



**TO:** Bill Vetter, Pierce County Council Performance Audit Committee  
Clark Worth, Barney & Worth Inc.

**FROM:** Eric Eisemann, E<sup>2</sup> Land Use Planning, LLC and Bruce Prenguber, Globalwise, Inc.

**CC:** ARL Project Team

**DATE:** June 30, 2016 – Revised July 28, 2016

**SUBJECT:** *A Fresh Look at Pierce County Agriculture*  
Technical Memorandum #6 – Evaluation of Pierce County Zoning Regulations

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## Introduction

A multi-disciplinary team led by Barney & Worth, Inc. is taking *A Fresh Look at Pierce County Agriculture*. Members have extensive skill and expertise in agricultural, scientific, legal, and economics.

The Washington State Growth Management Act (GMA) requires counties to designate Agricultural Resource Lands (ARL), which “have long-term significance for the commercial production of food or other agricultural products”. Pierce County places a high priority on protecting commercially viable agricultural lands, and has established these criteria for Agricultural Resource Lands (ARLs):

- Located outside Urban Growth Areas (UGAs)
- Five acres or greater
- Contain 50% or more “prime farmland” soils
- Grass/legume production yield of 3.5 tons per acre or greater
- 50% of abutting parcels larger than 1 acre
- Landowner may request the designation

The consultant team is analyzing the current condition of Pierce County’s agriculture sector and evaluating the effectiveness of the County’s zoning regulations for protecting agricultural lands. The County’s current ARL criteria will be revisited, with consideration given to alternatives. A series of technical memoranda are being prepared to illuminate different aspects of farmland protections.

### The purpose of Technical Memorandum #6 is to:

- Compare Pierce County’s existing regulatory and non-regulatory tools with other counties,
- Scrutinize consistency with GMA requirements, highlighting any discrepancies,
- Identify issues and opportunities from earlier stakeholder interviews and surveys, and
- Suggest strategies for strengthening Pierce County’s tools to better preserve and protect agricultural resource lands.

## Highlights

Counties must satisfy the GMA requirements for designating ARL. The statutes and case law recognize commercial agriculture differs among regions of the state and within counties, as well. A county's regulatory scheme may recognize such differences but a county may not use area-wide differences to thwart the mandate to conserve ARL. The Pierce County program to designate Agricultural Resource Lands is consistent with the GMA. However, the County should resolve the conflict between the ARL designation criteria in PCC 18A.10.090.C.2.a and those in PCC 19A.30.070.B.

After classifying and designating resource lands, the next step in the GMA calculus is to develop regulations that ensure conservation of ARL. This memorandum looks at Pierce County zoning and development regulations and non-regulatory programs and examines selected ARL regulations in other Washington counties. The GMA allows jurisdictions to use "a variety of innovative zoning techniques" in areas designated as agricultural lands of long-term commercial significance to conserve agricultural lands and encourage the agricultural economy. The GMA encourages a county to limit nonagricultural uses to "lands with poor soils or otherwise not suitable for agricultural purposes."<sup>1</sup>

Accessory uses, both agricultural and non-agricultural, are a component of commercial agriculture and the GMA provides counties with the ability to limit or exclude accessory uses on ARL.<sup>2</sup> When allowed, accessory uses must be "located, designed and operated so as to not interfere with, and to support the continuation of, the overall agricultural use of the property and neighboring properties." Nonagricultural accessory uses and activities must be consistent with the "size, scale, and intensity of the existing agricultural use of the property and the existing buildings on the site. Nonagricultural accessory uses and activities, including new buildings, parking, or supportive uses, shall not be located outside the general area already developed for buildings and residential uses and shall not otherwise convert more than one acre of agricultural land to nonagricultural uses".<sup>3</sup> (Emphasis added.)

The central findings of the memorandum are that counties:

1. Follow the fundamental GMA calculus for designating resource lands;
2. Follow most, though not all, of the GMA recommended innovative zoning techniques for devising regulations found in WAC 365-196-815;
3. Develop an ARL program that is either county-wide or establish area-wide zones or regions of interest with the county; and
4. Exercise flexibility and innovation in how they implement their programs within the legal mandate to conserve commercial agriculture lands of long-term significance.

The lessons learned indicate Pierce County has an opportunity to devise an ARL conservation program that is more tailor-made to farming districts within the county through the use of modern GIS technology, current practices, and existing Pierce County Community Plans. Given the diversity of soils,

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1 RCW 36.70A.177(1) <http://app.leg.wa.gov/RCW/default.aspx?cite=36.70A.177>

2 RCW 36.70.177(3)

3 RCW 36.70A.177(3)(b)(ii)

climate, topography, transportation systems, commercial markets, and lot sizes and patterns in Pierce County, the County could enhance its commitment to the conservation of long-term commercial agriculture viability by refining its regulations to more closely fit the land, the use of the land, and community plans.

## Regulatory Framework

Classification of natural resource lands is the first step in implementing RCW [36.70A.170](#).<sup>4</sup> Designation is the second step in implementing RCW 36.70A.170.<sup>5</sup> Counties must approach the classification and designation effort as a county-wide or area-wide process as opposed to classifying and designating ARL solely on a parcel-by-parcel basis.<sup>6</sup>

Once a county designates agricultural resource lands (ARLs) it must adopt development regulations that ensure the conservation of agricultural resource lands designated under RCW 36.70A.170.<sup>7</sup> The development regulations must also ensure that the use of lands adjacent to agricultural resource lands do not interfere with the continued use, in the accustomed manner and in accordance with best management practices, of these designated lands for the production of food, agricultural products.<sup>8</sup>

WAC 365-196-815 provides recommendations regarding the drafting of development regulations that ensure the conservation of natural resource lands of long-term commercial significance.<sup>9</sup> Development regulations must address two components to conservation:

- 1) Prevent conversion to a use that removes land from resource production, and
- 2) Ensure that the use of lands adjacent to designated ARLs does not interfere with the continued use of designated lands for the production of food or agricultural products.<sup>10</sup>

RCW 36.70A.177 and WAC 365-196-815 recommend elements a county may draw upon to create essential development regulations.<sup>11</sup> In brief, they include:

- Purchase or transfer of development rights if a county designates ARLs within an urban growth boundary;
- Allowing uses legally existing on any parcel prior to their adoption;

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4 WAC 365-190-040(4) <http://app.leg.wa.gov/wac/default.aspx?cite=365-190-040>

5 WAC 365-190-050(5) <http://app.leg.wa.gov/wac/default.aspx?cite=365-190-050>

6 WAC 365-190-050(1)

7 WAC 365-190-050(2)

8 RCW 36.70A.060(1)(a) <http://app.leg.wa.gov/rcw/default.aspx?cite=36.70a.060>

9 WAC 365-196-815(1) <http://app.leg.wa.gov/wac/default.aspx?cite=365-196-815>

10 WAC 365-196-815(1)(b)(i) and (ii)

11 RCW 36.70A.177 <http://app.leg.wa.gov/RCW/default.aspx?cite=36.70A.177> and WAC 365-196-815

- Notice on all land use and building permits issued for development activities on, or within five hundred feet, of designated ARLs that the subject property is within or near designated ARLs on which a variety of commercial activities may occur that are not compatible with residential development; and
- Endeavoring to make development regulations and non-regulatory programs fit together with other resource management programs applicable to the same lands.
- Innovative zoning techniques, such as:
  - Agricultural zoning, which limits the density of development and restricts or prohibits nonfarm uses of agricultural land and may allow accessory uses, including nonagricultural accessory uses and activities, that support, promote, or sustain agricultural operations and production;
  - Cluster zoning, which allows new development on one portion of the land, leaving the remainder in agricultural or open space uses;
  - Large lot zoning, which establishes as a minimum lot size the amount of land necessary to achieve a successful farming practice;
  - Quarter/quarter zoning, which permits one residential dwelling on a one-acre minimum lot for each one-sixteenth of a section of land;
  - Sliding scale zoning, which allows the number of lots for single-family residential purposes, with a minimum lot size of one acre, to increase inversely as the size of the total acreage increases; and
  - Accessory uses - additional requirements.

