

1 Sponsored by: Councilmember Derek Young
2 Requested by: County Executive/Planning and Public Works Dept.

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4
5
6 **ORDINANCE NO. 2022-37s**

7
8
9 **An Ordinance of the Pierce County Council Amending the Pierce County**
10 **Shoreline Master Program Prohibiting New Water Access**
11 **Facilities in Specific Marine Shoreline Locations; Clarifying**
12 **Provisions Related to Aquaculture, Fencing, and Paths to**
13 **Shorelines and Incorporating Previously Adopted**
14 **Amendments to Pierce County Code Title 18E, "Development**
15 **Regulations – Critical Areas" into the Pierce County**
16 **Shoreline Master Plan; Amending Title 18S of the Pierce**
17 **County Code, "Development Policies and Regulations –**
18 **Shorelines"; Adopting Findings of Fact; and Setting an**
19 **Effective Date.**

20
21 **Whereas**, the State of Washington provides a timetable for local governments to
22 amend shoreline master programs through the Shoreline Management Act, Revised
23 Code of Washington (RCW) 90.58.080; and

24
25 **Whereas**, in response to RCW 90.58.080, Pierce County adopted Ordinance No.
26 2013-45s4 on March 10, 2015, establishing Title 18S of the Pierce County Code (PCC),
27 "Development Policies and Regulations – Shorelines"; and

28
29 **Whereas**, RCW 90.58.090 requires the Washington State Department of
30 Ecology (Ecology) to review and approve locally adopted Shoreline Master Programs
31 (SMP) before they can become effective; and

32
33 **Whereas**, on May 31, 2018, Pierce County received conditional approval of its
34 SMP update as adopted pursuant to Ordinance No. 2013-45s4; and

35
36 **Whereas**, RCW 90.58.080 provides the timetable for local governments to
37 amend SMPs consistent with guidelines adopted by Ecology to assure that the master
38 program complies with applicable law in effect at the time of review and to assure
39 consistency with the local governments comprehensive plan and development
40 regulations; and

41
42 **Whereas**, RCW 90.58.080(4)(b)(i) obligated the County to conduct a periodic
43 review of its SMP on or before June 30, 2019, to ensure the SMP complies with State
44 laws and guidelines that have been added or changed since the most recent update;
45 and



1 **Whereas**, Ecology identified several changes to the Pierce County SMP, as
2 adopted by Ordinance No. 2013-45s4, that were necessary to comply with State law
3 and which may be incorporated in the County's SMP to complete the periodic review
4 requirement of RCW 90.58.080(4); and

5
6 **Whereas**, on October 2, 2018, Pierce County adopted Ordinance No. 2018-57s
7 to make the necessary changes to its SMP to satisfy the requirements of Ecology to
8 receive final SMP approval and complete the periodic review requirement of RCW
9 90.58.080(4); and

10
11 **Whereas**, following final approval from Ecology on October 12, 2018, Pierce
12 County's Shoreline Master Program Comprehensive Update and Periodic Review
13 became effective on October 26, 2018; and

14
15 **Whereas**, through Ordinance No. 2018-57s, Title 18S PCC, "Development
16 Policies and Regulations – Shorelines," together with Title 18E PCC, "Development
17 Regulations – Critical Areas," comprise the Shoreline Master Program; and

18
19 **Whereas**, in the event Title 18E PCC is amended, the referenced edition will still
20 apply in shoreline jurisdiction until revised through an SMP amendment approved by
21 Ecology; and

22
23 **Whereas**, the current edition of Title 18E PCC referenced in Title 18S PCC was
24 amended by Ordinance No. 2017-12s with an effective date of April 15, 2017; and

25
26 **Whereas**, on November 6, 2018, the Pierce County Council also amended Title
27 18E PCC through Ordinance No. 2018-68s, which updated Pierce County's low impact
28 development regulations; and

29
30 **Whereas**, on September 10, 2019, Pierce County amended Title 18S and Title
31 18E PCC through Ordinance No. 2019-59 (First Compliance Ordinance) in response to
32 the Final Decision and Order Issued by the Growth Management Hearings Board in
33 Case No. 18-3-0013c; and

34
35 **Whereas**, on November 9, 2019, Ecology approved Pierce County's SMP
36 amendments adopted pursuant to Ordinance No. 2019-59 taking final action and
37 requiring no further amendments; and

38
39 **Whereas**, on May 5, 2020, Pierce County amended Title 18S and Title 18E PCC
40 through Ordinance No. 2020-49 (Second Compliance Ordinance), in response to the
41 Order on Compliance issued by the Growth Management Hearings Board in Case No.
42 18-3-0013c; and

43
44 **Whereas**, on June 26, 2020, Ecology concluded the amendments complied with
45 the requirements of the Shoreline Management Act and adopted the amendments
46 pursuant to Ordinance 2020-49; and



1 **Whereas**, on September 15, 2020, the Growth Management Hearings Board
2 found the County's SMP compliant with the Shoreline Management Act; and

3
4 **Whereas**, on February 1, 2022, the Pierce County Council also amended Title
5 18E PCC through Ordinance No 2021-123s, which corrected references to the Building
6 Code and Fire Code, as well as removed a regulation for maximum impervious surface
7 coverage in the Urban Village land use designation as that designation no longer exists;
8 and

9 **Whereas**, amendments to Title 18E PCC contained in this Ordinance are
10 considered locally-initiated SMP amendments per Washington Administrative Code
11 (WAC) 173-26-090; and

12
13 **Whereas**, in accordance with RCW 90.58.090, amendments to Title 18E PCC,
14 "Development Regulations – Critical Areas," that are to be implemented within the
15 Shoreline jurisdiction are required to be noticed as Title 18S PCC amendments and
16 specifically amended into Title 18S PCC, and the adopted locally-initiated SMP
17 amendments are to be submitted to Ecology for review and formal action before the
18 amendments can become effective; and

19
20 **Whereas**, the previous public notice of the 2018 amendments to Title 18E PCC
21 did not convey that they were also amendments to Title 18S PCC; and

22
23 **Whereas**, Ordinance Nos. 2019-59 and 2020-49 amended Title 18E and Title
24 18S PCC to resolve an SMP appeal and were approved by the Department of Ecology
25 and the Growth Management Hearings Board. The proposed amendments to Title 18S
26 PCC will formally recognize these two previously approved Ordinances. The proposed
27 amendments in PCC 18S.10.065 B. do not involve any substantive change to Title 18S
28 or Title 18E PCC; and

29
30 **Whereas**, the public notice for Ordinance No. 2021-123s did convey that the
31 amendment is also an amendment to Title 18S PCC; and

