

*Title 18D*

***DEVELOPMENT REGULATIONS - ENVIRONMENTAL***

**CHAPTERS:**

- 18D.10    GENERAL PROVISIONS.**
- 18D.20    EXEMPTIONS.**
- 18D.40    ENVIRONMENTAL REVIEW.**



## *Chapter 18D.10*

### **GENERAL PROVISIONS**

#### **Sections:**

- 18D.10.010 Authority.**
- 18D.10.020 Purpose, Applicability and Intent.**
- 18D.10.030 Abbreviations.**
- 18D.10.040 Definitions.**
- 18D.10.050 Designation of Responsible Official.**
- 18D.10.060 Lead Agency Determination and Responsibilities.**
- 18D.10.070 Time Limits Applicable to SEPA Review Process.**
- 18D.10.080 Appeal Procedures.**
- 18D.10.090 Compliance.**

#### **18D.10.010 Authority.**

The following regulations concerning environmental policies and procedures are established and adopted pursuant to Chapter 43.21C RCW, as amended, entitled, "The State Environmental Policy Act of 1971" (SEPA), and the Washington State Administrative Code, Chapter 197-11, entitled, "State Environmental Policy Act Rules." (Ord. 96-19S § 3 (part), 1996)

#### **18D.10.020 Purpose, Applicability and Intent.**

- A. The purpose of this Chapter is to provide County regulations implementing the State Environmental Policy Act of 1971 (SEPA) which are consistent with the SEPA Rules.
- B. This Chapter is applicable to all County departments/divisions, commissions, boards, committees, the County Council and Executive.
- C. This Chapter is not intended to require County compliance with the National Environmental Policy Act of 1969 (NEPA). When the County is required by federal law or regulations to be in compliance with NEPA, such compliance shall be governed by the applicable federal statute and/or regulations and not by this Chapter.

(Ord. 96-19S § 3 (part), 1996)

#### **18D.10.030 Abbreviations.**

The abbreviations used in this Chapter are defined as follows:

- A. DEIS - Draft Environmental Impact Statement;
- B. DNS - Declaration of Nonsignificance;
- C. PALS - Planning and Land Services Department;
- D. DS - Declaration of Significance;
- E. EIS - Environmental Impact Statement;
- F. FEIS - Final Environmental Impact Statement;
- G. NEPA - National Environmental Policy Act;
- H. RCW - Revised Code of Washington
- I. SEIS - Supplemental Environmental Impact Statement;
- J. SEPA - State Environmental Policy Act;
- K. WAC - Washington Administrative Code.
- L. MDNS - Mitigated Determination of Nonsignificance

(Ord. 96-19S § 3 (part), 1996)

**18D.10.040 Definitions.**

Pierce County adopts by reference the definitions stated in WAC 197-11-700 through 197-11-799 as now or hereafter amended. In addition to those definitions, see Chapter 18.25 PCC for a complete list of defined terms. (Ord. 2004-58s § 4 (part), 2004; Ord. 96-19S § 3 (part), 1996)

**18D.10.050 Designation of Responsible Official.**

For those proposals for which Pierce County is the lead agency, the Responsible Official shall be the Director of Planning and Land Services and/or his/her designee. (Ord. 96-19S § 3 (part), 1996)

