

Title 21

SHORELINES MANAGEMENT¹

Chapters:

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1. For statutory provisions governing shorelines management, see Chapter 90.58 RCW.

Chapter 21.04**PURPOSE**

Sections:

21.04.010 Purpose.

21.04.010 Purpose.

The purpose of this title is to implement the Shoreline Management Act of 1971, Chapter 90.58 RCW, and to regulate development on the shorelines of the city in a manner consistent with the policy declared in RCW 90.58.020. (Ord. 531 § 1, 1974).

Chapter 21.08**DEFINITIONS**

Sections:

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21.08.010 Generally.

As used in this title, unless the context otherwise requires, the definitions and concepts set forth in this chapter apply. (Ord. 531 § 2, 1974).

21.08.020 Board.

“Board” means the city council of the city of Pacific. (Ord. 531 § 2(1), 1974).

21.08.030 Conditional use.

“Conditional use” means a use or the expansion of a use beyond the uses contemplated in a particular environment or environments subject to specific conditions to insure that there is no conflict with the intent of the environment or environments. (Ord. 531 § 2(4), 1974).

21.08.040 Department.

“Department” means the Washington State Department of Ecology. (Ord. 531 § 2(2), 1974).

21.08.050 Development.

“Development” means the use consisting of the construction or exterior alteration of struc-

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tures; dredging; drilling; dumping; filling; removal of any sand, gravel or minerals including the grading of land; bulkheading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters overlying lands subject to this title at any state of water level. (Ord. 531 § 2(3), 1974).

21.08.060 Director.

“Director” means the mayor of the city or his duly authorized designee. (Ord. 531 § 2(5), 1974).

21.08.070 Extreme low tide.

“Extreme low tide” means the lowest line on the land reached by a receding tide. (Ord. 531 § 2(6), 1974).

21.08.080 Hearings board.

“Hearings board” means the shorelines hearing board. (Ord. 531 § 2(7), 1974).

21.08.085 Limited utility extension.

“Limited utility extension” means the extension of a utility service that (1) is categorically exempt under Chapter 43.21C RCW for one or more of the following: natural gas, electricity, telephone, water or sewer; (2) will serve an existing use in compliance with this chapter; and (3) will not extend more than 2,500 linear feet within the shorelines of the state. (Ord. 1120 § 1, 1990).

21.08.090 Master program.

“Master program” means the comprehensive shoreline use plan for the city, and the use regulations together with maps, diagrams, charts, or other descriptive material and text, a statement of desired goals and standards developed in accordance with the policies enunciated in RCW 90.58.020. (Ord. 531 § 2(8), 1974).

21.08.100 Ordinary high-water mark.

“Ordinary high-water mark” on all lakes, streams, and tidal water is that mark that will be found by examining the bed banks and ascertaining where the presence and action of

waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition exists on June 1, 1971, or as it may naturally change thereafter; provided, that in any area where the ordinary high-water mark cannot be found, the ordinary high-water mark adjoining saltwater shall be the line of mean higher high tide and the ordinary high-water mark adjoining freshwater shall be the line of mean high water. (Ord. 531 § 2(10), 1974).

21.08.110 Person.

“Person” means an individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, or agency of the city or any local governmental unit however designated. (Ord. 531 § 2(11), 1974).

21.08.120 Shorelines.

“Shorelines” means all of the water areas within the incorporated portion of the city, including reservoirs, and their associated wetlands, together with the lands underlying them; except:

A. Shorelines of statewide significance;

B. Shorelines on segments of streams upstream of a point where the mean annual flow is 20 cubic feet per second or less and the wetlands associated with such upstream segments;

C. Shorelines on lakes less than 20 acres in size and wetlands associated with such lakes. (Ord. 531 § 2(12), 1974).

21.08.130 Shorelines of statewide significance.

“Shorelines of statewide significance” means those shorelines described in RCW 90.58.020(2)(e) which are within the incorporated portion of the city. (Ord. 531 § 2(13), 1974).

21.08.140 Shorelines of the city.

“Shorelines of the city” are the total of all “shorelines” and “shorelines of statewide sig-

nificance” within the city. (Ord. 531 § 2(14), 1974).