32
33 **Whereas**, these previous amendments to Title 18E PCC were noticed as Title
34 18S PCC amendments and will be formally recognized through PCC 18S.10.065 B.;
35 and

36
37 **Whereas**, in June of 2019, through Ordinance No. 2019-32s2 (Supplemental
38 Budget), \$50,000 was appropriated to conduct the shoreline inventory, analysis, and
39 characterization work as necessary to support recommended amendments related to:
40 (1) dredged material disposal; (2) fencing within shoreline buffers; (3) prohibitions of
41 piers and docks in marine conservancy Shoreline Environment Designations (SED) or
42 other locations inappropriate due to shoreline geomorphology; and (4) aquaculture for
43 purposes of restoration; and



1 **Whereas**, Environmental Science Associates (ESA) was retained by Pierce
2 County Planning and Public Works (PPW) to complete the analysis; and

3
4 **Whereas**, during the months of December 2019, March 2020, and April 2020,
5 ESA conveyed its recommendations and conclusions in a series of memorandums to
6 Pierce County Planning and Public Works (PPW) staff; and

7
8 **Whereas**, in October 2021, postcards were mailed to 9,323 shoreline property
9 owners notifying them of proposed amendments to Title 18S PCC and directing them to
10 the Shoreline Master Plan Update 2021 webpage; and

11
12 **Whereas**, the Shoreline Master Plan Update 2021 webpage provides additional
13 detail on the proposed amendments, identifies the opportunities for stakeholders to
14 provide comments, and invites individuals to attend Land Use Advisory Commission/
15 public presentation meetings; and

16
17 **Whereas**, on October 26, 2021, PPW staff presented proposed amendments at
18 a Joint Informational Land Use Advisory Commission/public presentation meeting in
19 which members from all seven Land Use Advisory Commissions (LUAC) were invited to
20 attend; and

21
22 **Whereas**, the State Environmental Policy Act (SEPA) Responsible Official
23 conducted an environmental review of the proposed amendments and issued a
24 Determination of Nonsignificance (DNS) on October 12, 2021, and issued a Revised
25 DNS on March 17, 2022; and

26
27 **Whereas**, in February 2022, notice of the LUAC and Planning Commission
28 meetings was provided with 136 letters being sent to property owners affected by the
29 proposed amendment to prohibit residential piers and docks in the Residential and
30 Conservancy Shoreline Environments; and

31
32 **Whereas**, the proposed amendments are consistent with the Growth
33 Management Act, Shoreline Management Act, VISION 2050, Countywide Planning
34 Policies, and the Pierce County Comprehensive Plan; and

35
36 **Whereas**, on March 9, 2022, the Gig Harbor Land Use Advisory Commission
37 (LUAC) reviewed the proposed amendments to the Pierce County SMP in a public
38 meeting, and

39
40 **Whereas**, on March 16, 2022, the Key Peninsula LUAC reviewed the proposed
41 amendments to the SMP in a public meeting, and

42
43 **Whereas**, on April 5, 2022, the Pierce County Planning Commission reviewed
44 the proposed amendments in a public hearing; and



1 **Whereas**, on April 26, 2022, the Planning Commission continued its review of
2 the proposed amendments in a public hearing and made recommendations to the
3 Pierce County Council; and

4
5 **Whereas**, on April 18 and May 2, 2022, the Pierce County Council Community
6 Development Committee held study sessions on PPW proposed amendments to the
7 SMP; and

8
9 **Whereas**, on June 6, July 18, August 15, September 19, and December 7, 2022,
10 the Pierce County Council Community Development Committee reviewed the proposed
11 amendments to the SMP in a public hearing; and

12
13 **Whereas**, on December 7, 2022, the Pierce County Council Community
14 Development Committee made final recommendations to the Pierce County Council in a
15 public hearing; and

16
17 **Whereas**, in accordance with RCW 90.58.090, the County is required to submit
18 the adopted locally-initiated SMP amendments to Ecology for review and formal action
19 before the amendments can become effective; and

20
21 **Whereas**, the Pierce County Council has determined that amending the Pierce
22 County Code is necessary to protect the public health, safety, and welfare, and protect
23 the public interest; and

24
25 **Whereas**, the Pierce County Council finds that it is in the public interest to adopt
26 the amendments set forth; **Now Therefore**,

27
28 **BE IT ORDAINED by the Council of Pierce County:**

29
30 Section 1. Title 18S of the Pierce County Code, "Development Policies and
31 Regulations – Shorelines," is hereby amended as shown in Exhibit A, which is attached
32 hereto and incorporated herein by reference.

33
34 Section 2. Findings of Fact documenting the actions taken by the Pierce County
35 Council are hereby adopted as shown in Exhibit B, which is attached hereto and
36 incorporated herein by reference.

37
38 Section 3. If any provisions of this Ordinance or the amendments to Title 18S of
39 the Pierce County Code are found to be illegal, invalid, or unenforceable, the remaining
40 provisions of this Ordinance shall remain in full force and effect.



1 Section 4. This Ordinance shall become effective 14 days following written
2 notice of final action by the Washington State Department of Ecology.

3
4
5 PASSED this 13th day of December, 2022.
6

7
8 ATTEST:

PIERCE COUNTY COUNCIL
Pierce County, Washington

9
10
11 Denise D. Johnson
12 Clerk to the Council

13 Derek Young
14 Council Chair

15
16
17 Bruce F. Dammeier
18 Pierce County Executive
19 Approved Vetoed _____, this
20 16th day of December,
21 2022.
22

23
24 Date of Publication of
25 Notice of Public Hearing: December 2, 2022

26
27 Effective Date of Ordinance: see section 4
28

Only those portions of Title 18S that are proposed to be amended or necessary for context are shown. Remainder of text, maps, tables and/or figures is unchanged.

Title 18S

DEVELOPMENT POLICIES AND REGULATIONS – SHORELINES

Chapter 18S.10

INTRODUCTION

18S.10.065 Procedural Guidance.

See Chapter 18S.60 PCC, Permits and Approvals, for shoreline permit review procedures. The purpose of this Section is to provide general guidance for use of this Title and to provide information on the process of shoreline development review.