**18D.10.060 Lead Agency Determination and Responsibilities.**

- A. When receiving an application for or initiating a proposal that involves a nonexempt action, the Responsible Official shall determine the lead agency for that proposal under WAC 197-11-050 and 197-11-922 through 197-11-940; unless the lead agency has been previously determined or the department is aware that another agency is in the process of determining the lead agency.
- B. For all proposals for which Pierce County is the lead agency, the Responsible Official shall make the threshold determination, supervise scoping and preparation of any required environmental impact statement (EIS), and perform any other functions assigned to the "lead agency" or "Responsible Official" by those sections of the SEPA rules that were adopted by reference in WAC 197-11.
- C. In addition, the Responsible Official shall be responsible for preparation of written comments for Pierce County in response to a consultation request prior to a threshold determination, participation in scoping, and/or reviewing a DEIS.
- D. This person shall be responsible for the County's compliance with WAC 197-11-550 whenever the County is a consulted agency and is authorized to develop operating procedures that will ensure that responses to consultation requests are prepared in a timely fashion and include data from all appropriate departments of the County.
- E. Pierce County shall retain all documents required by the SEPA rules (WAC Chapter 197-11) and make them available in accordance with RCW Chapter 42.17.
- F. When the County is the lead agency for a proposal, the Responsible Official shall supervise compliance with the threshold determination requirements, and if an EIS is necessary, shall supervise preparation of the EIS.
- G. When Pierce County is not the lead agency for a proposal, all departments of the County shall use and consider, as appropriate, either the DNS, MDNS or the final EIS of the lead agency in making decisions on the proposal. The Responsible Official shall not prepare or require preparation of a DNS or EIS in addition to that prepared by the lead agency, unless required under WAC 197-11-600. In some cases, the County may conduct supplemental environmental review under WAC 197-11-600.
- H. If the County or any of its departments receives a lead agency determination made by another agency that appears inconsistent with the criteria of WAC 197-11-922 through 197-11-940, it may object to the determination. Any objection must be made to the agency originally making the determination. If the objection is not resolved within 15 days of receipt of the determination, the County shall petition the Department of Ecology for a lead agency determination under WAC 197-11-946 within the 15-day time period. Any such petition on behalf of the County must be initiated by the Responsible Official of Pierce County.

- I. Departments of the County are authorized to make agreements as to lead agency status or shared lead agency duties for a proposal under WAC 197-11-942 and 197-11-944; provided, that the Responsible Official and any department that will incur responsibilities as the result of such agreement approve the agreement.
- J. The Responsible Official, when making a lead agency determination for a private project, shall require sufficient information from the applicant to identify which other agencies have jurisdiction over the proposal.

(Ord. 96-19S § 3 (part), 1996)

**18D.10.070 Time Limits Applicable to SEPA Review Process.**

Time periods (expressed in calendar days) for establishing a threshold determination or preparing an Environmental Impact Statement pursuant to this Title, Chapter 43.21C RCW and WAC 197-11 are as follows:

- A. **Threshold Determinations.** If it is possible to make a threshold determination based solely upon review of the environmental checklist for the proposal, said determination shall be completed no later than 30 days from the date of submittal of the applicant's complete application and checklist. The Threshold Determination shall be issued no later than 40 days prior to any scheduled public hearing, if applicable.
- B. If the Responsible Official determines that it is necessary to obtain information in addition to that contained on the environmental checklist, such further information shall be requested pursuant to PCC 18.60.020.
- C. **Environmental Impact Statement Preparation.** Commencing at the issuance of a Determination of Significance, the Responsible Official shall have 315 days (County review time), plus the time needed by the EIS preparer, to issue an FEIS. The 315 days shall be used for: scoping, review of preliminary DEIS, issuance of DEIS, public/agency comment period, review of preliminary final EIS, and issuance of FEIS. This period excludes any time during which the applicant and/or the EIS preparer is preparing or revising EIS related documents.

(Ord. 96-19S § 3 (part), 1996)

**18D.10.080 Appeal Procedures.**

The procedures governing an appeal of a threshold determination, DEIS, FEIS or SEIS are set forth in Chapter 1.22, Pierce County Code. (Ord. 96-19S § 3 (part), 1996)

**18D.10.090 Compliance.**

The regulations for compliance with the provisions of this Title are set forth in Chapter 18.140, Development Regulations - General Provisions. (Ord. 97-84 § 4 (part), 1997)



## *Chapter 18D.20*

### *EXEMPTIONS*

#### **Sections:**

- 18D.20.010** **Categorical Exemptions.**
- 18D.20.020** **Use of Exemptions.**
- 18D.20.030** **Emergency Action Exemption.**

#### **18D.20.010** **Categorical Exemptions.**

Pierce County adopts by reference WAC 197-11-300 through WAC 197-11-800. In addition thereto, Pierce County establishes the following exempt levels for minor new construction under WAC 197-11-800(1)(b):

- A. For residential dwelling units in WAC 197-11-800(1)(b)(i): 10 dwelling units or less if within one structure, and otherwise 5 dwelling units or less;
  - B. For agricultural structures in WAC 197-11-800(1)(b)(ii): 30,000 square feet of ground coverage or less;
  - C. For office, school, commercial, recreational, service or storage buildings in WAC 197-11-800(1)(b)(iii): total floor area of 8,000 square feet or less and 30 or fewer automobile parking spaces;
  - D. For parking lots in WAC 197-11-800(1)(b)(iv): 30 or fewer automobile parking spaces;
  - E. For landfills and excavations in WAC 197-11-800(1)(b)(v): 250 cubic yards or less.
- (Ord. 96-19S § 3 (part), 1996)

