

Chapter 1 INTRODUCTION

1.1 Purpose and Intent

The purpose of this Shoreline Master Program is:

- 1) To guide the future development of shorelines in the City of Gig Harbor in a positive, effective, and equitable manner consistent with the Washington State Shoreline Management Act of 1971 (the "Act") as amended (Revised Code of Washington [RCW] 90.58).
- 2) To promote the public health, safety, and general welfare of the community by providing long range, comprehensive policies and effective, reasonable regulations for development and use of Gig Harbor's shorelines; and
- 3) To ensure, at a minimum, no net loss of shoreline ecological functions and processes and to plan for restoring shorelines of the state that have been impaired or degraded by adopting and fostering the following policy contained in RCW 90.58.020, Legislative Findings:

"It is the policy of the State to provide for the management of the shorelines of the State by planning for and fostering all reasonable and appropriate uses. This policy is designed to insure the development of these shorelines in a manner, which, while allowing for limited reduction of rights of the public in the navigable waters, will promote and enhance the public interest. This policy contemplates protecting against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the State and their aquatic life, while protecting generally public rights of navigation and corollary rights incidental thereto..."

In the implementation of this policy the public's opportunity to enjoy the physical and aesthetic qualities of natural shorelines of the State shall be preserved to the greatest extent feasible consistent with the overall best interest of the State and the people generally. To this end uses shall be preferred which are consistent with control of pollution and prevention of damage to the natural environment or 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, 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.

Permitted uses in the shorelines of the State shall be designed and conducted in a manner to minimize, insofar as practical, any resultant damage to the ecology and environment of the shoreline area and any interference with the public's use of the water."

1.2 Governing Principles

The following Governing Principles, along with the policy statements of RCW 90.58.020, Legislative Findings, establish the basic concepts upon which the goals, policies and regulations of this Program are based.

- 1) Any inconsistencies between this Program and the Act must be resolved in accordance with the Act.
- 2) The policies of this Program may be achieved by diverse means, one of which is regulation. Other means, authorized by the Act, include but are not limited to: acquisition of lands and/or easements by purchase, or gift; and implementation of capital facility and/or non-structural programs.
- 3) Regulation of private property to implement Program goals such as public access and protection of ecological functions and processes must be consistent with all relevant constitutional and other legal limitations. These include, but are not limited to civil rights guaranteed by the U.S. and State constitutions, recent federal and state case law, and state statutes, such as RCW 43.21C.060, Conditioning or Denial of Governmental Action and 82.02, General Provisions on Excise Taxes.
- 4) Regulatory or administrative actions contained herein must not unconstitutionally infringe on private property rights or result in an unconstitutional taking of private property.
- 5) The regulatory provisions of this Program are limited to shorelines of the state, whereas the planning functions of this Program may extend beyond the designated shoreline boundaries.
- 6) The policies and regulations established by the Program must be integrated and coordinated with those policies and rules of the Gig Harbor Comprehensive Plan

and development regulations adopted under the Growth Management Act (RCW 36.70A) and RCW 34.05.328, Significant Legislative Rules.

- 7) Protecting the shoreline environment is an essential statewide policy goal, consistent with other policy goals. This Program protects shoreline ecology from such impairments in the following ways:
 - a) By using a process that identifies, inventories, and ensures meaningful understanding of current and potential ecological functions provided by shorelines.
 - b) By including policies and regulations that require mitigation of adverse impacts in a manner that ensures no net loss of shoreline ecological functions. The required mitigation shall include avoidance, minimization, and compensation of impacts in accordance with the policies and regulations for mitigation sequencing in WAC 173-26-201(2)(e)(i), Comprehensive Process to Prepare or Amend Shoreline Master Programs. By including policies and regulations to address cumulative impacts, including ensuring that the cumulative effect of exempt development will not cause a net loss of shoreline ecological functions, and by fairly allocating the burden of addressing such impacts among development opportunities.
 - c) By including regulations and regulatory incentives designed to protect shoreline ecological functions, and restore impaired ecological functions where such functions have been identified.
- 8) In light of other relevant local, state, and federal regulatory and non-regulatory programs, Gig Harbor should balance the policy goals of this Program to the extent consistent with the policies of the Act, per RCW 90.58.020, Legislative Findings, and these Governing Principles.

1.3 Title

This document shall be known and may be cited as the Gig Harbor Shoreline Master Program ("this Master Program," "the Master Program," or "SMP").