Technical Memorandum #6 evaluates ARL development regulations in Pierce County and from selected counties with robust ARL programs. The memorandum also evaluates non-regulatory strategies and makes recommendations to strengthen the Pierce County program.

## Pierce County ARL Tools

In Pierce County, Agricultural Resource Lands, like Rural Lands, are located outside of Urban Growth Areas. While Rural Lands allow natural resource uses, the Pierce County Comprehensive Plan and development code treat Rural Lands as separate and distinct from designated ARLs.<sup>12</sup> Rural Lands may provide opportunity for small-scale farming and may help promote agricultural activities very similar to those occurring on Resource Land, as described in the Rural and Resource Agricultural Activity element of the Comprehensive Plan.<sup>13</sup> However, Rural Land is not the same as designated Resource Land of long-term commercial significance. Therefore, Technical Memorandum #6 focuses on the County's regulatory and non-regulatory strategies for preserving and protecting designated ARLs.

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12 Pierce County Comprehensive Plan, Land Use Element, Rural, page 2-42 and 2-43 and Resource Lands, Agricultural, page 2-58. <http://www.piercecountywa.org/index.aspx?nid=3250>

13 Ibid, Goal LU-79, pages 2-55 and 2-56.

## Pierce County ARL Regulatory Tools

### Pierce County Title 19A

Development regulations must implement comprehensive plan policies.<sup>14</sup> The 2015 Pierce County Comprehensive Plan contains multiple goals and policies intended to guide adoption of regulatory tools.<sup>15</sup> (See Appendix A.)

Pierce County Code, Title 19A, Comprehensive Plan, Chapter 19A.30, Land Use Element, Section 19A.30.070, Resource Lands – Agriculture, provides regulations which specifically address agricultural lands of long-term significance.

The ARL designation criteria in PCC 19A.30.070.B differ slightly from the ARL designation criteria in PCC 18A.10.090.C.2 discussed below. The County should align the two sets of ARL designation criteria.

The ARL designation criteria are based on the Growth Management Act definition and the Minimum Guidelines of WAC [365-190-050](#). (See PCC 19.A.30.070.B.2) The universe of possible ARL lands is limited to “lands not already characterized by urban growth, characterized by more intensive rural development, designated Reserve-5 for future urban growth of a city or town, or dedicated to Forest Lands.” In addition, Title 19A excludes “Lands that are part of a preliminary plat approved prior to February 1, 2005, or a final plat recorded prior to February 1, 2005, including any associated open space or other non-buildable tracts identified on the face of the plat; and Lands with mobile home parks.”

To designate ARL of long-term commercial significance, PCC 19A.30.070 requires consideration of “growing capacity, productivity, and soil composition of the land for long-term commercial production, in consideration with the land's proximity to population areas and the possibility of more intense uses of the land.” Key elements of long-term commercial significance are:

- "Prime Farmland" soils: which have a grass/legume production yield of 3.5 tons per acre or greater, as identified by the U.S. Department of Agriculture, Natural Resources Conservation Service soil classification system.
- 5 acre minimum parcel size. (Options for including parcels below the 5-acre threshold are provided in community planning processes.)
- The identified prime soils and yield must be found on 50 percent or more of the parcel area, PROVIDED that for properties abutting the Carbon, Puyallup, or White River, the threshold shall be 25 percent or more of the parcel area.
- Parcels adjacent to lots of record of one acre or less on more than 50 percent of the perimeter of the parcel cannot be designated ARL.

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14 RCW 36.70A.040(3) <http://app.leg.wa.gov/RCW/default.aspx?cite=36.70A.040>

15 Title 19 of the Pierce County Code (PCC) codifies the Comprehensive Plan. Section 19A.30.070 Resource Lands – Agriculture (Amended Ord. 2015-40 and Ord. 2015-86) contains the goal objectives related to Agricultural Resource Lands. <http://www.codepublishing.com/WA/PierceCounty/#!/PierceCounty19A/PierceCounty19A30.html#19A.30.070>

- Landowner intent can be used as a criterion for inclusion when reflected by the tax status of the land (inclusion in the County's Current Use Assessment program as agriculture).

### Pierce County Development Regulations, Title 18I

Development regulations relating to Agricultural Resource Lands are primarily found in Title 18I of the Pierce County Code (PCC). The stated goal of Title 18I is to “protect and conserve natural resource land features in Pierce County”. (PCC 18I.10.020) The intent of the Title is to conserve natural resource lands by providing “minimum standards for development of sites which contain or are adjacent to natural resource lands and thus promote the public health, safety, and welfare”. (PCC 18I.10.030) The regulations provided for in Title 18I apply to Agricultural Resource Lands or properties adjacent to lands Pierce County has designated resource land. (PCC 18I.10.060.A) The County will not grant permits and/or land use approvals “to alter the condition of any land, water, or vegetation or to construct or alter any structure or improvement” if the requirements of Title 18I are not met. (PCC 18I.20.020)

Chapter 18I.30 provides the primary regulatory framework for ARLs. Consistent with the statutory definition, ARLs are “lands that are not already characterized by urban growth and that have long-term significance for the commercial production of food or other agricultural products.” (PCC 18I.20.020.A)

### Designation

The Agricultural Resource Lands (ARL) zone classification includes land “primarily devoted to the commercial production of agricultural products and is applied to parcels outside of urban growth areas that meet certain criteria”.<sup>16</sup> (PCC 18A.10.090.C.2.a)

Agricultural Lands are those lands meeting all of the following criteria<sup>17</sup>:

- Lands in parcels which are ten acres or larger in size; (Note: PCC 19A.30.070 provides for a minimum parcel size of 5 acres.)
- Lands which are on prime or unique soils as identified in:
  - (1) United States Department of Agriculture (USDA), Soil Conservation Service. February 1979, Soil Survey of Pierce County Area, Washington; or
  - (2) USDA, Soil Conservation Service, June 1981, Important Farmlands of Pierce County, Washington;
- Lands which are primarily devoted to the commercial production of horticultural, viticultural, floricultural, dairy, apiary, vegetable, or animal products or of berries, grain, hay, straw, turf, seed, Christmas trees not subject to the excise tax imposed by RCW 84.33.100 through 84.33.140, or livestock, and which have long-term commercial significance for agricultural production; and

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<sup>16</sup> The ARL designation criteria in PCC 18A.10.090.C.2.a are different than those in PCC 19A.30.070.B.

<sup>17</sup> Rural lands located outside a designated Urban Growth Area or Comprehensive Urban Growth Area may request a Comprehensive Plan redesignation to Agricultural. PCC 18I.30.020.B.2.

- d. Lands which are not adjacent to lots of record of one acre or less on more than 50 percent of the perimeter of the parcel. (PCC 18I.30.020.B.1)

### Notice

Chapter 18I.30 requires two types of notice relating to agricultural activity. The notice must be recorded with the Pierce County Auditor. The form of the notice is prescribed and the intent of the notice is to warn readers that a “variety of commercial agricultural activities occurs in the area that may be inconvenient or cause discomfort to area residents.”