#### **18D.20.020** **Use of Exemptions.**

- A. When receiving an application for a license, or when making a Pierce County proposal, the Responsible Official shall determine whether the license and/or the proposal is exempt. The Responsible Official's determination that a proposal is exempt shall be final and not subject to administrative appeal as set forth in Chapter 1.22 PCC. If a proposal is exempt, none of the procedural requirements of this Chapter apply to the proposal. The County shall not require completion of an environmental checklist for an exempt proposal.
- B. In assessing whether or not a proposal is exempt, the Responsible Official shall determine that the proposal is properly defined and shall identify the governmental licenses required (WAC 197-11-060). If a proposal includes exempt and nonexempt actions, the official shall determine the lead agency, even if the license application that triggers the department's consideration is exempt.
- C. If a proposal includes both exempt and nonexempt actions, the County may authorize exempt actions prior to compliance with the procedural requirements of this Chapter, except that:
  - 1. The County shall not give authorization for:
    - a. Any nonexempt action;
    - b. Any action that would have an adverse environmental impact; or
    - c. Any action that would limit the choice of alternatives;

2. Pierce County, upon the recommendation of the Responsible Official, may withhold approval of an exempt action that would lead to modification of the physical environment, when such modification would serve no purpose if nonexempt action(s) were not approved; and
3. Pierce County may withhold approval of exempt actions that would lead to substantial financial expenditures by a private applicant when the expenditures would serve no purpose if nonexempt action(s) were not approved.

(Ord. 96-19S § 3 (part), 1996)

**18D.20.030 Emergency Action Exemption.**

- A. The following actions which must be undertaken immediately or for which there is insufficient time for full compliance with this Chapter, are exempt from the procedural requirements of this Chapter:
  1. Actions necessary to prevent an imminent threat to public health or safety;
  2. Actions necessary to prevent an imminent danger to public or private property; or
  3. Actions necessary to prevent an imminent threat of serious environmental degradation.
- B. The Responsible Official shall determine on a case-by-case basis emergency action which satisfies the general requirements of this Section.

(Ord. 96-19S § 3 (part), 1996)

*Chapter 18D.40*

***ENVIRONMENTAL REVIEW***

**Sections:**

- 18D.40.010 Environmental Checklist.**
- 18D.40.020 Affirmative Threshold Determination.**
- 18D.40.030 Withdrawal of Negative or Affirmative Threshold.**
- 18D.40.040 Environmental Impact Statement.**
- 18D.40.050 Public Notice.**
- 18D.40.060 Substantive Authority.**
- 18D.40.070 Notice - Statute of Limitations.**
- 18D.40.080 Fees for Environmental Assessments and Environmental Impact Statements.**

**18D.40.010 Environmental Checklist.**

- A. A completed environmental checklist (or a copy), in the form provided in WAC 197-11-960, shall be filed for any permit, license, certificate, or other approval not specifically exempted in this Chapter; except, a checklist is not needed if the County and applicant agree an EIS is required, SEPA review has been completed, or SEPA compliance has been initiated by another agency. The County shall use the environmental checklist to determine the lead agency and for making the threshold determination.
- B. All private applicants shall complete their own environmental checklist, with assistance from Pierce County as necessary. County departments initiating a proposal shall complete the environmental checklist for that proposal.
- C. The County may require that it, rather than the private applicant, complete all or part of the environmental checklist for a private proposal, if either of the following occurs:
  - 1. The County has access to technical information not available to the private applicant; or
  - 2. The applicant has provided inaccurate information on previous proposals or on proposals currently under consideration.

(Ord. 96-19S § 3 (part), 1996)

**18D.40.020 Affirmative Threshold Determination.**

In the event the Responsible Official determines that a proposal is likely to have a significant adverse effect on the quality of the environment, the Responsible Official shall prepare a determination of significance using the form in WAC 197-11-980. The Responsible Official shall also list the proposal in the "EIS in Preparation Register" maintained in the Planning and Land Services Department. Thereafter, the EIS and scoping and preparation procedures specified by WAC 197-11-408 through and including 197-11-460 shall be followed. (Ord. 96-19S § 3 (part), 1996)