21.08.150 Substantial development.

“Substantial development” means any development of which the total cost or fair market value exceeds \$1,000, or any development which materially interferes with the normal public use of the water or shorelines of the city; except that the following shall not be considered substantial developments for the purpose of this title:

A. Normal maintenance or repair of existing structures or developments, including damage by accident, fire or elements;

B. Construction of the normal protective bulkhead common to single-family residences;

C. Emergency construction necessary to protect property from damage by the elements;

D. Construction of a barn or similar agricultural structure on wetlands;

E. Construction or modification of navigational aids such as channel markers and anchor buoys;

F. Construction on wetlands by an owner, lessee or contract purchaser of a single-family residence for his own use or for the use of his family, which residence does not exceed a height of 35 feet above average grade level and which meets all requirements of the city other than requirements imposed pursuant to this title. (Ord. 531 § 2(15), 1974).

21.08.160 Wetlands.

“Wetlands” or “wetland areas” means those lands extending landward for 200 feet in all directions as measured on a horizontal plane from the ordinary high-water mark; and all marshes, bogs, swamps, floodways, river deltas, and floodplains associated with the streams, lakes and tidal waters which are subject to the provisions of this title; the same to be designated as to location by the Washington State Department of Ecology. (Ord. 531 § 2(16), 1974).

Chapter 21.12

PERMITS

Sections:

- 21.12.010 Substantial development – Policy.
- 21.12.020 Substantial development – Permit required.
- 21.12.025 Type IV permit.
- 21.12.030 Substantial development – Permit – Application for exemption.
- 21.12.040 Timber cutting – Permit required.
- 21.12.050 Timber cutting – Permit – Granting.
- 21.12.060 Application.
- 21.12.070 Shoreline management permit – Fees.
- 21.12.075 *Repealed.*
- 21.12.080 *Repealed.*
- 21.12.090 Criteria.
- 21.12.100 *Repealed.*
- 21.12.110 Criteria for granting – Prior to master plan adoption.
- 21.12.120 Criteria for granting – After master plan adoption and approval.
- 21.12.130 Criteria for granting – Timber cutting.
- 21.12.140 Surface drilling for oil and gas.
- 21.12.150 Criteria for granting – Buildings or structures more than 35 feet above grade level.
- 21.12.160 –
- 21.12.210 *Repealed.*
- 21.12.220 Notice of decision.
- 21.12.230 *Repealed.*
- 21.12.240 Substantial development permit – Authority to begin development.
- 21.12.250 –
- 21.12.270 *Repealed.*
- 21.12.280 Review by Shorelines Hearings Board.
- 21.12.290 –
- 21.12.320 *Repealed.*

21.12.010 Substantial development – Policy.

No development shall be undertaken by any person on the shorelines of the city unless such development is consistent with the policy of RCW 90.58.020 and, after adoption and

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approval, the guidelines and regulations of the Washington State Department of Ecology or the master program. (Ord. 531 § 3(a), 1974).

21.12.020 Substantial development – Permit required.

No substantial development shall be undertaken by any person on the shorelines of the city without first obtaining a substantial development permit from the director; provided, that such a permit shall not be required for the development excepted from the definition of substantial development in PMC 21.08.150 and for the following development:

A. Any project with a certification from the governor pursuant to Chapter 80.50 RCW;

B. Any development on shorelines of the city included within a preliminary or final plat approved by the city prior to April 1, 1971, if:

1. The final plat was approved after April 13, 1961, or the preliminary plat was approved after April 30, 1969; or

2. Sales of lots to purchasers with reference to the plat, or substantial development incident to platting or required by the plat, occurred prior to April 1, 1971; and

3. The development to be made without a permit meets all requirements of the city, other than requirements imposed pursuant to this title; and

4. The development does not involve construction of buildings, or involves construction on wetlands of buildings to serve only as community, social, or recreational facilities for the use of owners of platted lots and the buildings do not exceed a height of 35 feet above average grade level; and

5. The development is completed by June 1, 1974. (Ord. 531 § 3(b), 1974).

21.12.025 Type IV permit.

Shoreline permits shall be Type IV permits. (Ord. 1505 § 14, 2001).

21.12.030 Substantial development – Permit – Application for exemption.

Any person claiming exemption from the permit requirements of this title as a result of the exemptions described in PMC 21.12.020

may make an application to the director for such an exemption on forms and in the manner prescribed by the director. (Ord. 531 § 3(c), 1974).