- Title Notification: For approval of an application for approval of a regulated activity. (PCC 18I.30.030)
- Plat Notification: For approval of a large lot, short subdivision, or formal subdivision. (PCC 18I.30.040)

### Right to Farm

Pierce County codifies the right-to-farm in Chapter 18I.035. The right-to-farm applies not only to ARLs but also to farming activities on non-ARL lands. For purposes of this chapter a farm includes the “land, buildings, waters, culturing and growing facilities, and machinery used in the commercial production of farm products” and agricultural education and research facilities. (PCC 18I.35.020.A) A “commercially productive farm” is one which raises “plants and/or animals for profit with a gross income of greater than \$1,000 per year.” (PCC18I.35.020.B) The chapter defines “farm products” and “agricultural operations” very broadly, though kennels are specifically excluded from the definition of farm products. (PCC 18I.35.020) If agricultural operations are performed in conformity with all applicable laws and rules the County presumes the operations do not constitute a nuisance. Conforming agricultural operations are not restricted as to the “hours of the day or days of the week during which they may be conducted”. (PCC 18I.35.030) Owners of nearby property must be notified of the proximity of their property to agricultural operations and of the nuisance protections afforded by State and local laws. (PCC 18I.35.040)

### Property Adjacent to Designated Resource Land

The intent of Chapter 18I.60 is to protect resource lands by preventing encroachment onto designated resource lands. All plats, short plats, development permits, and building permits issued for development activities within 300 feet of lands designated ARL shall contain a notice that the property is within 300 feet of Agricultural Lands “on which a variety of commercial activities may occur that are not compatible with residential development for certain periods of limited duration”. (PCC 18I.60.020.B)

Notification shall be provided to owners of property within 500 feet of a proposed regulated activity (Title Notification); and for an application for large lot, short subdivision, or formal subdivision (Plat Notification). (See PCC 18I.60.030 and 18I.60.040)

### Land Uses

Agriculture Resource Land uses outside of Community Plan Areas are identified in PCC Table 18A.17.020. The table classifies uses as being: Permitted (P), Conditional (C), Public Facilities Permit (PFP), or not allowed. In general uses allowed in the ARL zone outside of Community Plan Areas include:

#### Residential:

- P - Mobile homes, Single family detached homes, and Duplexes (P) [one unit]
- C - Group homes

#### Community and Civic

- P – Public park

#### Utilities

- P - Natural gas, Organic waste processing, Pipelines, Stormwater, Tele-communications, and Water supply
- C and PFP - Waste disposal
- Sewage collection and Utility or public maintenance facilities are not allowed

#### Resource use

- P - Agritourism, Agricultural service, Agricultural supplies sales, Animal production, Boarding & slaughtering, Crop production, Fish processing, hatchery, aquiculture, Forestry
- C and PFP – Surface mines

#### Commercial and Industrial uses

- Not allowed

Not all Community Plan Areas (CPAs) contain ARL land. Within the CPAs (PCC 18A.18 through 18A.31) the uses allowed on ARL generally conform to the Table 18A.17.020, uses in the ARL zone outside of Community Plan Areas (CPA). However there are some noteworthy differences:

- Civic uses
  - Gig Harbor Peninsula conditionally allows: Community & cultural services, Day care, Education, Public safety, and Transportation uses in addition to public parks.
- Utilities
  - Sewage collection. Five CPAs allow some form of sewage collection
  - Maintenance facilities. Two CPAs allow public or private maintenance facilities as a conditional or permitted use
- Commercial
  - Lodging. Alderton-McMillen allows limited lodging facilities
  - Food related products: Alderton-McMillen and Key Peninsula allow these uses outright or conditionally

Because the County differentiates between uses allowed on ARL lands outside of Community Plan areas and among CPAs, there is an opportunity to further refine ARL designation and ARL uses on a CPA and non-CPA basis.

#### Agritourism



Pierce County recently amended and updated its agritourism program and actively promotes agricultural operations and sales as part of the local tourist economy. The County defines agritourism to include “Agriculturally-based operations or activities that bring visitors to an active farm or ranch. The uses are associated with an ongoing agricultural use and may involve the sale of locally grown agricultural products. Agritourism includes a wide variety of activities including, but not limited to, corn mazes, harvesting fruit and vegetables, feeding animals, riding animals, lodging, farm gift shops, farm-related events, learning about farm practices, small scale breweries, wineries, distilleries, barn wedding venues, and produce stands. Agritourism may include tractor rides but shall not involve motorized off-road vehicle racing or similar motor vehicle activities. At least 50 percent of products offered for sale must be produced in Pierce County.”<sup>18</sup>

Agritourism uses are allowed in Urban and Rural zones. However, in an effort to conserve commercial lands of long-term commercial significance, the County limits the scale of agritourism point of sales locations. The County classifies and regulates agritourism on two levels:

Level 1: relates to the acreage of land in commercial production (up to 2 acres in crop production or operation and 5 acres of ranch/animal husbandry) and the allowable square footage of indoor area dedicated to retail sales, which may not exceed 1,500 square feet.

Level 2: relates to sales associated with horticultural nurseries and greenhouses on a site of any size; up to 2,500 square feet of indoor sales area, excluding greenhouse space used for growing, is allowed; and not more than 30% of the retail sales area may contain other related products.

Accessory uses in ARL must be located, designed and operated so as to not interfere with and to support the overall agricultural use of the property and neighboring properties. The County provides for agricultural and non-agricultural accessory uses:

- Agricultural accessory uses and activities include the storage, distribution and marketing of regional agricultural products, and the production, marketing and distribution of value-added agricultural products, including the support services that facilitate these activities.
- Non-agricultural accessory uses and activities, including new buildings, parking or supportive uses may not be located outside of the general area already developed for buildings and residential uses and may not result in the conversion of more than one (1) acre of agricultural land to nonagricultural uses.

Pierce County Code provides basic design standards for agritourism buildings and structures to ensure compatibility with surrounding uses.<sup>19</sup> The guidelines encourage agritourism resources to complement rural environment, maintain compatibility with existing surfaces and signage, shield lighting downward, provide safe vehicular access, and limit noise detectible off-site. Ancillary product sales are limited and use of existing buildings is encouraged.

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18 See <http://councilonline.co.pierce.wa.us/ermsproxy/councilfile?contentId=PC182476>

19 <http://www.codepublishing.com/WA/PierceCounty/#1/PierceCounty18j/PierceCounty18J15.html#18J.15.280>

## Site area and development

Table 18J.15.040-3 provides minimum landscape levels between resource uses and proposed low density residential development. Generally, the code prescribes and L2 or L3 landscaping standard.<sup>20</sup> Typically, low intensity uses, such as single family dwellings require greater screening and buffering from high intensity uses, such as slaughterhouses and roadways. Community Plan Area chapters provide individualized site design, landscaping and architecture standards.

## ARL Non-Regulatory tools

The Pierce County Comprehensive Plan (PCCP) includes several goals that directly support agriculture without compulsory rules or legal codes.<sup>21</sup> The main non-regulatory programs are contained in these land use goals:

- Land Use Goal 88 (Provide programs, policies and other regulations to achieve agricultural conservation and support agricultural activities);
- Land Use Goal 89 (Encourage the provision of an effective stewardship of the environment to conserve Agricultural Resource Lands and agricultural activities);
- Land Use 90 (Protect agricultural operations from incompatible uses and ensure regulations are in places that maintain the vitality of the agricultural industry); and
- Land Use Goal 128 (Maintain and implement transfer of development rights (TDR) and purchase of development rights (PDR) programs to provide the public benefit of permanently conserving resource and rural agricultural lands, recreational trails, open space, and habitat areas through acquisition of the development rights on those lands.

