on mitigation sequencing requirements
16 (avoid, minimize, mitigate) of the SMA and provide for the expanded use of buffers
17 along marine shorelines instead of setbacks. The updated regulations also provide
18 standards for vegetation retention, setbacks, mitigation standards, and other
19 development requirements.
20
- 21 15. The Draft SMP provides standards to insure compatibility of new development with
22 adjacent development, as well as with the scenic character of the shoreline.
23
- 24 16. Personally addressed postcards were mailed in June 2012 to the owners of 11,133
25 properties located along shorelines in Pierce County. The postcards provided the
26 date, time and location of upcoming public meetings, County website address where
27 the draft SMP documents could be found, and staff contact information.
28
- 29 17. The five Land Use Advisory Commissions (LUACs) having areas of shoreline
30 jurisdiction within their community plan area boundaries were presented the draft
31 SMP for their review and comment. Each of the five LUACs provided comments
32 that were then forwarded to the Planning Commission and were part of the record
33 transmitted to the County Council.
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- 35 18. The Pierce County Planning Commission held seven public hearings on the
36 proposed amendments. On September 25, 2012, the Commission voted to
37 approve a modified SMP update package for transmittal to the County Council.
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- 39 19. An Environmental Determination of Nonsignificance was issued on September 17,
40 2012, with a comment deadline of October 1, 2012, and an appeal deadline of
41 October 15, 2012. No appeals were filed.
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- 43 20. On March 5, 2015, the Pierce County Environmental Official provided a letter to the
44 Council indicating that additional SEPA review has been completed and that none
45 of the Amendments passed by the Community Development Committee would
46 allow actions that would cause “probable significant adverse environmental
47 impacts” and thus the original SEPA determination is still valid.



- 1 21. On December 9, 2011, Governor Christine Gregoire unveiled the Washington
2 Shellfish Initiative, an agreement among federal and state government, tribes, and
3 the shellfish industry to restore and expand Washington's shellfish resources to
4 promote clean-water commerce and create family wage jobs.
5
- 6 22. The Council is aware that certain shellfish aquaculture practices, particularly those
7 associated with geoduck, have proven to be of concern to the public over the
8 potential for use conflicts and adverse environmental effects.
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- 10 23. These concerns resulted in the passage of Second Substitute House Bill 2220,
11 which resulted in: (1) Washington Sea Grant being directed to commission a
12 series of intertidal geoduck aquaculture scientific research studies to be led by
13 Washington Sea Grant, (2) the Department of Ecology (Ecology) facilitating a
14 Shellfish Aquaculture Regulatory Committee with members representing a wide
15 range of perspectives, (3) Ecology developing SMP guidelines for geoduck
16 aquaculture operation siting and operation, and (4) the Washington Department of
17 Fish & Wildlife expanding upon the information required for aquatic farm
18 registration.
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- 20 24. County staff participated in the Shellfish Aquaculture Regulatory Committee, the
21 related Shoreline Interagency Permitting process, and during the shoreline master
22 program update process, staff convened a separate group of individuals, also
23 representing a wide range of perspectives, for purposes of writing the Aquaculture
24 section of the master program.
25
- 26 25. The aquaculture review requirements within the shoreline regulations, which are
27 modeled upon the Ecology Master Program guidelines for geoduck aquaculture,
28 are necessary and appropriate measures to address the public's concerns over
29 aquaculture.
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- 31 26. Additional requirements related to finfish and shellfish aquaculture have been
32 added to the Master Program to address impacts to specific marine shoreline
33 areas that Council does not feel are adequately addressed by Washington Sea
34 Grant research or Ecology Master Program guidelines. Council concerns include
35 the potential establishment of new aquaculture in proximity to waters that have a
36 history of water quality problems as evidenced by closures or restrictions on
37 harvest, visual impacts adjacent to residential neighborhoods and estuarine areas
38 where salmon undergo physiological transitions including confined bays.
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- 40 27. Council finds that shorelines that have been designated "Natural" shorelines as
41 well as the adjacent intertidal ecosystems are intended to remain ecologically
42 intact, free of structural shoreline modifications, structures, and intensive human
43 uses. In Pierce County, these remaining intact areas are limited in the marine
44 environment and are unable to support new development or uses without
45 significant adverse impacts to ecological functions. Aquaculture practices are
46 inconsistent with these remaining natural shoreline and tideland areas and could
47 result in a net loss of ecological function if permitted.



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- 28. Finfish aquaculture has the potential for significant negative impacts to water and sediment quality, physical effects to the seabed, as well as the potential to introduce harmful organisms, disease, and genetic alteration to local salmon stocks and should therefore be prohibited south and west of the Tacoma Narrows Bridge where high summer water temperatures and inadequate flushing of marine waters exist.
- 29. Certain industry practices associated with shellfish aquaculture have the potential to modify natural benthic and epibenthic communities and should not be permitted in areas that harm habitat for Federal and State listed Species and Species of Local Importance.
- 30. The Nisqually Reach Aquatic Reserve is an environmental, scientific and educational reserve that is intended to ensure protection of the unique habitats and species located in the area. The Council finds that conservation of natural resources with an emphasis on environmental protection above other objectives is the County's preferred outcome in the Reserve area.
- 31. Except for Olympia Oyster propagation, new commercial shellfish aquaculture activities should be prohibited within the Nisqually Reach Aquatic Reserve. Non-commercial aquaculture research should be permitted when consistent with the Nisqually Reach Aquatic Reserve management plan.
- 32. The Council finds that rights reserved or otherwise held by Indian Tribes pursuant to treaties, executive orders, or statutes shall not be impaired or limited by any action taken or authorized by the County under the Master Program, and all such rights shall be accommodated.
- 33. The nearshore and subtidal ecosystems throughout Pierce County that provide critical habitats for forage fish should be preserved, restored and enhanced to benefit salmonids.
- 34. Adding standards to protect submerged aquatic vegetation and buffers along all marine shorelines is necessary to provide effective protection of critical saltwater habitats, shoreline function and processes, and to meet the no net loss requirements of the SMA.
- 35. Protection of marine shorelines was initially proposed during the County's 2003 critical area update through a requirement for a 150' buffer along marine shorelines. During review by the Community Development Committee, a recommendation was put forth by Councilmember Lee to remove buffers from marine shorelines. The recommendation concluded that a more appropriate mechanism for protecting marine shorelines would be the SMP update.
- 36. The marine buffer width requirements proposed in the Draft SMP reflect, in part, the science developed and reviewed through the County's adoption of its critical