- B. Title 18E PCC, Development Regulations – Critical Areas. Critical area regulations adopted in compliance with the State Growth Management Act are contained in Title 18E PCC, Ordinance Nos. 2004-56s, 2004-57s, 2004-58s, 2006-103s, 2013-45s4, 2016-52, amended by Ordinance Number 2017-12s, 2018-68s, 2019-59, 2020-49, effective date April 15, 2017 and as amended by Ordinance No. 2021-90s, effective date December 31, 2021, for Chapters Chapter 18E.10 PCC, Chapter 18E.20 PCC, and Chapter 18E.120 PCC incorporated by reference into the Shoreline Master Program (with the exception of Chapter 18E.70 PCC, Flood Hazard Areas) and as amended by Ordinance No. 2021-123s adopted on February 1, 2022. In the event that an incorporated section Section of Title 18E PCC is amended, the referenced edition will still apply in shoreline jurisdiction until revised through an approved Master Program amendment.

Chapter 18S.30

GENERAL POLICIES AND REGULATIONS

18S.30.030 Ecological Protection.

E. Regulations – Shoreline Buffers.

4. Uses and Development Allowed within Standard Shoreline Buffer.

- a. Water dependent uses and public shoreline access are allowed within the standard shoreline buffer subject to applicable regulations of the Master Program.
- b. An unpaved access path from a residential dwelling to the shoreline is allowed if:
 - (1) The path width is limited to 4 feet;



- (2) The length of the path is minimized by keeping the path at a right angle to the shoreline to the degree feasible; ~~and~~
 - (3) No trees are removed; and
 - (4) No fill is placed in flood hazard areas.
- c. Up to 500 square feet or 25 percent of the area encompassed within the first 50 feet measured from the ordinary high water mark (OHWM) may be disturbed to accommodate shoreline access, landscaping, or minor construction associated with a water dependent use upon review and approval of a Vegetation Planting Plan pursuant to subsection G.2. of this Section. Such disturbance shall not be concentrated nor span the extent of the shoreline at the water's edge.
 - d. Fences four feet or less in height may be allowed in a shoreline buffer or Lake Tapps setback if they:
 - (1) Are located landward of ordinary high water or, in the case of the Lake Tapps setback, 543 feet elevation;
 - (2) Cause no loss of trees; and
 - (3) Meet the disturbance allowances of PCC 18S.30.030 E.4.c.

Chapter 18S.40

USE AND DEVELOPMENT POLICIES AND REGULATIONS

18S.40.040 Aquaculture

C. Regulations – General.

16. Olympia Oyster propagation and other activities supporting the non-commercial enhancement and/or recovery of native shellfish, ~~finfish~~ and aquatic plant species may be permitted ~~are allowed within the Nisqually Reach Aquatic Reserve.~~

G. Regulations – Species.

3. ~~Finfish~~ Aquaculture involving net pens for anadromous species ~~are~~ is prohibited in all marine waters of Pierce County where there are aquatic reserve areas in place except as authorized in PCC 18S.40.040 C.16. for enhancement or recovery of native shellfish and aquatic plant species."

18S.40.140 Water Access Facilities.

D. *Regulations – Residential.* The following regulations apply to residential water access facilities serving four or fewer parcels:

- 2. Residential properties may be served by one dock (including a pier, ramp and/or float). For purposes of this subsection, a residential dock may accommodate temporary floats and boat lifts. The following additional criteria shall apply to the number of water access facilities allowed:
 - a. A parcel may have no more than one railway;



- b. A parcel may have no more than one mooring buoy or mooring piling except a second mooring buoy may be authorized to secure moorage when authorized by the Washington State Department of Natural Resources;
- c. Facilities attached to another facility (such as boat and jet ski lifts attached to docks) shall be considered permitted accessory uses.
- d. Piers and docks shall be prohibited in the Aquatic Marine Shoreline Environment Designation at various shoreline locations identified as having highly intact ecological functions, relatively few overwater structures, and options for public access or recreation (and two out of three of the following attributes: unstable slopes, high nearshore tidal currents, wide tidal flats) and locations designated as "Marine Shoreline Critical Salmon Habitat" as shown in Appendix J.
- e. Piers and docks shall be prohibited in the Aquatic Marine Shoreline Environment Designation along the Browns Point and Dash Point shoreline starting at the Tacoma City limits near State Route 509 and continuing west and north to King County as shown in Appendix J.

Chapter 18S.60

PERMITS AND APPROVALS

Note: The proposed changes to the Table are shown in double underline format. See "Interpretation" section at the end of the Table for explanation of shading.

18S.60.030 Shoreline Permit Table.

- C. Where there is a question regarding the inclusion or exclusion of development within a particular category, the Director shall have the authority to make the final determination.

Table 18S.60.030-1. Shoreline Permit Table						
Uses, Modifications and Development	Shoreline Environment Designation (SED)					
	N	C	R	H	AF	AM
N=Natural, C=Conservancy, R=Residential, H=High Intensity, AF=Aquatic Freshwater, AM=Aquatic Marine						
Agriculture (See PCC 18S.40.030 for Agriculture Policies and Regulations)						
Low Intensity Agriculture						
All Other Agriculture						
Aquaculture (See PCC 18S.40.040 for Aquaculture Policies and Regulations)						
All Aquaculture	C (1,9,10)	C (1,9,10)	C (1,9,10)	C (1,9,10)	C (1,9,10)	C (1,9,10)
Commercial/Civic (See PCC 18S.40.050 for Commercial/Civic Policies and Regulations)						
Water-Oriented			(4)		(5)	C (5)
Non Water-Oriented			(4)	C (3,4)		



Table 18S.60.030-1. Shoreline Permit Table						
Uses, Modifications and Development	Shoreline Environment Designation (SED)					
	N	C	R	H	AF	AM
N=Natural, C=Conservancy, R=Residential, H=High Intensity, AF=Aquatic Freshwater, AM=Aquatic Marine						
Mixed-Use Development (commercial/residential)			(4)	C (3,4)		
Excavation, Dredging, Filling and/or Grading (See PCC 18S.30.040 for Policies and Regulations)						
Excavation Landward of OHWM	As authorized per the underlying use.					
Dredging Waterward of OHWM					C (6)	C (6)
Filling Landward of OHWM	As authorized per the underlying use.					
Filling Waterward of the OHWM					C (6)	C (6)
Grading	As authorized per the underlying use					
State Dredge Material Disposal						C
Flood Hazard Management (See PCC 18S.40.060 for Flood Hazard Management Policies and Regulations)						
Flood Hazard Management						C
Forest Practices (See PCC 18S.40.070 for Forest Practice Policies and PCC Title 18H for Regulations)						
Commercial Forestry	C					
In Stream Structures (See PCC 18S.30.080 for Shoreline Modification Policies and Regulations)						
In Stream Structures						
Industrial (See PCC 18S.40.050 for Industrial Policies and Regulations)						
Water-Oriented Industrial Development			C	AC	C (7)	C (7)
Non Water-Oriented Industrial Development				C (7)	C (7)	C (7)
Mining (See PCC 18S.40.080 for Mining Policies and Regulations)						
Mining outside a Channel Migration Zone						