PCCP Section LU-88.2 gives priority to agriculture in land acquisition programs sponsored by the County, including Conservation Futures, PDR and through the Conservation District tax assessment. As indicated in Technical Memo 1, the County has been very active in working with land trusts and other parties to acquire working farmland and protecting these properties with conservation easements. The County intends to remain active in these efforts with partner organizations for the foreseeable future. The Pierce County Farmland Conservation Committee has stated that the goal is to voluntarily protect 6,000 acres of priority farmland voluntarily protected over the next 10 years via removal of development rights.<sup>22</sup>

PCCP section LU 88.11 specifies that the County will support local and regional marketing campaigns. The County agriculture program meets this goal in many ways. First, the county assisted with funding and technical support for creating the Puget Sound Fresh mobile phone app. Android and Apple users can use the app to find information on of Pierce County's farmers' markets and listings of growers who directly market their food products. The App also identifies harvest calendars and special events.

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20 <http://www.codepublishing.com/WA/PierceCounty/#/PierceCounty18j/PierceCounty18J15.html#18J.15.040>

21 The Pierce County Comprehensive plan can be viewed at <http://www.co.pierce.wa.us/DocumentCenter/View/38483>

22 See Pierce County Farmland Conservation Committee, Shared Conservation Strategy Document, page 3.

Second, County funding supports the Cascade Harvest Coalition’s printed guide to farms and farmers’ markets. This guide is updated annually and distributed widely throughout Pierce County as well as the entire Puget Sound region. Finally, the agriculture web link within the County’s website also gives farmers many references to marketing tools.<sup>23</sup>

PCCP Section LU 88.12 calls for improving the permitting process for construction of farm-related structures, including minimizing costs associated with permitting. Note also that PCCP section LU 90.5 also recommends streamlining the permit process to support agricultural viability. The 2015 code amendment in Ordinance No. 2014-66S exempts farm accessory buildings of up to 600 square feet from having a building permit under specified conditions.<sup>24</sup> The County has also prepared standardize engineered base plans for compost bins and manure bins. If a permit applicant uses these standard plans they are exempt from paying County engineering review fees. Creating the standardized plans was a cooperative effort with Pierce Conservation District. The County may also consider standardized engineered base plans for other structures such as pole barns.

Pierce County recently passed new regulations that support agritourism uses such as wedding venues, breweries and wineries. Businesses must have an active farm to qualify for agritourism with agritourism being the secondary use after farming. (PCC 18A.33.260)

PCCP Section LU 90.2.2 concerns resource activity public education. The County is meeting this goal with annual farm forums and workshop series that began in 2014. Workshops for farmers and other interested residents are held periodically with the information from these workshops also disseminated on the Pierce County agriculture website. The latest workshop reviewed water rights law and programs, major topics with implications for the future of local agriculture. A blog presented on the County website also informs the agriculture community and interested residents about the business of farming. Another feature of the Pierce County agriculture program is the “*Meet the Farmer*” series on Pierce County public television (PCTV). This is an occasional series that provides local residents more direct knowledge of local farmers and where they sell their products.

## Development Regulations in Other Counties

This section identifies several innovative ARL zoning and development regulations adopted by other Washington counties (Chelan, King, Kitsap, Lewis, Mason, Snohomish, Thurston, and Walla Walla). The intent is to discern to what degree zoning and development regulations in other counties differ from those in Pierce County. Only the meaningful differences are highlighted.

### ARL Designation

Snohomish County

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23 The county’s agriculture program website is found at <http://www.piercecountywa.org/index.aspx?nid=3421>.

24 See <https://www.co.pierce.wa.us/DocumentCenter/View/34843> for an explanation of the accessory farm building exemption.

Snohomish County zones Agricultural Resource Lands A-10. The County seeks to “protect and promote the continuation of farming in areas where it is already established and in locations where farming has traditionally been a viable component of the local economy.”<sup>25</sup>

However, land designated Upland Commercial farmland, Riverway Commercial farmland, and Local Commercial farmland may also have ARL-like limitations imposed. For example, Upland Commercial farmland, not designated A-10, may not be divided into less than 10 acres lots unless the owner executes a deed restriction that provides the land divided is to be used exclusively for agricultural purposes and specifically not for any dwelling. (SCC 30.32B.110)

## Thurston County

Thurston County has created three zoning tools relating to agricultural use:

- Long-term Agriculture District (LTA)<sup>26</sup>
- Nisqually Agriculture District (NA), and
- Agricultural Overlay District (AOD).

Thurston County has identified over 12,000 acres of LTA or NA agricultural resource lands. The Thurston County Comprehensive Plan identified the Nisqually River valley as a special planning area because its “combination of farm and forest, hillside and valley, or clusters of development and adjacent open areas which gives this planning area its distinctive character valley.”<sup>27</sup> The County distinguishes the NA District as a planning area separate from the LTA District because the NA is distinguished by: 1) large farms on primary agricultural soil, 2) several generations of farming; or 3) lands that are enrolled in or eligible for enrollment in the Agricultural Open Space Tax Program.<sup>28</sup> Thurston County recently added the NA to the agritourism overlay.

The County has purchased over 940 acres of development right in the Nisqually Agriculture District and is engaged in a transfer of development rights program in the Chehalis LTA.<sup>29</sup>

Pierce County could consider creating multiple agricultural districts, such as, the Puyallup River valley in the Alderton-McMillian area, as an area of special agricultural interest based on criteria unique to the locality.

## King County

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25 SCC 30.21.025.3.c

<http://www.codepublishing.com/WA/SnohomishCounty/html/SnohomishCounty30/SnohomishCounty3021.html#30.21>

26 TCC 20.08A Long-term Agriculture District

[https://www2.municode.com/library/wa/thurston\\_county/codes/code\\_of\\_ordinances?nodeId=TIT20ZO\\_CH20.08ALORMAGDIL](https://www2.municode.com/library/wa/thurston_county/codes/code_of_ordinances?nodeId=TIT20ZO_CH20.08ALORMAGDIL)

27 2014 Thurston County Comprehensive Plan, page 3-6

[http://www.co.thurston.wa.us/planning/comp\\_plan/docs/2009/comprehensive-plan-chapter-03.pdf](http://www.co.thurston.wa.us/planning/comp_plan/docs/2009/comprehensive-plan-chapter-03.pdf)

28 TCC 20.08C.010

[https://www2.municode.com/library/wa/thurston\\_county/codes/code\\_of\\_ordinances?nodeId=TIT20ZO\\_CH20.08CNIAGDINA](https://www2.municode.com/library/wa/thurston_county/codes/code_of_ordinances?nodeId=TIT20ZO_CH20.08CNIAGDINA)

29 See [http://www.co.thurston.wa.us/planning/workingland/docs/TDR-PDR\\_Map.pdf](http://www.co.thurston.wa.us/planning/workingland/docs/TDR-PDR_Map.pdf)

The King County zoning designation for ARL is A. (See King County Code 21A.04.030) King County has designated seven agricultural districts: Snoqualmie Valley/Patterson Creek, Upper Snoqualmie, Sammamish Valley/Bear Creek, Lower Green River Valley, and the Upper Green River Valley agricultural districts. (KCC 20.54-040)

Additionally, “all lands in unincorporated and incorporated King County with commercial, food producing horticultural farm operation, which lands are not served by an existing installed public sewer facility, are designated as agricultural lands of county significance.” The term "food producing horticultural," means the soil-dependent cultivation of plants for food, including vegetables, small fruits, large fruits, cereal grains and silage corn. (KCC 20.54.060.1.B)