21.12.040 Timber cutting – Permit required.

Timber cutting is a development subject to the provisions of this title; and a timber cutting permit shall be required to cut timber situated within 200 feet abutting landward of the ordinary high-water mark within shorelines of statewide significance. (Ord. 1505 § 14, 2001; Ord. 531 § 4(a), 1974).

21.12.050 Timber cutting – Permit – Granting.

Timber cutting permits shall be granted only when such cutting would be consistent with the criteria set forth in PMC 21.12.110 through 21.12.150. (Ord. 531 § 4(b), 1974).

21.12.060 Application.

Applications for substantial development permits and timber cutting permits, on forms prescribed by the director, shall be made with the director by the property owner, lessee, contract purchaser, other person entitled to possession of the property, or by an authorized agent. (Ord. 531 § 5(a), 1974).

21.12.070 Shoreline management permit – Fees.

A fee in an amount as established by city resolution shall be paid to the director at the time an application is submitted, or a request for an extension of a permit is submitted, for proposed development with an estimated total cost of less than \$100,000. A fee in an amount as established by city resolution shall be paid for proposed development with an estimated total cost of \$100,000 or more. (Ord. 1375 § 57, 1998; Ord. 531 § 5(b), 1974).

21.12.075 Consultant services – Deposit and fee.

Repealed by Ord. 1505. (Ord. 1375 § 58, 1998; Ord. 1129 § 8, 1991).

21.12.080 Publication of notice of application.

Repealed by Ord. 1505. (Ord. 1120 § 2, 1990; Ord. 531 § 5(c), 1974).

21.12.090 Criteria.

The director shall review an application for a permit based on the following: the application; the environmental review; written comments from interested persons; information and comment from other city departments affected and from the city attorney; independent study; and evidence presented at the public hearing. The burden of proof shall be on the applicant. PMC 21.12.110 through 21.12.150 provide additional criteria. (Ord. 1505 § 14, 2001; Ord. 531 § 5(d), 1974).

21.12.100 Burden of proof.

Repealed by Ord. 1505. (Ord. 531 § 5(e), 1974).

21.12.110 Criteria for granting – Prior to master plan adoption.

From June 1, 1971, until such time as the master program has been adopted by the city council and approved by the Washington State Department of Ecology, a permit for commercial timber cutting or surface drilling for oil and gas shall be granted only when the proposed development is consistent with:

A. The policy of RCW 90.58.020;

B. After their adoption, the guidelines and regulations of the Washington State Department of Ecology; and

C. So far as can be ascertained, the master program being developed for the city. (Ord. 531 § 6(a), 1974).

21.12.120 Criteria for granting – After master plan adoption and approval.

After adoption and approval of the master program by the Washington State Department of Ecology, a permit for commercial timber cutting or surface drilling for oil and gas shall be granted only when the proposed development is consistent with:

A. The master program;

B. The policy of Chapter 90.58 RCW. (Ord. 531 § 6(b), 1974).

21.12.130 Criteria for granting – Timber cutting.

With respect to timber situated within 200 feet abutting landward of the ordinary high-water mark within shorelines of statewide significance, a permit shall be granted only for selective commercial-timber cutting, so that no more than 30 percent of the merchantable trees may be harvested in any 10-year period of time; provided, that other timber harvesting methods may be permitted in those limited instances where the topography, soil conditions or silviculture practices necessary for regeneration render selective logging ecologically detrimental; provided further, that clear cutting of timber which is solely incidental to the preparation of land for other uses authorized by this title may be permitted. (Ord. 531 § 6(c), 1974).

21.12.140 Surface drilling for oil and gas.

Surface drilling for oil and gas is prohibited in the waters of Puget Sound within King County and on all lands within 1,000 feet landward from the ordinary high-water mark. (Ord. 531 § 6(d), 1974).

21.12.150 Criteria for granting – Buildings or structures more than 35 feet above grade level.

No permit shall be issued for any new or expanded building or structure of more than 35 feet above average grade level on shorelines of the city that will obstruct the view of a substantial number of residences in adjoining areas unless there exists a master program which permits the same and then such permit shall be granted only when overriding considerations of the public interest will be served. (Ord. 531 § 6(e), 1974).