Table 18S.60.030-1. Shoreline Permit Table						
Uses, Modifications and Development	Shoreline Environment Designation (SED)					
	N	C	R	H	AF	AM
N=Natural, C=Conservancy, R=Residential, H=High Intensity, AF=Aquatic Freshwater, AM=Aquatic Marine						
Mining in a Channel Migration Zone		C	C	C		
Recreation (See 18S.40.090 for Recreation Policies and Regulations)						
Water-Oriented Trail, Boardwalk, Viewpoint, Walk/Boat-In Primitive Campsite						
All other Water-Oriented Recreational Development						C
All other Non Water-Oriented Recreational Development				(4)		
Residential and Land Divisions (See PCC 18S.40.100 for Residential Policies and Regulations)						
Single-Family and Accessory Uses/Structures	AC					
Other Housing Types and Accessory Uses/Structures						
Land Divisions for Detached Single-Family with Infrastructure	AC					
All other Land Divisions with Infrastructure						
Restoration and Enhancement (See PCC 18S.40.110 for Restoration and Enhancement Policies and Regulations)						
All Restoration/Enhancement						AC
Shoreline Stabilization (See PCC 18S.30.070 for Shoreline Stabilization Policies and Regulations)						
Jetties, Groin, Breakwater					C (6)	C (6)
Soft Shoreline Stabilization						AC



Table 18S.60.030-1. Shoreline Permit Table						
Uses, Modifications and Development	Shoreline Environment Designation (SED)					
	N	C	R	H	AF	AM
N=Natural, C=Conservancy, R=Residential, H=High Intensity, AF=Aquatic Freshwater, AM=Aquatic Marine						
Hard Shoreline Stabilization						C
Transportation (See PCC 18S.40.120 for Transportation Policies and Regulations)						
Public Linear Transportation Facility						AC
Water-Oriented Transportation						C
Non Water-Oriented Transportation				(4)		
Utilities (See PCC 18S.40.130 for Utilities Policies and Regulations)						
Public Linear Utility Facility				(4)		AC
Other Utility Development				(4)		C
Water Access Facilities (See PCC 18S.40.140 for Water Access Facilities Policies and Regulations)						
Residential Water Access Facility (serves 4 or fewer parcels)					(8)	AC (8)
Other Water Access Facilities					(8)	C (8)
Use of Water Access Facility for Home Occupation/Cottage Industry					(8)	C (8)



Table 18S.60.030-1. Shoreline Permit Table

Uses, Modifications and Development	Shoreline Environment Designation (SED)					
	N	C	R	H	AF	AM

N=Natural, C=Conservancy, R=Residential, H=High Intensity, AF=Aquatic Freshwater, AM=Aquatic Marine

- Notes:**
- (1) Geoduck aquaculture requires an SD for planting, growing and harvesting of farm raised geoducks only when the project or practice causes substantial interference with normal public use of the surface waters.
 - (2) *Deleted.*
 - (3) Non water-oriented commercial uses are subject to PCC 18S.40.050 C.3. Criteria. See also PCC 18S.30.090. A change from an existing non water-oriented use to another non water-oriented use is permitted, without a Conditional Use Permit.
 - (4) New non water-oriented uses are prohibited except in situations where the use doesn't conflict with or limit opportunities for water-oriented uses or when there is no direct access to the water's edge. See PCC 18S.30.090.
 - (5) Commercial/Civic development is prohibited in Aquatic SEDs abutting the Natural SED.
 - (6) Environmental restoration, mitigation and/or enhancement projects do not require a Conditional Use Permit.
 - (7) Industrial development is prohibited in Aquatic SEDs abutting the Natural SED and Conservancy SED. Non water-oriented industrial development is prohibited in Aquatic SEDs abutting all SEDs except for High Intensity.
 - (8) In Aquatic SEDs abutting the Natural SED only floats and buoys may be allowed.
 - (9) A Conditional Use Permit may be waived for non-commercial enhancement or restoration of native shellfish projects that do not require a substantial development permit, unless the project significantly conflicts with public access, navigation, or adversely impacts critical saltwater or freshwater habitats.
 - (10) At the discretion of the County, all or portions of the baseline information requirements of PCC 18S.70 – Appendix C, Aquaculture Application Requirements, and Appendix D, Cumulative Impact Analysis – Expanded Information Requirements, may be waived for non-commercial enhancement or restoration aquaculture projects.

- Interpretation:**
- A shaded cell on the table indicates that the use, modification or development is allowed subject to the Shoreline Substantial Development Permit (SD) provisions specified in PCC 18S.60.040 or the criteria for an SD Exemption, see PCC 18S.60.020.
 - An "AC" in a cell on the table indicates that the use, modification or development is allowed subject to the Shoreline Administrative Conditional Use Permit provisions specified in PCC 18S.60.050. Uses that are listed as requiring an AC in the table must obtain an Administrative Conditional Use Permit even if the development doesn't require an SD.
 - A "C" in a cell on the table indicates that the use, modification or development is allowed subject to the Shoreline Conditional Use Permit provisions specified in PCC 18S.60.060. Uses that are listed as requiring a C in the table must obtain a Conditional Use Permit even if the development does not require a Substantial Development Permit.
 - A blank cell on the table indicates that the use, modification, or development is prohibited in the SED listed at the top of the column, or that the cell is not applicable. Prohibited development may also be called out in notes (1) through (8).

1



1 *Chapter 18S.70*

2
3 *APPENDICES*

4
5 **Chapter 18S.70 – Appendix A**
6 **Definitions, Acronyms and Abbreviations**
7

8 *Note: The definitions of "Aquaculture – Finfish restoration" and "Aquaculture – Shellfish*
9 *restoration" would be inserted alphabetically in subsection B of Appendix A. Remainder*
10 *of text is unchanged.*

11
12 "Aquaculture – Finfish restoration" means the cultivation of native fish species during a limited
13 portion of their lifecycle for the sole purpose of restoration or enhancement of native stocks.

14
15 "Aquaculture – Shellfish restoration" means the cultivation of native shellfish species for the sole
16 purpose of restoration or enhancement of native stocks.