#### Walla Walla County

Walla Walla County has created multiple zoning districts designed to support agriculture.<sup>30</sup> (WWCC 17.12.040)

Agricultural zoning districts comprised entirely on lands of long-term commercial significance include:

- Primary Agriculture (PA-40). Applies to irrigated and non-irrigated lands. Residences are an allowed use. Clustering to preserve large tracts of resource land is the preferred method of residential land development.
- Exclusive Agriculture (EA-120). Purpose is to protect and preserve agricultural land in areas of large holdings. Natural resource related industries are priority compatible uses. Limits the creation of nonfarm parcels. Residences are an allowed use in this district, but clustering of residential development is not allowed.
- General Agriculture (GA-20). Land is characterized by a mix of sparsely populated irrigated and non-irrigated lands within close proximity to existing transportation corridors and urban areas. Natural resource-related industries are permitted compatible uses. Residences are an allowed use in this district and clustering to preserve large tracts of resource land is encouraged.
- Agriculture Residential AR-10). Land in this district is located adjacent to existing rural lands, rural activity centers, and urban growth areas. Uses are distinctive of the agricultural sector. Large-scale natural resource processing industry is discouraged. Limited commercial-tourism and businesses that support agriculture are permitted. Residences are an allowed use and clustering to preserve large tracts of resource land is the preferred method of residential land development.

Zones created to support agricultural production located on non-resource land include:

- Rural Remote. The purpose is to accommodate resource-oriented activities in on large rural lots that are not suitable for intensive farming and are generally not attractive for residential development. Uses in this district emphasize resource-oriented activities such as farming, grazing, timber harvesting, and mineral extraction. Residential and recreation uses also are appropriate in this district.

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30 Walla Walla County Code

[https://www2.municode.com/library/wa/walla\\_walla\\_county/codes/code\\_of\\_ordinances?nodeId=TIT17ZO\\_CH17.12ESDI](https://www2.municode.com/library/wa/walla_walla_county/codes/code_of_ordinances?nodeId=TIT17ZO_CH17.12ESDI)

- Rural Agriculture. The primary purpose of this district is to accommodate smaller scale farming activity, and limited agricultural production on medium-sized rural lots. Limited residential and recreational uses also should be accommodated.
- Industrial Agriculture Heavy (IA-H). This district is primarily for manufacturing, processing, fabrication and assembling of products or materials, warehousing and storage, rail and water borne transportation facilities and agricultural activities.
- Industrial Agriculture Mixed (IA-M). This district is for a mix of agricultural activities and light and heavy industrial uses, excluding power plants.
- Rural Farm Worker Community District. The primary purpose of this district is to provide housing for employees of agricultural operations and limited services to support the residents in a planned community that includes or is located in close proximity to agricultural processing facilities. The range of appropriate resident-related services may include uses such as: day care facilities, meeting rooms, laundry facilities, offices, recreation facilities, health services, convenience retail uses, and storage facilities for residents. Residential densities are limited by the capacity for on-site sewage disposal.

#### Lewis County

Lewis County allows an owner of land that did not meet the County’s ARL designation criteria to voluntarily “opt-in” to the “Farmland of Local Significance” overlay district designation. The County does not require a minimum lot size but the parcel must currently be used for agricultural purposes and the owner must commit to leave the property in that designation for a minimum of ten years.<sup>31</sup> (LCC 17.30.570)

Lewis County provides an owner of an ARL parcel to challenge the ARL designation as a mapping error. The burden is on the owner to demonstrate that the designation was in error because of improper mapping of prime soils. (LCC 17.30.600)

### Acquisition of Rights

#### King County

King County Code, Title 26, establishes a program to acquire legal interest in agricultural and open space lands.<sup>32</sup> The county may issue its general obligation bonds to acquire development rights, full ownership or any lesser interest, easement, covenant or other contractual right in farmland or open space lands. Acquisition is triggered by the strictly voluntary application by a property owner. (KCC 26.04.030)

Acquisition of rights must follow a numbered priority scheme. First priority lands are located within the designated areas of the Sammamish, Lower Green or Upper Green River Valleys and ‘food producing farmlands’ anywhere in the county unless expressly removed from consideration by the County Council. Second priority farmlands are within designated areas in the Snoqualmie Valley and the Enumclaw Plateau, and also include approximately 1,500 acres comprised of

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31 Lewis County Code 17.30.570 Farmland of local significance <http://www.codepublishing.com/WA/LewisCounty/>

32 King County Code Title 26, Agriculture and Open Space Lands  
[http://www.kingcounty.gov/council/legislation/kc\\_code/35\\_Title\\_26.aspx](http://www.kingcounty.gov/council/legislation/kc_code/35_Title_26.aspx)

parcels containing 40 contiguous acres or more unless expressly removed from consideration by the County Council. Third priority farmlands are located within established agricultural districts of the county and designated as agricultural lands of county significance. (KCC 26.04.040)

## Compatibility

### Snohomish County

Snohomish County applies resource land protections provided in SCC 30.32B.020 to designated 'farmlands', lands adjacent to or within 1,300 feet of designated farmland, and to agricultural uses. (SCC 30.32B.010.2)<sup>33</sup> Subdivisions adjacent to 'farmland' must establish a resource protection area which implements setback limitations.

### Chelan County

Chelan County has a relatively stable agricultural industry. Although there has been a decline in irrigated farm land acreage, land dedicated to orchard use has remained stable.<sup>34</sup> The wine industry is growing rapidly. In response to the GMA requirement to conserve agricultural resource lands of long-term commercial significance, Chelan County adopted the Agricultural Commercial zone (AC). The two largest AC zones are concentrated along the Columbia River and north of Lake Chelan.

In 2008 the County adopted an Agriculture Good Neighbor Practices code (CCC 10.30), a right-to-farm set of regulations.<sup>35</sup> The code provides for the creation of an Agriculture Review Committee (ARC), a locally appointed citizen and industry advisory body, to review land use applications to ensure compatibility between agriculture and non-agriculture uses. The ARC is empowered to consider issues including: topography, surrounding uses, wind direction during spraying season, noise, farm activity, traffic, parking, lighting, odor, and mitigation options.

Chelan County established the ARC code in response to mounting local concerns about the adverse impacts of winery related accessory uses, such as noise and traffic generated by special events, in a particular wine growing area. The primary goal of the code amendment was to provide citizens and industry experts an opportunity to become directly engaged in the development review process. However, the County never established the ARC, in part, because it chooses to rely on the conditional use process and project specific mitigation measures authorized elsewhere in the code.<sup>36</sup>

Although Chelan County has not activated the ARC, using an advisory body of local experts to assist in the development review process is a common practice in other land use arenas, such

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33 <http://www.codepublishing.com/WA/SnohomishCounty/html/SnohomishCounty30/SnohomishCounty3032B.html#30.32B>

34 Chelan County Comprehensive Plan, 2000, amended 2015, Economic Element, [http://www.co.chelan.wa.us/files/community-development/documents/comps\\_plan/comp\\_plan\\_amended%202015%20Res%202016-09.pdf](http://www.co.chelan.wa.us/files/community-development/documents/comps_plan/comp_plan_amended%202015%20Res%202016-09.pdf)

35 Chelan County Code 10.30 <http://www.codepublishing.com/WA/ChelanCounty/>

36 Telephone interview, Lilith Yanagimachi, Planner II, Chelan County, July 28, 2016.

as, historic resource review and design review. Interviews conducted for this Pierce County ARL study suggest the farming community has a strong interest in streamlining the land use review process. It is possible that implementing an ARC review process may address local sentiment regarding burdensome review processes.