1.4 Adoption Authority

This Master Program is adopted under the authority granted by the Act and Chapter 173-26 of the Washington Administrative Code (WAC).

1.5 Relationship to Other Plans and Regulations

Uses, developments and activities regulated by this Master Program may also be subject to the provisions of the Gig Harbor Comprehensive Plan, the Washington State Environmental Policy Act ("SEPA," Chapter 43.21C RCW and Chapter 197-11 WAC), other provisions of the Gig Harbor Municipal Code (GHMC), including Title 17 Zoning and Title 18 Environment, and various other provisions of local, state and federal law, as may be amended. Any conflicts between the SMP and other relevant federal, state, or local regulations are resolved in favor of the regulation that is most protective of the shoreline ecological functions. The specific provisions of GHMC Title 16 Subdivisions and Title 17 shall apply when not specifically addressed by the Master Program's development regulations. All other referenced code provisions are not considered part of this Master Program.

Project proponents shall comply with all applicable laws prior to commencing any use, development or activity.

Where this Program makes reference to any RCW, WAC, or other state, or federal law or regulation the most recent amendment or current edition shall apply.

1.6 Applicability

This Master Program shall apply to all new development, redevelopment and changes in land use. It also applies to every person, individual, firm, partnership, association, organization, corporation, local or state governmental agency, public or municipal corporation, or other non-federal entity which develops, owns, leases, or administers lands, wetlands, or waters that fall under the jurisdiction of the Act.

This Master Program shall apply to all of the lands and waters in the City of Gig Harbor that fall under the jurisdiction of the Act (see Section 1.7 Shoreline Jurisdiction below).

The Master Program does not apply to:

- Those lands and waters located in the City's Urban Growth Area (UGA) until such time the area is annexed into the City. Until annexation occurs, all development in UGA areas will continue to be regulated by the Pierce County Shoreline Master Program. Goals, policies, and regulations that apply specifically to areas in the UGA have been included in this Master Program in anticipation of future annexations. Also, shorelines within the City's UGA have been pre-designated (see Chapter 5). Portions of this Master Program that apply specifically to UGA areas will not apply until annexation occurs.
- Remedial actions. Pursuant to RCW 90.58.355, any person conducting a remedial action at a facility pursuant to a consent decree, order, or agreed order issued pursuant to chapter 70.105D RCW, or to the department of ecology when it conducts a remedial action under chapter 70.105D RCW.
- Boatyard improvements to meet NPDES permit requirements. Pursuant to RCW 90.58.355, any person installing site improvements for storm water treatment in an existing boatyard facility to meet requirements of a national pollutant discharge elimination system storm water general permit.
- WSDOT facility maintenance and safety improvements. Pursuant to RCW 90.58.356, Washington State Department of Transportation projects and activities meeting the conditions of RCW 90.58.356 are not required to obtain a substantial development permit, conditional use permit, variance, letter of exemption, or other local review.
- Projects consistent with an environmental excellence program agreement pursuant to RCW 90.58.045.
- Projects authorized through the Energy Facility Site Evaluation Council process, pursuant to chapter 80.50 RCW.
- Areas and uses in those areas that are under exclusive federal jurisdiction as established through federal or state statutes are not subject to the jurisdiction of chapter 90.58 RCW.

All proposed uses and development occurring within shoreline jurisdiction must conform to Chapter 90.58 RCW, the Shoreline Management Act, and this Program. The Shoreline Management Act's provisions are intended to provide for the

management of all development and uses within shoreline jurisdiction, whether or not a shoreline permit is required because many activities that may not require a substantial development permit, such as clearing vegetation or construction of a residential bulkhead, can, individually or cumulatively, adversely impact adjacent properties and natural resources.