21.12.160 Substantial development and timber cutting permits – Hearing.

Repealed by Ord. 1505. (Ord. 1120 § 3, 1990; Ord. 531 § 7(a), 1974).

21.12.170

21.12.170 Conduct of hearing.

Repealed by Ord. 1505. (Ord. 531 § 7(b), 1974).

21.12.180 Hearing – Notice.

Repealed by Ord. 1505. (Ord. 1120 § 4, 1990; Ord. 531 § 7(c), 1974).

21.12.190 Hearing – Adjournment.

Repealed by Ord. 1505. (Ord. 531 § 7(d), 1974).

21.12.200 Decision – Written findings and conclusions.

Repealed by Ord. 1505. (Ord. 1120 § 5, 1990; Ord. 531 § 7(e), 1974).

21.12.210 Hearings – Rules and regulations for conduct.

Repealed by Ord. 1505. (Ord. 531 § 7(f), 1974).

21.12.220 Notice of decision.

In addition to transmittal requirements in PMC 16.30.030(D), the notice of decision shall be transmitted to the Washington Department of Ecology. (Ord. 1505 § 14, 2001).

21.12.230 Permit granting or denial – Notice.

Repealed by Ord. 1505. (Ord. 1120 § 6, 1990; Ord. 531 § 8(a), 1974).

21.12.240 Substantial development permit – Authority to begin development.

Development pursuant to a shoreline permit shall not begin and shall not be authorized until 30 days from the date the director files the final decision with the Washington State Department of Ecology, or until all review proceedings initiated within 30 days from the date of filing have been terminated. (Ord. 1505 § 14, 2001; Ord. 1120 § 7, 1990; Ord. 531 § 8(b), 1974).

21.12.250 Time limit for beginning construction.

Repealed by Ord. 1505. (Ord. 531 § 8(c), 1974).

21.12.260 Conditions, modifications or restrictions.

Repealed by Ord. 1505. (Ord. 531 § 8(d), 1974).

21.12.270 Other federal, state, county and city requirements.

Repealed by Ord. 1505. (Ord. 531 § 8(e), 1974).

21.12.280 Review by Shorelines Hearings Board.

Any person aggrieved by the granting, denying, or rescission of a shoreline permit may seek review from the Washington State Shorelines Hearings Board by filing a request for the same with the board within 30 days of receipt of the director's notice of decision. Concurrently with the filing of any request for review with the board, the person seeking review shall file a copy of his request with the Washington State Department of Ecology and the director. (Ord. 1505 § 14, 2001; Ord. 531 § 9, 1974).

21.12.290 Application of the permit system to development undertaken prior to June 1, 1971.

Repealed by Ord. 1505. (Ord. 531 § 10, 1974).

21.12.300 Rescission.

Repealed by Ord. 1505. (Ord. 531 § 11(a), 1974).

21.12.310 Notice of noncompliance.

Repealed by Ord. 1505. (Ord. 531 § 11(b), 1974).

21.12.320 Hearing – Rescission.

Repealed by Ord. 1505. (Ord. 531 § 11(c), 1974).

Chapter 21.16

INVENTORY

Sections:

21.16.010 Contents.

21.16.010 Contents.

The planning department shall complete by December 1, 1974, a comprehensive inventory of the shorelines of the city. Such inventory shall include, but not be limited to, the general ownership patterns of the lands located therein in terms of public and private ownership, a survey of the general natural characteristics thereof, present uses conducted therein and initial projected uses thereof. (Ord. 531 § 12, 1974).

Chapter 21.20

MASTER PROGRAM

Sections:

21.20.010 Intent.

21.20.010 Intent.

The planning department shall develop, within 18 months after the adoption of state guidelines by the Washington State Department of Ecology as required by RCW 90.58.070, a master program for regulation of uses of the shorelines of the city consistent with the guidelines adopted. The master program or segments thereof shall be submitted to the Washington State Department of Ecology and shall become effective when adopted or approved by the department as appropriate. All guidelines and the master program adopted or approved and this title shall be available for public inspection at the office of the planning department. (Ord. 531 § 13, 1974).

Chapter 21.24

INSPECTION

(Repealed by Ord. 1505)

Chapter 21.28

ENFORCEMENT

(Repealed by Ord. 1505)