## Land Uses

### Snohomish County

In addition to production, sales and marketing of value added agricultural products, Snohomish County encourages storage and refrigeration of regional agricultural products; supplemental sources of on-farm income that support and sustain on-farm agricultural operations and production; and support services that facilitate the production, marketing and distribution of agricultural products, allowed outright or conditionally as described in the use table, PCC 30.22.110.<sup>37</sup>

- Dwelling or lodging uses: accessory apartments, bed and breakfast guest house, bed and breakfast inn, boarding house, up to 2 people, farm worker dwelling, guesthouse, and temporary dwelling for relative.
- Commercial uses: distillation of alcohol for fuel, farm bakery, less than 1,000 S.F., farm markets, up to 5,000 S.F. and up to 10% of the prime soils up to one acre, golf course and driving range, unlighted and consuming no more than 25% of prime soils, equestrian centers, and wedding venues.
- Civic and educational uses include museums, hobby parks, and public events and assemblies.
- Within the Riverway Commercial farmland and Upland Commercial farmland designation areas churches, ultralight airfields, and new government structures and facilities, except roads, utilities, and flood protection, drainage, and irrigation structures and facilities, are prohibited. (SCC 30.32C.100)

### Thurston County

The Thurston County LTA District responds directly to the GMA requirement to identify and conserve agricultural land of long-term commercial significance. The LTA limits uses to agriculture, low density residential, farm stands, greenhouses, accessory uses (including retail sales), and farm worker housing. Special Uses, such as Wireless Communication facilities and community clubs, may be allowed on nonprime soils. (See TCC 20.54) Except for farm worker housing, and Planned Rural Residential Development, density is limited to one unit per twenty acres.

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<sup>37</sup> <http://www.codepublishing.com/WA/SnohomishCounty/html/SnohomishCounty30/SnohomishCounty3022.html#30.22.110>



Thurston County Nisqually Agriculture Area (NA) expressly responds to the GMA designation criteria for ARL of long-term commercial significance. The NA planning area applies to lands which: “(1) contain large farms on primary agricultural soil, (2) have been farmed for several generations; or (3) are enrolled in or eligible for enrollment in the Agricultural Open Space Tax Program.” (TCC 20.08C.010<sup>38</sup>) The NA District limits uses to agriculture, low density residential, temporary farm stand, bare root nurseries, accessory uses (including retail sales), and farm worker housing. Wholesale greenhouses are allowed as “Special Uses.” Density is limited to one single family unit per 40 acres or a 5-acre minimum in a Planned Rural Residential Development (PRRD) with an associated transfer or purchase of development rights. A PRRD is permissible in both the LTA and NA districts. (See TCC 20.30A Planned Rural Residential Development)

The Thurston County Agriculture Overlay District is discussed in the Agritourism subsection.

#### Lewis County

In Lewis County, owners of ARL where less than 100% of the parcel contains prime soils use the “Special Use” process (LCC 17.115) to determine under what conditions the property may be used for “residential, recreational, and other non-resource uses”. (LCC 17.30.590)

#### Walla Walla County

Walla Walla County has developed regulations specifically designed to support the wine industry; wineries are allowed in all four agricultural resource zones as permitted or conditional uses, depending upon their size. Wineries are classified as Type I (No more than 12,000 S.F. of buildings and structures and 40 parking spaces) and Type II (Larger than Type I) facilities based on the size of the facility. Limited food service and events are allowed.<sup>39</sup> (WWCC 17.22)

Three of the four Walla Walla County agriculture resource zones PA-40, GA-20, and AR-10 allow bed and breakfast facilities as either permitted or conditional uses, depending on their classification. Nurseries, greenhouses and farm stands are also allowed. (WWCC Table 17.16.14) Schools and government buildings are not allowed in agricultural resource zones.

#### Chelan County

In the Agriculture Resource zone, Chelan County allows the typical array of agricultural operations and supporting uses. The County also allows a wider array of opportunities as conditional uses, including: Recreation/tourist uses, Bed and breakfast facilities and guest inns, Agriculture worker housing (permanent, temporary and off-site, wineries with more than 1,500 S.F. of retail, agriculture themed markets, farm equipment sales and service, machine shops, veterinary clinics or hospitals, educational facilities, churches and places of assembly, and swimming pools. (CCC 11.04.020)

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38 TCC 20.08C Nisqually Agriculture District

[https://www2.municode.com/library/wa/thurston\\_county/codes/code\\_of\\_ordinances?nodeId=TIT20ZO\\_CH20.08CNIAGDINA](https://www2.municode.com/library/wa/thurston_county/codes/code_of_ordinances?nodeId=TIT20ZO_CH20.08CNIAGDINA)

39 Walla County 17.22

[https://www2.municode.com/library/wa/walla\\_walla\\_county/codes/code\\_of\\_ordinances?nodeId=TIT17ZO\\_CH17.22DESTIN](https://www2.municode.com/library/wa/walla_walla_county/codes/code_of_ordinances?nodeId=TIT17ZO_CH17.22DESTIN)

## Agritourism

### Thurston County

Thurston County has created an Agritourism Overlay District (AOD), an area identified on the County zoning map.<sup>40</sup> (See TCC 20.08G<sup>41</sup>) The overlay spans multiple zoning districts. Agriculture or agricultural production must be the primary use of the land. The tourism activity must be conducted at a working farm, ranch, or other agricultural operation or facility, for the enjoyment and education of visitors, guests or clients. The goals of the agritourism activity are educational and economic, adding to the economic viability of the agricultural operation. "Uses permitted within the AOD include, but are not limited to agricultural home stays, farm kitchens and bakeries, educational and interpretive seminars, you pick operations (Christmas trees, pumpkin patches, berry picking etc.), day tours, cooking and food preservation classes, elder hostels, petting zoos, horseback riding, zip lines/aerial rope slide courses, photography, nature watching, temporary gatherings, farm weddings and festivals, country inns, small scale wineries, craft distilleries and micro-breweries." (TCC 20.03.040.3.3)

In Thurston County, an "agricultural home stay" is a farm or farm house that has eight or fewer guestrooms. The agricultural home stay must be located on and be a part of a farm that produces agricultural products as a primary source of income and may serve light meals or snacks to registered guests. (TCC 20.03.040.2.8)

## Site area and development

### King County

Minimum lot size is 10 acres or 35 acres. (KCC Table 21A.12.040) King County allows a landowner retiring from commercial agriculture operations to divide the land into smaller parcels, provided the owner has resided on the property for at least five years prior to the division and the owner continues to retain and occupy the farm residence and accessory buildings. In addition, the landowner must also be at least sixty-two years of age or older at the time of filing or retired by reason of physical disability. King County also allows land to be divided into smaller parcels for an additional single-family dwelling occupied by members of the owner's family who are engaged in the farm operations. (KCC 20.54.080)

In the Agricultural (A) zone an owner of a parcel containing a building designated as a King County historic landmark, may seek additional dwelling units on the land in excess of the maximum density.