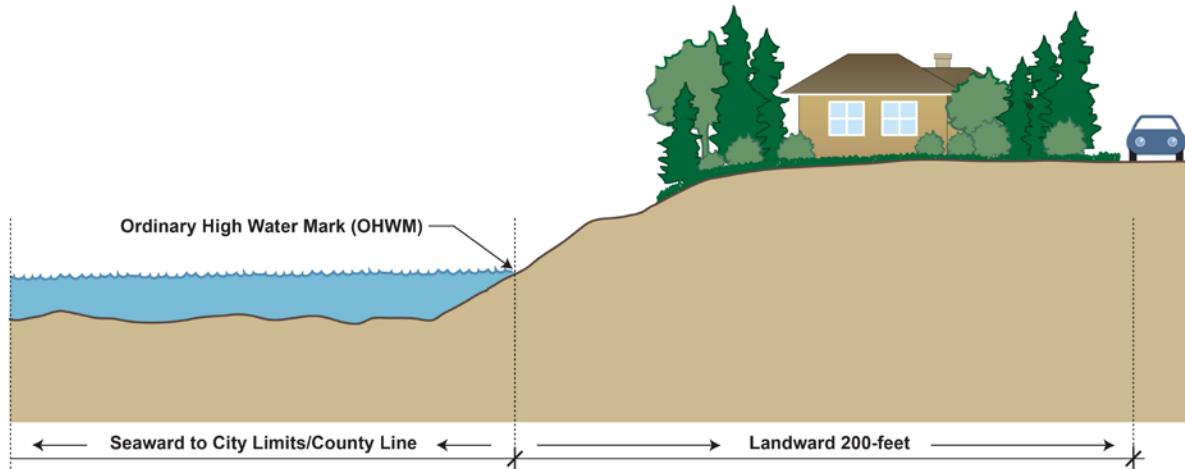
Federal agency actions on shorelines of the state are required to be consistent with this Master Program and the Act, as provided by the Coastal Zone Management Act (Title 16 United States Code §1451 et seq.; and §173-27-060(1) WAC, Applicability of Chapter 90.58 RCW [Shoreline Management Act] to federal lands and agencies).

The permit requirements established under this Master Program apply to non-federal activities undertaken on lands subject to non-federal ownership, lease, or easement; and to development and uses undertaken on lands not federally owned but under lease, easement, license, or other similar property right of the federal government.

With regard to tribal treaty rights, nothing in this Master Program shall affect any rights established by treaty to which the United States is a party.

1.7 Shoreline Jurisdiction

Under the Shoreline Management Act (SMA), the shoreline jurisdiction includes water bodies that have been designated as “shorelines of statewide significance” or “shorelines of the state” and their associated shorelands, defined as the upland area within 200 feet of the ordinary high water mark (OHWM), as well as any associated wetlands (RCW 90.58.030). See Figure 1-1 for illustrative purposes.

Figure 1-1. Shoreline Jurisdiction

Under the SMA, the shoreline area to be regulated under the City's shoreline master program must include all shorelines of statewide significance, shorelines of the state, and their adjacent shorelands within its municipal jurisdiction. The portion of Puget Sound in Gig Harbor waterward from the line of extreme low tide is considered a "shoreline of statewide significance", per Revised Code of Washington (RCW) 90.58.030(2)(e).

The approximate shoreline jurisdiction within the city limits of Gig Harbor and its Urban Growth Area (UGA) encompasses approximately 5.12 miles of the Puget Sound shoreline as shown on Map 1, with approximately 3.32 miles of shoreline within the city limits (see Section 1.6 for applicability of this SMP on UGA areas). This includes the following shoreline areas:

- Gig Harbor Bay and the Gig Harbor Spit
- Portions of Colvos Passage, the Tacoma Narrows and Henderson Bay
- The portion upstream to the marine ordinary high water mark within freshwater streams which flow through the City or its UGA into Gig Harbor Bay (Donkey and Crescent Creeks), and Henderson Bay.

1.8 Optional Shoreline Jurisdiction

Under the SMA, local municipalities have the option to extend shoreline jurisdiction to include lands within the 100-year floodplain and/or lands necessary for buffers for critical areas (RCW 90.58.030(2)(f)). The City of Gig Harbor is not extending shoreline jurisdiction under either of these options. All critical areas and associated

regulated buffers located within shoreline jurisdiction are regulated solely by the City's Shoreline Master Program. All critical areas and associated regulated buffers located outside shoreline jurisdiction shall be regulated by the City's critical area regulations set forth in GHMC Chapter 18.08 Critical Areas.

1.9 Liberal Construction

As provided for in RCW 90.58.900, Liberal Construction, the Act is exempted from the rule of strict construction; the Act and this Program shall therefore be liberally construed to give full effect to the purposes, goals, objectives, and policies for which the Act and this Program were enacted and adopted.

1.10 Severability

If any provision of this Master Program, or its application to any person or circumstance is held invalid, the remainder of the Master Program, or the application of the provision to other persons or circumstances, shall not be affected.