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6 ORDINANCE NO. 2008-115s
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9 **An Ordinance of the Pierce County Council Temporarily Allowing (Until**
10 **July 1, 2009) Extensions of the Expiration Date of Certain**
11 **Development Related Applications and Approvals as Set**
12 **Forth in 18.60.030, 18A.85, 18F.40.070, and 18F.50.050 of the**
13 **Pierce County Code in Response to the Economic Downturn**
14 **in the Construction Industry; Adopting Interim Procedures**
15 **for Extending the Expiration Date of Certain Development**
16 **Applications; Adopting Interim Procedures for Extending the**
17 **Expiration Date of Certain Permit Approvals for Preliminary**
18 **Plats, Preliminary Short Plats, and Preliminary Large Lot**
19 **Divisions; Adopting Interim Regulations through a New**
20 **Section 18.160.065 Allowing for the One-Time Extension of**
21 **Vested Rights for Certain Approved and Recorded Final**
22 **Plats, Short Plats, Large Lots, Binding Site Plans, and Use**
23 **Permits; Setting Forth an Effective Date; Establishing a**
24 **Sunset Date; Requesting Planning Commission Review; and**
25 **Adopting Findings of Fact.**

26
27 **Whereas**, the Pierce County Economic Stimulus Report dated September 15,
28 2008, recommends that extensions to the expiration date of preliminary plats be
29 considered by the Council; and

30
31 **Whereas**, the severe downturn in the local, regional, and national housing
32 markets, reduced demand for new housing, tightening credit market, and difficulty
33 obtaining the financing necessary to complete a project, have resulted in a situation
34 where developers of new housing and subdivisions are unable to finalize development
35 proposals in a timely manner; and

36
37 **Whereas**, in order to prevent the expiration of development applications and
38 approvals during the economic downturn, extensions of the expiration dates of certain
39 development related applications and approvals are needed; and

40
41 **Whereas**, the expiration of a development application or approval can have
42 significant financial impacts to a developer and also adversely affects the financial
43 institutions and other investors which have provided financing in support of a
44 development proposal; and



1 **Whereas**, the national scale of the housing market downturn and tightening
2 credit markets have severely affected many builders and developers in Pierce County
3 and many of these builders and developers are now struggling financially; and
4

5 **Whereas**, the construction industry is a major employer in Pierce County,
6 accounting for approximately 8.5% of all jobs in Pierce County; and
7

8 **Whereas**, construction related activity is a significant tax generator and provides
9 much needed revenue to local governments to finance public safety and other needed
10 public services; and
11

12 **Whereas**, Section 18.60.030 of the Pierce County Code provides for extensions
13 of development permit applications including, but not limited to applications for formal
14 subdivision, short subdivision, large lot division, binding site plan, building permit,
15 shoreline substantial development permit, use permit, and variances, but limits the
16 number and duration of such extensions; and
17

18 **Whereas**, Titles 18, 18A, and 18F provide for extensions of development permit
19 approvals for certain development approval types, but limits the number and duration of
20 such extensions; and
21

22 **Whereas**, Title 18 sets forth Pierce County's vesting procedures including the
23 duration of vested rights;
24

25 **Whereas**, providing for additional extensions of certain development related
26 applications and approvals, including the extension of the vested rights associated with
27 these applications and approvals, may aid the local economy by helping the
28 construction industry to weather the economic downturn while preserving the
29 investments made in the development permitting process; and
30

31 **Whereas**, maintaining the viability of development applications and approvals will
32 also help to ensure that the development industry is in a position to respond more
33 quickly once favorable economic conditions return;
34

35 **Whereas**, the Council finds that it is in the best interest of citizens of Pierce
36 County and the local economy to temporarily modify the procedures for extending
37 development related applications and approvals;
38

39 **Whereas**, the local police power delegated to local governments by Art. XI,
40 Section 11 of the Washington Constitution authorizes interim regulatory controls as
41 have Washington's courts interpreting various sections of the Revised Code of
42 Washington; See *Matson v. Clark County*, 79 Wn. App. 641, 904 P.2d 317 (1995);
43 *Biggers v. Bainbridge Island*, 162 Wn.2d 683; 169 P.3d 14; 2007; and *Weden v. San*
44 *Juan County*, 135 Wn.2d 678, 958 P.2d 273 (1998);