### Walla Walla County

In the Primary Agriculture-40 and General Agriculture-20 zones, Walla Walla County allows a one-time division where the parcel is larger than the minimum size but smaller than double the minimum size (e.g. 41-79 acres in the Primary Agriculture-40 zone). The division may create a lot

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40 Thurston County AOD Map <http://www.co.thurston.wa.us/permitting/agriculture/docs/agritourism-update-2014-map.pdf>

41 TCC 20.08G

[https://www2.municode.com/library/wa/thurston\\_county/codes/code\\_of\\_ordinances?nodeid=TIT20ZO\\_CH20.08GAGOVDIAO](https://www2.municode.com/library/wa/thurston_county/codes/code_of_ordinances?nodeid=TIT20ZO_CH20.08GAGOVDIAO)

up to one acre unless the division applies to an existing farm dwelling in which case the division may create a lot up to 10 acres.<sup>42</sup> (WWCC 17.31.070) Chelan County also allows a variation on the one-time lot reduction, or segregation, process.<sup>43</sup> (CCC 11.30.020(10))

## Issues and Opportunities

### Regulatory Issues and Opportunities

The Growth Management Act sets up multiple dualities. Urban areas must limit sprawl but they also must plan for and accommodate forecasted population growth. Counties must identify, conserve and protect Agricultural Resource Lands and they must also ensure the long-term viability of commercial agriculture. The land itself must be conserved but the activity must be sustained and even promoted.

The tools counties use to manage these dualities typically are limited to zoning maps and zoning and development regulations. By their nature, zoning regulations restrict land uses; but simple limitation of activity does not fully address the need to encourage long-term commercial viability. Long-term commercial viability is not ensured by merely identifying prime soils and limiting uses on the land to crop or animal production. The amount of prime soil land has diminished over time because of prior land use choices and market forces. The dairy sector has moved to the eastside of Washington and Oregon because of changing regulations. Agricultural markets shift in response to demand and state-national-global regulation. Consequently, some counties are shifting from a simple strategy of zoning maps and regulatory limitations to include more flexible strategies that respond to the shifting trends in agriculture as a way to promote long-term commercial viability of agriculture in their county.

The Pierce County code implements WAC 365-196-815 by providing development regulations that address the two components to conservation: prevent conversion of resource land to non-resource production, and assure that the use of lands adjacent to designated ARLs does not interfere with the production of food or agricultural products.

The County's ARL development regulations draw on the recommendations in RCW 36.70A.177 and WAC 365-196-815, such as:

- Allowing uses legally existing on any parcel prior to their adoption;
- Public notice on proposed land use and building permit actions that commercial agricultural activities may occur in the area that are not compatible with residential development;
- Limiting density and non-resource activities on ARL;
- Cluster zoning;
- Transfer or purchase of development rights; and
- Adoption of non-regulatory programs, such as agritourism.

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<sup>42</sup> Walla Walla County Code 17.31.070

[https://www2.municode.com/library/wa/walla\\_walla\\_county/codes/code\\_of\\_ordinances?nodetid=TIT17ZO\\_CH17.31DESTLUDE\\_REL](https://www2.municode.com/library/wa/walla_walla_county/codes/code_of_ordinances?nodetid=TIT17ZO_CH17.31DESTLUDE_REL)

<sup>43</sup> Chelan County Code 11.30.020(10) <http://www.codepublishing.com/WA/ChelanCounty/>

The selected review of ARL strategies and regulations in other Washington counties demonstrates that counties are given – and use – some flexibility in how they respond to the GMA mandate to conserve resource lands of long-term commercial significance. Multiple agriculture zoning districts can address local variation in soils, production capability, parcel sizes, and support services. Accessory uses directly related to commercial agriculture, such as retail sales of farm-related products or farm-related events are allowed if they support long-term commercial availability. Owners of land that does not meet the ARL designation criteria may voluntarily “opt-in” to the county’s commercial agriculture program. Parcels containing historic landmarks can be divided to encourage both agricultural production and historic preservation. A county can establish a “good neighbor” review committee to evaluate the impacts of proposed development on commercial agriculture and they may establish programs to purchase land or development rights.

However, it must be stressed that local efforts to be flexible and innovative must be directed towards the primary goal of conserving resource lands and long-term commercial viability. Flexibility and innovation must be supported by findings that demonstrate how the strategy or regulation fulfills the mandate to conserve agricultural resource land.

#### Non Regulatory Issues and Opportunities

A major challenge for parts of Pierce County is surface water drainage. The County has created a working group, the Farming in the Floodplains Project (FFP), to plan for the best solution to flooding and address the concerns of local farmers and residents in the Clear Creek Area of the Puyallup Valley. An initial proposal for a ring levee that would take farmland out of production has met resistance from affected farmers and other property owners who have indicated their desire to keep agriculture viable in this area and maintain the property in private ownership. The FFP is addressing these issues through:

- 1) Requesting redesign of the proposed levee to exclude existing farmland from the waterside of the levee;
- 2) Evaluating the size requirements and operational standards of the tide gates that close the Clear Creek channel from the Puyallup River;
- 3) Inventory and analysis of the drainage system in the Clear Creek Area to better understand the current capacity of the system and what the capacity of a well-maintained drainage system could be;
- 4) Addressing the issue of water rights as it affects property owners in the area of the proposed levee expansion area; and
- 5) Considering the impact of building restrictions on agricultural structures in the existing floodway.

The County has engaged an engineering consultant to assist the FFP in this project and is working with affected farmers and residential property owners. In addition to the above listed farm and residential property owner concerns, the project also must provide for fish habitat and flood protection.

## Strategies for strengthening Pierce County ARL tools

### Regulatory Strategies

Pierce County has done a commendable job of working with its residents and businesses to create Community Plan areas. Each Community Plan responds directly to the needs and aspirations of the local community. The plan is tailor-made to fit the locality's long-term housing and economic needs and it reflects the community's aesthetic. Graham and Key Peninsula are two distinct geographic regions of Pierce County and their adopted community plans reflect those differences.

ARL designation in Pierce County, on the other hand, relies on a county-wide set of designation criteria and a blanket set of regulations to guide long-term commercial agriculture viability. The geography, soil classes, climate, and infrastructure in Key Peninsula, Graham and the Puyallup valley are significantly different. The same holds true in varying degrees in other community plan areas.

Pierce County has an opportunity use its community plan system and more advance mapping techniques to tailor ARL designation criteria and regulations that, to some degree, overlap with a community plan area. Obviously, the boundaries of ARL and a community planning area will not be identical, but the opportunity exists to rely on local conditions, such as soils, current agricultural use, current use tax status, topography, and transportation systems to refine the County's commercial agriculture program.

The GMA mandate requires a county-wide or an area-wide ARL designation program. Case law is clear that a parcel by parcel evaluation system is prohibited. In between the county-wide approach and the parcel specific prohibition is an opportunity to create several agricultural districts, founded on GMA with differing approaches to sustaining long-term commercial agriculture viability.

An area-wide approach could yield opportunities to more closely define and classify local commercial agriculture areas and it might also identify opportunities to encourage accessory uses, such as retail sales, events, and small scale lodging that support the local agricultural economy. In some counties, such as Chelan County, soil types, climate zones and crop production is somewhat uniform across the county. Other counties have chosen to create more than one ARL zone, as well as non-ARL farm zones, which are based on a particular soil types, regions, or a lot patterns and sizes to best conserve and protect commercial agriculture. Where a smaller lot patterns exist or the ARL is closer to urbanized areas, opportunities may exist to allow a more flexible approach to accessory uses as a mechanism to conserve and promote long-term commercial viability.

Pierce County has adopted an agritourism strategy designed to support long-term commercial agriculture. Thurston County has a special Agriculture Overlay District in the center of the county. Walla Walla County has implemented regulatory and non-regulatory programs to conserve and promote the winery sector which occurs in localized regions of the county. Are there opportunities for Pierce County to tailor its agritourism program to support and promote agricultural production and accessory uses that are tailored for specific regions of Pierce County?

Counties that seek to build a robust business community engage the business community in the planning process. The same should be true for commercial agriculture. For example, the Architectural

Review Committee process Chelan County created, though unused there, could be a guidepost for creating a Pierce County review body of industry specialists to help streamline the County's review procedures. Such a body could evaluate "Special Use" requests, to help decide whether accessory uses or agritourism uses are compatible with the goal of sustaining long-term commercial agriculture viability.