17
18 *Note: The following shall be inserted to the Table of Contents for Chapter 18S.70 PCC*

19
20 J. Water Access Facility Prohibition Map

21
22 **Chapter 18S.70 – Appendix J**
23 **Water Access Facility Prohibition Maps**
24



FINDINGS OF FACT

The Pierce County Council finds that:

1. The Pierce County Shoreline Master Program (SMP) was initially adopted by the Board of Pierce County Commissioners on March 4, 1974, in compliance with the Washington State Shoreline Management Act of 1971.
2. Pierce County's initial Shoreline Use Regulations provided implementing regulations consistent with the goals and policies of the SMP and were adopted by the Board of Commissioners on April 4, 1975.
3. Pierce County conducted a comprehensive update to the SMP and passed necessary amendments through Ordinance No. 2013-45s4 on March 10, 2015.
4. Revised Code of Washington (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. 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 Growth Management Act.
5. The County's current Shoreline Master Program (SMP), in effect since October 2018, was approved by the Washington State Department of Ecology (Ecology) and deemed consistent with the "no-net-loss" requirements of the Shoreline Management Act. The State has found no inadequacies with the County's current SMP. Ecology also acknowledged that given the time spent on the SMP update, the 2019 Periodic Update was effectively met. As such, the next required SMP Periodic update is in 2027.
6. The Pierce County Critical Area Ordinance (CAO) is incorporated into the Shoreline Master Program by reference. The SMP incorporates the CAO by referencing a specific edition. Reference to updated CAO regulations require a SMP amendment and must be approved by Ecology to be implemented within the Shoreline jurisdiction.
7. The proposed amendments to Title 18E of the Pierce County Code (PCC), "Development Regulations – Critical Areas," are considered locally-initiated SMP amendments per Washington Administrative Code (WAC) 173-26-090.
8. In the event Title 18E PCC is amended, the referenced edition will still apply in the shoreline jurisdiction until revised through a Master Program amendment approved by Ecology.



- 1 9. The current edition of Title 18E PCC, referenced in Title 18S PCC, "Development
2 Policies and Regulations – Shorelines," was amended by Ordinance No. 2017-12s
3 with an effective date of April 15, 2017. Title 18E PCC has subsequently been
4 amended by Ordinance Nos. 2018-68s, 2019-59, 2020-49, and 2022-123s.
5
- 6 10. The public notice for Ordinance No. 2018-68s did not convey that the Title 18E
7 PCC amendments were also amendments to Title 18S PCC and were not
8 forwarded to Ecology for review and approval.
9
- 10 11. Public notice for Ordinance No. 2022-123s did convey that the Title 18E PCC
11 amendment was also a proposed amendment to Title 18S PCC.
12
- 13 12. These previous amendments to Title 18E PCC by Ordinance Nos. 2018-68s and
14 2022-123s have been noticed as Title 18S PCC amendments and will be
15 forwarded to Ecology for review and approval to be formally recognized in PCC
16 18S.10.065 B.
17
- 18 13. Ordinance Nos. 2019-59 and 2020-49 were amendments to resolve an SMP
19 appeal and the substantive changes in these Ordinances have previously been
20 approved by the Department of Ecology and the Growth Management Hearings
21 Board. The proposed amendments to Title 18S PCC insert a citation to these two
22 previously approved Ordinances.
23
- 24 14. The intent of the Conservancy shoreline environment in the SMP is to preserve
25 Shoreline ecological functions by avoiding development that would be incompatible
26 with existing functions and processes, locating restoration efforts in areas where
27 benefits to ecological functions can be realized, keeping overall intensity of
28 development or use low, and maintaining most of the area's natural character.
29
- 30 15. Pierce County SMP Update Cumulative Impact Analysis - December 2013
31 (Revised October 2014) considered much of the shoreline marine areas as a "Low
32 Potential" for dock applications.
33
- 34 16. Pierce County has experienced an increase in shoreline development applications
35 for new overwater structures following the update of the County's Shoreline Master
36 Program (SMP) in 2018 (Ordinance No. 2013-45s4 and Ordinance No. 2018-57s).
37 Many of these permit applications are located within shoreline reaches that were
38 historically devoid of overwater structures due to presence of ecological features,
39 exposure to winter storms, and the presence of local shoreline access
40 opportunities. The increase in development pressure was not an anticipated
41 outcome of the 2018 SMP update.
42
- 43 17. Development on navigable waters and submerged lands should be located and
44 designed to minimize interference with surface navigation, to reduce impacts to
45 public views, and to allow for the safe, unobstructed passage of fish and wildlife,
46 particularly those species dependent on migration.
47

- 1 18. In June 2019, Ordinance No. 2019-32s2 (Supplemental Budget) appropriated
2 \$50,000 to conduct the shoreline inventory, analysis, and characterization work as
3 necessary to support recommended amendments related to:
- 4 • Dredged material disposal;
 - 5 • Fencing within shoreline buffers;
 - 6 • Prohibitions of piers and docks in marine conservancy Shoreline Environment
7 Designation (SED) or other locations inappropriate due to shoreline
8 geomorphology; and
 - 9 • Aquaculture for purposes of restoration.
- 10
- 11 19. Environmental Science Associates (ESA) was retained by Pierce County Planning
12 and Public Works (PPW) to complete the analysis.
- 13
- 14 20. During the months of December 2019, March 2020, and April 2020, ESA conveyed
15 its recommendations and conclusions in a series of memorandums to Pierce
16 County PPW staff.
- 17
- 18 21. Title 18S PCC provides no bulk standards related to fencing. The absence of such
19 standards results in a high level of subjectivity that reduces predictability for the
20 applicant in terms of review standards.
- 21
- 22 22. Differentiating between commercial aquaculture and restoration aquaculture by
23 allowing for a reduced level of application submittal requirements serves to
24 incentivize the restoration of native fish and shellfish stocks
- 25
- 26 23. For compliance with the National Flood Insurance Program, an additional criterion
27 is added that clarifies that a pathway must not require fill in a flood hazard area.
- 28
- 29 24. Through its series of memorandums, ESA concludes:
- 30 • The proposed fencing language complies with no net loss of shoreline function.
31 (December 19, 2019, memorandum)
 - 32 • The policies and standards within the policies and standards within PCC
33 18S.30.040 – Excavation, Dredging, Filling, and Grading – are appropriate and
34 consistent with the "no net loss" of shoreline ecological functions requirements
35 in Title 18S PCC and the Shoreline Management Act (SMA). (April 3, 2020,
36 memorandum)
 - 37 • The review of overwater moorage standards identified key reaches to focus
38 new restrictions for piers and docks. (March 18, 2020, memorandum as revised
39 February 7, 2022)
- 40
- 41 25. Through its April 7, 2020, memorandum, as revised October 29, 2021, ESA
42 summarizes the effects of the proposed SMP updates upon key shoreline functions
43 as follows:
- 44 • Aquatic Habitat: No net loss of aquatic habitat functions is anticipated.
45 Proposed restrictions on where new private overwater moorage structures may
46 be permitted along marine shorelines are necessary to ensure that future
47 adverse cumulative impacts to marine aquatic habitats do not occur. Proposed



1 updates to aquaculture standards to allow restoration-focused aquaculture
2 activities are expected to benefit aquatic habitats and associated native fish
3 and shellfish stocks.