**18D.40.030 Withdrawal of Negative or Affirmative Threshold Determination.**

In some cases, as specified by WAC 197-11-340, 197-11-360 and 197-11-600, the County may withdraw its affirmative or negative threshold determination. (Ord. 96-19S § 3 (part), 1996)

**18D.40.040 Environmental Impact Statement.**

- A. Pierce County adopts by reference WAC 197-11-400 through 197-11-460, as now or hereafter amended. The contents and preparation procedures for draft environmental impact statements shall be governed by the SEPA rules herein or as hereafter amended. Timelines for County review time during preparation of an EIS are established in Section 18D.10.070.
- B. Preparation of the draft and final EIS (DEIS and FEIS) and draft and final supplemental EIS (DSEIS and FSEIS) shall be under the direction of the Responsible Official. Before the County issues an EIS/SEIS, the Responsible Official shall be satisfied that it complies with this Chapter and WAC Chapter 197-11.
  - 1. The DEIS and FEIS or DSEIS and FSEIS shall be prepared by County staff, the applicant, or by a consultant selected by the County or the applicant. If the Responsible Official requires an EIS/SEIS for a proposal and determines that someone other than the County will prepare the EIS/SEIS, the Responsible Official shall notify the applicant within five working days after completion of the threshold determination. The Responsible Official shall also notify the applicant of the County's procedure for EIS/SEIS preparation, including approval of the DEIS, FEIS, DSEIS, and FSEIS prior to distribution.
  - 2. The County may require an applicant to provide information the County does not possess, including specific investigations. However, the applicant is not required to supply information not required under this Chapter or information requested from another agency pursuant to this Chapter.
- C. Public notice for issuance of a DEIS, FEIS, DSEIS, and FSEIS shall comply with provisions set forth in Chapter 18.80, Development Regulations - General Provisions. (Ord. 97-84 § 4 (part), 1997; Ord. 96-19S § 3 (part), 1996)

**18D.40.050 Public Notice.**

Public notice for issuance of a Determination of Nonsignificance, Determination of Significance, or EIS, FEIS, DSEIS, and FSEIS is set forth in Chapter 18.80, Development Regulations - General Provisions. (Ord. 97-84 § 4 (part), 1997; Ord. 96-19S § 3 (part), 1996)

**18D.40.060 Substantive Authority.**

- A. The policies and goals set forth in this Chapter supplement existing State and County laws of Pierce County.
- B. The County may attach conditions to a permit or approval for a proposal provided that:
  - 1. Such conditions are necessary to mitigate specific probable adverse environmental impacts identified in environmental documents prepared pursuant to this Chapter; and
  - 2. Such conditions are in writing; and
  - 3. The mitigation measures included in such conditions are reasonable and capable of being accomplished; and
  - 4. The County has considered whether other local, state, or federal mitigation measures applied to the proposal are sufficient to mitigate the identified impacts; and
  - 5. Such conditions are based on one or more policies in subsection D. of this Section and cited in the license or other decision document.

- C. The County may deny a permit or approval for a proposal on the basis of SEPA provided that:
  - 1. A finding is made that approval of the proposal would result in probable significant adverse environmental impacts that are identified in a FEIS or final SEIS prepared pursuant to this Chapter; and
  - 2. A finding is made that there are no reasonable mitigation measures capable of being accomplished that are sufficient to mitigate the identified impact; and
  - 3. The denial is based on one or more policies identified in subsection D. of this Section and identified in writing in the decision document.
- D. The County adopts the following policies as the basis for the County's exercise of authority pursuant to this Section:
  - 1. The County shall use all practicable means, consistent with other essential considerations of state policy, to improve and coordinate plans, functions, programs, and resources to the end that the state and its citizens may:
    - a. Endeavor to achieve for the people of Pierce County safe, healthful, and aesthetically pleasing surroundings;
    - b. Preserve important historic, cultural, and natural aspects of our national heritage;
    - c. Achieve a balance between population and resource use; and
    - d. Enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.
  - 2. The following Pierce County planning documents as now existing or hereafter amended, shall supplement this Chapter:
    - a. Title 19A, Pierce County Comprehensive Plan
    - b. Title 19B, Community Plans
    - c. Title 19D, Other Comprehensive Planning Documents including but not limited to: Pierce County Coordinated Water System Plan, Pierce County Comprehensive Park, Recreation and Open Space Plan, etc.
    - d. The Lakes District Comprehensive Plan
    - e. The Hylebos Basin Drainage Plan
    - f. The 144th Street Drainage Basin Plan
    - g. Interim HUD Flood Insurance Study for Pierce County
    - h. Burley/Minter Drainage Basin Water Quality Plan
    - i. Lower Puyallup Watershed Action Plan and Phase 1 Report
    - j. Chambers-Clover Creek Watershed Action Plan and Characterization
    - k. Key Peninsula-Gig Harbor-Islands Watershed Action Plan and Characterization
    - l. Housing Assistance Plan
    - m. Transportation Plan and Six Year Transportation Improvement Program
    - n. Tacoma-Pierce County Solid Waste Management Plan
    - o. Tacoma-Pierce County Local Hazardous Waste Management Plan
    - p. Unified Sewer Plan for the Pierce County Wastewater Utility
  - 3. The following Pierce County regulations and codes as now existing or hereafter amended, shall supplement this Chapter:
    - a. Title 18, Development Regulations - General Provisions
    - b. Title 18A, Development Regulations - Zoning
    - c. Title 18B, Development Regulations - Signs
    - d. Title 18E, Development Regulations - Critical Areas
    - e. Title 18H, Development Regulations - Forest Practices and Tree Conservation
    - f. Title 18I, Development Regulations - Natural Resource Lands