## Non-Regulatory Strategies

For non-regulatory tools, Pierce County could consider these actions that would strengthen agriculture:

### 1) Education/Agricultural Awareness

Develop a speakers' registry of farmers and others who can address school students and other groups on the current local food system and its challenges and opportunities. Provide funding for agriculture studies in the classroom to ensure more students are aware of farming activities in their county.

Ensure residents are aware of the economic value of ag in terms of tax revenue contributions to county and state taxation, county employment and overall income generated in the county.

### 2) Support Farmer Recruitment

Create and advertise property portfolios of farmland that has had conservation easements attached to the deeds, to assist land trusts in finding the new farmers. Work on lease and purchase agreements to support transitions of land to new farmers. Consider regional recruitment programs to attract new farmers to Pierce County.

Take the lead in forming and hosting farm tours to raise awareness of Pierce County as a primary western Washington county for new farmers to establish operations. Invite current target farmers, leading farm organizations, farmer internship organizations, groups that support business development for minority farmers, and others to Pierce County to learn about current farming opportunities, farm practices and the active support programs, land acquisitions with conservation easements, and land leasing. Include WSU extension, the Agriculture Community of Interest, land trusts, and local real estate firms in these efforts.

### 3) Support Farmers

Support the creation of an on-line matching service for land owners who wish to lease their land and/or farm buildings to farmers who are looking for land to lease.

## Conclusions

The regulatory mechanisms Pierce County has adopted for the purpose of conserving ARL and ensuring that adjacent uses do not interfere with agricultural production appear to be consistent with the GMA. Without closer scrutiny of permit data, this memorandum cannot discuss whether the program has succeeded in meeting these two goals over time.

Whether a county fulfills its mandate under the GMA could be measured by how many acres of land are designated ARL and whether adjacent uses are compatible with commercial agricultural operations. However, sustaining long-term commercial viability depends not only on what cannot be done, i.e.,

limiting non-resource uses, but also on developing regulations that proactively support area-wide commercial agriculture. This memorandum demonstrates that counties have adopted a variety of approaches and regulations to both protect and support long-term commercial agriculture. Some of these strategies could be adapted to Pierce County.

The GMA recognizes that there are regional differences in agricultural practices across the state. It expressly recognizes that county programs to designate ARL lands may be county-wide or area-wide. Pierce County has a robust system of community plan areas which focuses on the current conditions and future aspirations of the many and varied community plans. Using the GIS mapping tools available today, the County has an opportunity to better integrate commercial agriculture conservation and promoting into the community planning system.

Regarding non-regulatory tools, given that Pierce County only established its Agriculture Program in 2013, it has made significant strides. The program received a 2040 VISION Award in 2014 from the Puget Sound Regional Council.

The main accomplishments to date are:

- 1) expanding knowledge and improving access of consumers to buy directly from local farmers;
- 2) working with a consortium of agricultural interests to identify farmland and secure funding for development right purchases;
- 3) easing building permit requirements; and
- 4) initiating dialogue with farmers about drainage issues in the Puyallup Valley in conjunction with flood control projects. We have identified some further opportunities to strengthen this positive program.

## Bibliography Relating to Non-regulatory Uses

Pierce County Farmland Conservation Committee Shared Conservation Strategy Document, October 2015.

Pierce County Planning and Land Services, Agriculture Structure Exemption from Building Permits Bulletin, Ordinance No. 2014-66S, January 2015. See <https://www.co.pierce.wa.us/DocumentCenter/View/34843>

Pierce County Website – Government webpage. 2015 Pierce County Comprehensive Plan. See <http://www.co.pierce.wa.us/DocumentCenter/View/38259>



## Appendix A:

### Pierce County Comprehensive Plan, Goals and Policies Regarding Agricultural Resource Lands

- Goal LU-83, directs the County to preserve and enhance the agricultural land base currently “used for, or which offers the greatest potential for, production of agricultural products”.<sup>44</sup>
- Goal LU-84 requires the County to designate ARLs “based on the Growth Management Act definition and the Minimum Guidelines of WAC 365-190-050”.
- Goal LU-85 provides a process for amending or refining ARL designation and Goal LU-86 provides the criteria and process for removing ARL designation.
- Goal LU - 87 directs the County to implement ARL program through adoption of development regulations “that support and enhance farming its”.<sup>45</sup> Implementation strategies include:
  - Residential density of 1 unit per 10 acres.
  - Allow uses that support the economic viability of farming and protect the farming operations from incompatible uses.
  - Ensure that allowed uses support and are agriculture-related.
  - Provide for variations in the density and uses in Community Plans.
  - Allow a cluster maximum of 1 unit per 5 acres on parcels larger than 20 acres with a maximum of 10 units per cluster, and protection of remainder parcel for agricultural use.
  - Density exception for housing seasonal farm workers in a community planning process.
  - Civic uses located on parcels at least 40 acres in size, where 90% of the site is dedicated or available for farming activities: religious assemblies not to exceed 30,000 square feet of building area, and small public safety stations (fire and sheriff).
- Goal LU - 90 protects directs the County to ensure regulations are in places that maintain the vitality of the agricultural industry by protecting agricultural operations from incompatible uses.<sup>46</sup> Agricultural policies and regulations should be extended to agricultural activities adjacent to ARL lands. Regulations include:
  - Protect such areas from encroachment by incompatible uses.
  - Protect related development such as farmers markets and roadside stands.
  - Protect smaller sized agricultural parcels which are not individually viable for production, but which taken cumulatively with other smaller sized parcels in the area, have long term significance for agricultural production.
- Goal LU - 90.2 directs the County to minimize conflicts resulting from incompatible uses adjacent to ARL. Implementation strategies include:
  - Establish adequate setbacks and buffer strips;

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<sup>44</sup> Ibid, Goal 83, page 2-59.

<sup>45</sup> Ibid, Goal LU-87, pages 2-62 and 2-63.

<sup>46</sup> Ibid, Goal LU-90, pages 2-65 and 2-66

- Develop public education programs; and
- Require notification to residential properties within 500 feet of ARL warning property owners that agricultural activities might not be compatible with residential uses.
- Goal LU - 90.3 encourages farming in Rural areas and requires farming activity to demonstrate consistency with several guiding principles:
  - Covenants for new subdivisions and short subdivisions in the Rural Area should not restrict farming;
  - Agricultural management practices shall not be construed as public nuisances when carried on in compliance with applicable regulations, even though they may impact nearby residences; and
  - County environmental standards for agriculture should protect environmental quality, especially in relation to water and fisheries resources, without discouraging farming.
- Goal LU - 90.4 encourages the County to use incentives to encourage farming. Strategies include:
  - Tax incentives;
  - Expedited permit review for resource activities complying with "best management practices"; and
  - Processing fee reductions for subdivisions which recombine substandard lots and "right to farm" provisions that would apply to all new development.
- Goal LU - 90.5 directs the County to streamline permit processes without compromising environmental or public health safeguards.
- Goal LU - Goal 90.6 encourages the County to develop incentives to experiment with innovative farm technology.
- Goal LU - 90.7 encourages residential uses allowed near ARL to minimize potential conflicts and reduces unnecessary conversion of farm lands.
- Goal LU - Goal 128 recognizes the need, and the GMA mandate, to establish and implement transfer of development rights (TDR) and purchase of development rights (PDR). Strategies include:
  - Residential density credits to transfer to urban areas; and
  - Prioritizing transfer of development rights from ARL over transfer from Rural Farm zoned properties.