- 4 • Water Quality and Hydrology: No net loss in water quality and hydrological
5 functions is expected. Existing SMP standards requiring use of non-polluting
6 building materials for any allowed overwater moorage structure are unchanged.
7 Proposed updates to aquaculture standards maintain criteria that require
8 evaluation and mitigation of short-term or indirect effects of future restoration
9 aquaculture proposals before County approval.
- 10 • Riparian Habitat: No net loss in riparian habitat functions is anticipated. As with
11 aquatic habitat functions, proposed restrictions on new private overwater
12 moorage structures ensure that alteration of marine riparian habitats does not
13 occur incrementally over time. Proposed updates to fencing allowances
14 integrate existing SMP standards for riparian vegetation retention and
15 mitigation ensuring that new fencing within a shoreline buffer or setback does
16 not result in loss of ecological functions.

17
18 26. As described in the revised Memorandum (February 7, 2022), ESA conducted a
19 focused assessment of marine shoreline conditions to identify where existing
20 geomorphology, coastal processes, shoreline use patterns, recreational
21 opportunities, and marine resources – individually or in combination – warrant
22 limitations on the construction of new overwater moorage structures (e.g.,
23 pier/ramp/float structures).

24
25 27. ESA identified specific segments of the shorelines where restriction on new
26 overwater moorage structures would be most appropriate. This included shoreline
27 segments reaches that:

- 28 • Have highly intact ecological functions (such as habitat or physical processes
29 like feeder bluff erosion).
- 30 • Provide substantial opportunities for public access, enjoyment, and recreation.
- 31 • Were relatively free of overwater moorage structures. This was defined as
32 shoreline segments of approximately 1.5 miles in length where there were few
33 or no moorage structures.

34
35 28. ESA recommends Pierce County prohibit new overwater moorage structures
36 (pier/ramp/float structures) on 38.8 miles of marine shorelines that contain two or
37 more shoreline attributes (unstable slopes, high nearshore tidal currents, wide tidal
38 flats) that, if modified, could result in potential unavoidable impacts.

39
40 29. Private residential docks are not a preferred shoreline use under the SMA and are
41 not of Statewide interest.
42
43



- 1 30. Current SMP requires commercial aquaculture operations and aquaculture
2 activities for restoration or species recovery to follow the same application
3 requirements. The proposed amendment acknowledges the two different types and
4 would provide staff the authority to reduce permitting requirements, where
5 appropriate, for not for-profit restoration and enhancement aquaculture.
6
- 7 31. On July 8, 2020, the Pierce County Community Development Committee held a
8 study session on the SMP update.
9
- 10 32. PPW staff contacted the Tribes (Puyallup, Muckleshoot, Nisqually, and Squaxin) in
11 July 2021. Through this outreach, which occurred prior to presenting a proposal to
12 the general public, Tribal staff representatives were provided with:
13 • The April 7, 2020, ESA memoranda;
14 • A preliminary draft staff report; and
15 • A presentation that provided a summary of a preliminary proposal.
16
- 17 33. Staff received a request from the Puyallup Tribe for a meeting which was held on
18 August 16, 2021.
19
- 20 34. Marine Shoreline Critical Salmon Critical Habitat areas have been designated in
21 Pierce County following the Key Peninsula, Gig Harbor, and Islands Nearshore
22 Salmon Habitat Assessment (Pentec, 2003). Pierce County's marine shorelines
23 were divided into ecological monitoring units and smaller Assessment Units.
24 Based on the habitat quality of the shoreline, a value was assigned determined by
25 characteristics of the shoreline (i.e., presence of macroalgae, large woody debris,
26 bottom composition, overwater structures, slope, bulkhead, substrates, etc.). The
27 overall habitat value determined how these EMUs and AUs were ranked and
28 resulted in the High ranking AUs designated as Marine Critical Salmon Habitat.
29
- 30 35. Marine waters designated as Marine Shoreline Critical Salmon Habitat are
31 regulated in Title 18E PCC and include a buffer restricting development 100 feet
32 landward from the Ordinary High Water Mark (OHWM) but include no protection
33 from impacts of development waterward of the OHWM.
34
- 35 36. Preservation of natural habitat within the nearshore environment including
36 tidelands is an essential component of Pierce County's goal to protect Federally
37 and State listed salmon (Puget Sound Chinook salmon and Steelhead trout) and
38 their associated habitats, and species of local importance including Coho salmon,
39 Chinook salmon, pink salmon, chum salmon, sockeye salmon that would likely be
40 negatively impacted by development of new overwater structures on tidelands
41 designated as Marine Shoreline Critical Salmon Habitat.
42
- 43 37. New overwater structures should be prohibited below the OHWM in locations
44 designated as Marine Shoreline Critical Salmon Habitat due to the largely intact
45 ecological features and the sensitive nature of these tideland areas that are
46 essential in the protection and restoration of salmon and steelhead trout.
47