- g. Title 18J, Development Regulations – Design Standards and Guidelines
  - h. Title 16, Subdivisions and Platting
  - i. Title 20, Shoreline Management Use Regulations
  - j. Title 17A, Construction and Infrastructure Regulations – Site Development and Stormwater Drainage
  - k. Title 17B, Construction and Infrastructure Regulations – Road and Bridge Design and Construction Standards
  - l. Title 17C, Construction and Infrastructure Regulations – Building and Fire Codes
  - m. Pierce County Fair Housing Regulations
  - n. Noise Pollution Control Regulations
  - o. Title 8, Pierce County Code, Health and Welfare
  - p. Chapter 2.88, Pierce County Code, Structures of Historical and Architectural Significance
  - q. Pierce County Regulations for Proposed Developments Using Local Access Roads
  - r. Pierce County Flood Damage Prevention Regulations
  - s. Title 13, Pierce County Code, Public Sanitary Sewer Systems
4. The following State laws, policies, ordinances, resolutions, programs and master site plans as now existing or hereafter amended, shall supplement this Chapter:
- a. Chapter 173-308 WAC, Biosolids Management
  - b. Chapter 173-350, Solid Waste Handling Standards
  - c. Chapter 173-351, Criteria for Municipal Solid Waste Landfills
  - d. Pierce County Utilities Department Sludge Management Program
  - e. Pierce County Storm Drainage Ordinance
  - f. The Pierce County Fire Flow Ordinance
  - g. Interim HUD Flood Insurance Study for Pierce County
  - h. Pierce County Off-Site Road Improvement Ordinance
  - i. Chambers Creek Properties Master Site Plan
  - j. Rocky Bay Shellfish Protection Program
  - k. Burley Lagoon Shellfish Protection Program
- (Ord. 2004-58s § 4 (part), 2004; Ord. 96-19S § 3 (part), 1996)

**18D.40.070 Notice – Statute of Limitations.**

- A. The County, applicant for, or proponent of an action may publish a notice of action pursuant to RCW 43.21C.080 for any action.
- B. The form of the notice shall be substantially in the form provided in WAC 197-11-990. The notice shall be published by the applicant or proponent pursuant to RCW 43.21C.080.

(Ord. 96-19S § 3 (part), 1996)

**18D.40.080 Fees For Environmental Assessments and Environmental Impact Statements.**

- A. Fees are listed in Chapter 2.05.
- B. Environmental Assessment/Checklist fees for the construction, alteration, or repair of one-family or two-family dwellings shall be waived when the application provides sufficient documentation showing, to the satisfaction of the Environmental Official, who shall make written findings, that all of the following conditions exist:

1. The one-family or two-family dwelling is intended for low-income families. Low income families are those families who meet the low-income guidelines as set forth by the Pierce County Department of Community and Economic Development; Department of Housing and Urban Development (HUD) annual guidelines, Section 8;
  2. The construction, alteration, or repair of the one-family or two-family dwelling involves some volunteer labor; and
  3. The construction, alteration, or repair is being undertaken by an organization classified as a 501(c)(3) non-profit organization by the Internal Revenue Service.
- (Ord. 96-19S § 3 (part), 1996)