1 area regulations in 2004, as well as more current environmental studies. The buffer
2 widths proposed reflect a balance between the requirement to provide effective
3 environmental protection, relevant constitutional and legal limitations on regulation
4 of private property, and promotion of the various uses allowed within the proposed
5 Shoreline Environment Designations.
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7 37. The Draft SMP includes requirements for retention and planting of shoreline
8 vegetation. The most commonly recognized functions of shoreline vegetation
9 include, but are not limited to:

- 10
- 11 • Providing shade necessary to maintain the cool temperatures required by
- 12 salmonids, spawning forage fish, and other aquatic biota.
- 13 • Providing organic inputs critical for aquatic life.
- 14 • Providing food in the form of various insects and other benthic
- 15 macroinvertebrates.
- 16 • Stabilizing banks, minimizing erosion, and reducing the occurrence of
- 17 landslides. The roots of trees and other riparian vegetation provide the bulk of
- 18 this function.
- 19 • Reducing fine sediment input into the aquatic environment through storm water
- 20 retention and vegetative filtering.
- 21 • Filtering and vegetative uptake of nutrients and pollutants from ground water
- 22 and surface runoff.
- 23 • Providing a source of large woody debris into the aquatic system. Large woody
- 24 debris is the primary structural element that functions as a hydraulic roughness
- 25 element to moderate flows. Large woody debris also serves a pool-forming
- 26 function, providing critical salmonid rearing and refuge habitat. Abundant large
- 27 woody debris increases aquatic diversity and stabilization.
- 28 • Regulation of microclimate in the stream-riparian and intertidal corridors.
- 29 • Providing critical wildlife habitat, including migration corridors and feeding,
- 30 watering, rearing, and refugia areas.
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32 38. The Draft SMP recognizes that Lake Tapps is an artificially constructed reservoir
33 that has been developed at urban residential densities. As a result, a setback of
34 50-feet is adequate to address the no net loss of ecological function requirement.
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36 39. The Draft SMP does not require a vegetated buffer for development adjacent to
37 Lake Tapps due to the existing condition of development around the lake, and due
38 to the artificial control of the lake water level.
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40 40. The SMP authorizes applications for discharging dredged materials in Pierce
41 County marine waters when consistent with the Master Program, except, within the
42 Nisqually Reach Aquatic Reserve where such use is prohibited due to the
43 management goals of preservation, restoration and enhancement of subtidal
44 ecosystems.
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46 41. The Council supports the Nisqually Reach Aquatic Reserve Management Plan's
47 goal of recovery and protection of Federal and State threatened, endangered and



1 sensitive species, species of special concern and their habitats. As such, certain
2 uses, including discharging dredged materials is prohibited.

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4 42. There is a need to balance the use of shorelines with environmental protection.
5 The shoreline buffers proposed in the Draft SMP are based on review of literature
6 and the need to find this balance.

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8 43. There appears to be a discrepancy in the Ecology guidelines with regard to
9 Conditional Use Permits. The State offers a list of development exempt from the
10 requirement to obtain a Shoreline Substantial Development Permit. However,
11 under certain circumstances, that same development may be subject to a
12 Conditional Use Permit. The Draft SMP does not require a Conditional Use Permit
13 for certain 'exempt' development, such as Normal Maintenance and Repair, and in
14 some instances, for development that has a Fair Market Value of less than \$6,416.

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16 44. The administrative review of Shoreline Substantial Development Permits is
17 appropriate because a review of shoreline decisions shows that the majority of
18 decisions by the Hearing Examiner are consistent with the staff recommendation.
19 The criteria used to make decisions regarding approval are identified in the Draft
20 SMP and are consistent with Ecology guidelines.

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22 45. The Shoreline Nonconforming Use Permit process is no longer appropriate
23 because Ecology does not recognize such permit type.

24
25 46. The administrative review of certain categories of Shoreline Conditional Use
26 permits is appropriate. The criteria used to make decisions regarding approval are
27 identified in the SMP and are consistent with Ecology guidelines.

28
29 47. Replacing Title 20 PCC, Shoreline Management Use Regulations, and the
30 Shoreline Management Policies with amendments to PCC 1.22.080, Hearing
31 Examiner Code, and the following Development Regulations: Title 18 PCC,
32 General Provisions, Title 18A PCC, Zoning, Title 18E PCC, Critical Areas, Title
33 18H PCC, Forest Practices, Title 18J PCC, Design Standards and Guidelines, and
34 adopting a new Title 18S PCC, Shorelines, is necessary to meet state shoreline
35 update guidelines.

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37 48. The Ecology procedural rules (WAC 173-26, Part II) state that local government
38 must submit the locally approved SMP update to Ecology for state review and
39 approval. The local SMP is not in effect until the update is approved by Ecology.

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41 49. Local governments planning under GMA must notify Ecology and the Department
42 of Commerce of their intent to submit an SMP amendment at least 60 days prior to
43 final local approval, as required by RCW 36.70A.106(1) and WAC 173-26-100(5).