- 1 38. On April 1, 2022, the Puyallup Tribe of Indians submitted a letter to Pierce County
2 inviting "government to government consultation" to discuss Tribal concerns
3 related to the County's rescission of previously proposed restrictions on new pier,
4 dock and development of overwater structures and impacts to the Puyallup Tribe's
5 treaty fishing rights and cultural resources.
6
- 7 39. On April 14, 2022, the Pierce County Executive responded to the Puyallup Tribe's
8 April 1 invitation to consult and agreed to work directly with the Tribe. Pierce
9 County met with representatives from the Puyallup Tribe and the Nisqually Tribe
10 on July 13 and September 15, 2022.
11
- 12 40. On September 29, 2022, Pierce County received another letter from the Puyallup
13 Tribe requesting protection of the Browns Point and Dash Point shoreline through
14 prohibition of docks and other overwater structures because "These areas are all
15 extremely high probability areas for encountering cultural resources, home to
16 multiple village sites, numerous archaeological findings, and are grossly
17 inappropriate locations for docks and piers for both historical and cultural reasons.
18 This particular stretch of shoreline is home to burial sites, seasonal camp sites,
19 original Puyallup Tribal allotments, shellfish harvesting sites, the "Place Where
20 Canoes Come to Shore" Canoe Landing Site, First Fish Ceremonial site, "Circling
21 Water" site, gathering sites, Blanket Rock cultural site, the "Place of Hidden
22 Waters" village site, and numerous archaeological sites."
23
- 24 41. Priority species within the Browns Point/Dash Point area include Chinook salmon,
25 Chum Salmon, Pink Salmon, Sockeye, and Steelhead Trout. Browns Point and
26 Dash Point have been identified as critical habitat for Chinook Salmon and Bull
27 Trout which are Federally-listed species.
28
- 29 42. The Browns Point and Dash Point shoreline contain critical nearshore features
30 such as mixed sand and gravel beaches that provide habitat for surf smelt and
31 sand lance; four drift cells delivering sediment from bluffs that converge to form
32 accretion features that create habitat for bull trout; and kelp and patchy eelgrass
33 beds that provide habitat for juvenile chinook salmon during their out migration
34 from the Puyallup and Nisqually River systems
35
- 36 43. Postcards were mailed to 9,323 shoreline property owners on October 12, 2021,
37 notifying them of the proposed amendments to Title 18S PCC and directing them
38 to the Shoreline Master Plan Update 2021 webpage.
39
- 40 44. The Shoreline Master Plan Update 2021 webpage provides additional detail on the
41 proposed amendments, identifies the opportunities for stakeholders to provide
42 comments, and notifies individuals of Land Use Advisory Commission meetings,
43 scheduled Planning Commission meetings, and anticipated County Council
44 Community Development meetings.
45
46



- 1 45. Planning and Public Works staff presented proposed amendments at a Joint
2 Informational Land Use Advisory Commission/public presentation meeting on
3 October 26, 2021, in which members from all seven LUACs were invited to attend.
4
- 5 46. Letters were sent to 136 property owners affected by a proposed amendment to
6 prohibit residential piers and docks in the Residential and Conservancy Shoreline
7 Environments in February 2022 to provide notice of the LUAC and Planning
8 Commission meetings.
9
- 10 47. On March 9, 2022, the Gig Harbor Land Use Advisory Commission (LUAC)
11 reviewed the proposed amendments to the Pierce County SMP in a public
12 meeting.
13
- 14 48. On March 16, 2022, the Key Peninsula LUAC reviewed the proposed amendments
15 to the SMP in a public meeting.
16
- 17 49. On April 5, 2022, the Pierce County Planning Commission reviewed the proposed
18 amendments in a public hearing.
19
- 20 50. On April 26, 2022, the Pierce County Planning Commission continued review of
21 the proposed amendment in a public hearing and made its recommendation to the
22 Pierce County Council. The Planning Commission was unable to reach a
23 consensus on a recommendation addressing the prohibition of docks and piers.
24
- 25 51. Notice of the Planning Commission public hearing was published in *The News*
26 *Tribune* on March 24 and April 13, 2022
27
- 28 52. The State Environmental Policy Act (SEPA) Responsible Official conducted an
29 environmental review of the proposed amendments and issued a Determination of
30 Nonsignificance (DNS) on October 14, 2021, and issued a Revised DNS on March
31 17, 2022.
32
- 33 53. The County conducted public outreach consistent with Pierce County's published
34 public participation program and Washington Administrative Code (WAC)
35 173-26-100, as required for locally-initiated SMP amendments.
36
- 37 54. The County satisfied the procedural requirements in WAC 173-26-100 for
38 amendments to SMPs.
39
- 40 55. The County is required to submit the adopted locally-initiated SMP amendments to
41 the Ecology for review and approval before the amendments can become effective,
42 in accordance with RCW 90.58.090. The effective date is 14 days from the date of
43 Ecology's written notice of final action to the local government stating either
44 approval or denial.
45
46

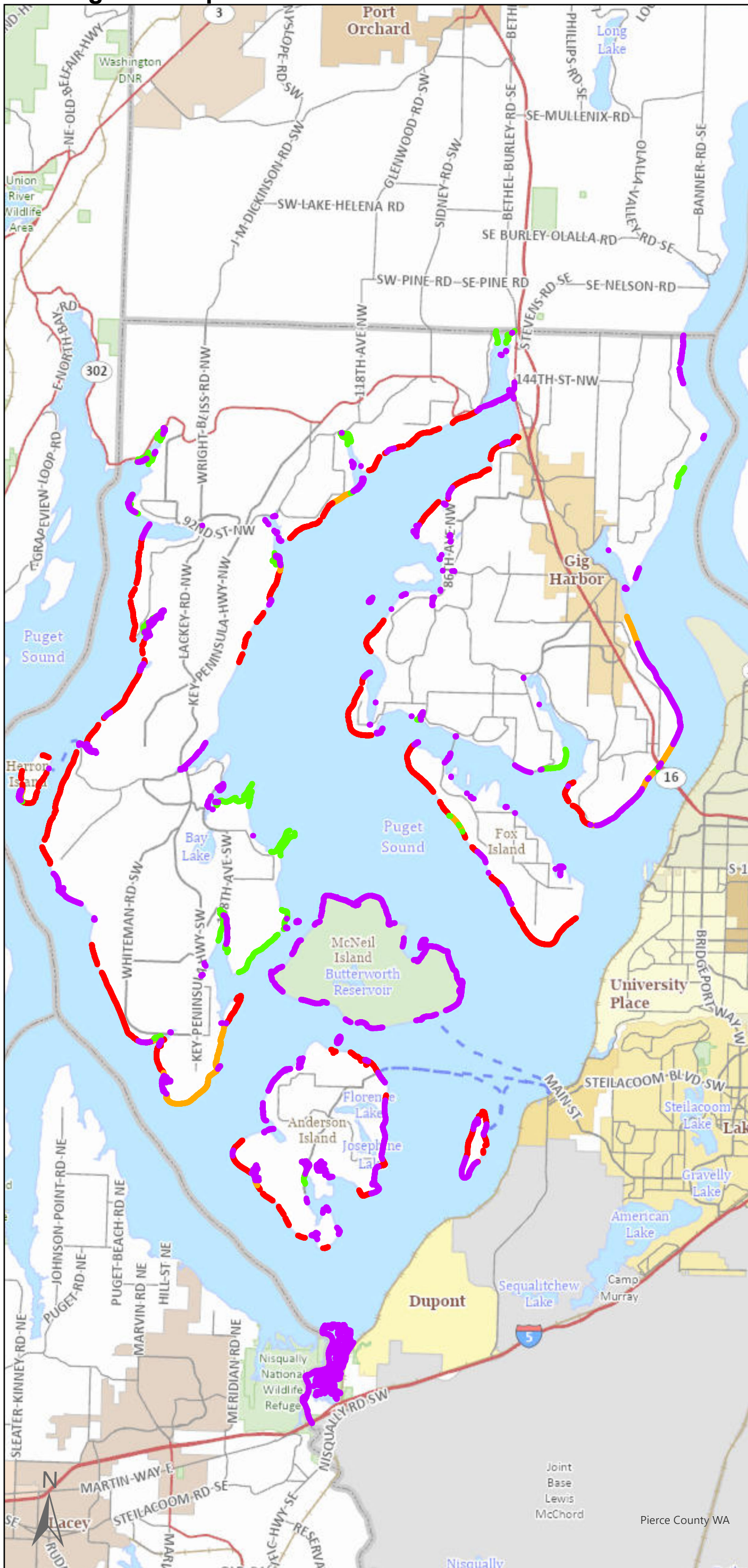


- 1 56. The proposed amendments are consistent with the Growth Management Act,
2 Shoreline Management Act, VISION 2050, Countywide Planning Policies, and the
3 Pierce County Comprehensive Plan.
4
- 5 57. The proposed amendments are in the best interest and general public health,
6 safety, and welfare of the citizens of Pierce County.
7
- 8 58. On April 18 and May 2, 2022, the Pierce County Council Community Development
9 Committee held a study session(s) on PPW proposed amendments to the SMP.
10
- 11 59. On June 6, July 18, August 15, September 19, and December 7, 2022, the Pierce
12 County Council Community Development Committee reviewed the proposed
13 amendments to the SMP in a public hearing.
14
- 15 60. On December 7, 2022, the Pierce County Council Community Development
16 Committee made final recommendations to the Pierce County Council in a public
17 hearing.
18
- 19 61. On December 13, 2022, the Pierce County Council held a public hearing where
20 oral and written testimony was considered.
21
22



Proposed Piers and Docks Prohibition Maps

Existing and Proposed Restrictions



- Proposed Restriction**
- ESA Proposed
 - Marine Shoreline Critical Salmon Habitat
 - Both Criteria
 - Existing Restriction

This map is a general illustration of Pierce County's shoreline.

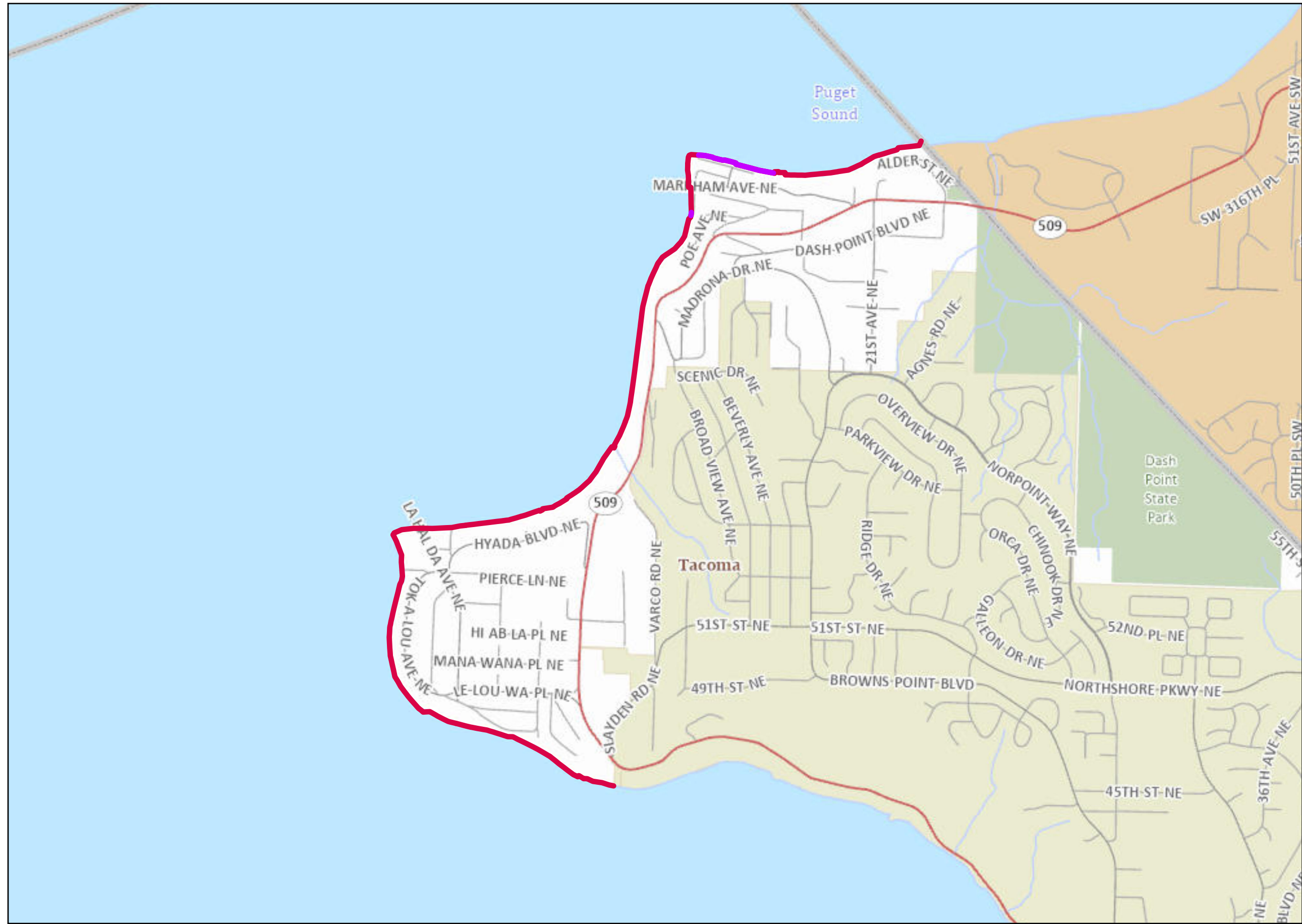
Refer to the GIS data when determining the Shoreline Environment Designation and sections that have pier and dock restrictions for a specific parcel.

Map Disclaimer: This is not a survey. Orthophotos and other data may not align. Pierce County assumes no liability for variations ascertained by actual survey. All data is expressly provided "as is" and with all faults.



PROPOSED PIERS AND DOCKS PROHIBITION MAPS

Existing and Proposed Restrictions



- Existing Restriction
- Proposed Restriction

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