1 **Whereas**, the proposed interim regulations are categorical exempt from
2 environmental review under the State Environmental Policy Act (SEPA) pursuant to
3 WAC 197-11-800(20); and
4

5 **Whereas**, The Council finds that the severe housing market downturn coupled
6 with the tightening of credit markets has significantly impacted the construction industry
7 and poses a threat to the local economy and the general public health, safety, and
8 welfare due to reductions in construction related taxes and revenues and loss of
9 construction related jobs. The Council finds that these conditions require actions to be
10 taken to allow for the extension of certain existing development related applications and
11 approvals that would likely expire due to the inability to obtain financing during the
12 economic downturn. The Council finds that this action will benefit the local economy by
13 helping to protect the construction industry from the significant financial losses
14 associated with expired permit applications and permit approvals, including the loss of
15 real estate entitlements, and will better enable the local construction industry to recover
16 as the economy improves; **Now Therefore**,

17
18 **BE IT ORDAINED by the Council of Pierce County:**
19

20 Section 1. Section 18.60.030 C. of the Pierce County Code is hereby
21 amended by adding an exception as follows:
22

- 23 C. The application shall be deemed null and void if the applicant fails to submit
24 additional information within 180 days of the Department's or Hearing
25 Examiner's request, unless the applicant has been granted a time period
26 extension. The applicant shall be granted a 180-day extension if:
27 1. The applicant requests such an extension in writing prior to the expiration
28 of the initial 180-day time period; and
29 2. The Director or Hearing Examiner finds that unusual circumstances
30 beyond the applicant's control have prevented them from providing the
31 additional information within the initial 180-day time period. Only one
32 extension may be granted.
33

34 Exception: Effective until July 1, 2009, the applicant or agent of record
35 for any unexpired development application submitted prior to November 1,
36 2008, shall be granted a 24 month suspension of the 180 day submittal
37 requirement upon written request.
38

39 Upon receipt of a written suspension request, the Department of Planning
40 and Land Services shall notify the applicant or agent of record in writing of
41 the granting of the 24 month suspension, including the date on which the
42 suspension expires. The 24 month suspension shall be calculated from
43 the date that the suspension is received by the Department and shall
44 supersede and serve in lieu of any previously granted time extension.
45 Upon expiration of the suspension period, the applicant shall have 90
46 calendar days to submit all previously requested information. Failure to
47 submit all requested information prior to the expiration of this 90 day



1 period shall result in the application being deemed null and void. No
2 additional time extensions beyond this 90 day period shall be granted.

3
4 Information requested by the Pierce County Hearing Examiner shall not be
5 subject to time extension unless such an extension is authorized by the
6 Hearing Examiner.
7

8 Section 2. A new Section 18.60.065 of the Pierce County Code, "Extension of
9 Vested Rights," is hereby adopted as follows:

10
11 **18.160.065 Extension of Vested Rights**

12 Until July 1, 2009, the Department shall grant a one time, 24 month extension of
13 the vested rights associated with any final plat, large lot, short plat, binding site
14 plan, or use permit which received final approval and was recorded prior to
15 November 1, 2008, and has a vested rights expiration date of July 1, 2011, or
16 sooner. In order to receive an extension of vested rights, the property owner or
17 agent of record shall submit a written request for the extension to the Department
18 at least 30 days prior to the date upon which vested rights would otherwise
19 expire. (See 18.160.060, Duration of Approvals) Upon receipt of a written
20 extension request, the Department shall notify the property owner or agent of
21 record in writing of the granting of the 24 month extension including the date on
22 which this extension expires. The 24 month extension shall be calculated from
23 the original vested rights expiration date. Additional requirements may apply
24 where notes specifying vesting dates are included on the face of the recorded
25 document. (See Title 18F, Land Divisions and Boundary Changes).
26

27 Section 3. Section 18F.40.070 A.1. of the Pierce County Code is amended by
28 adding an exception as follows:

29
30 **18F.40.070 Preliminary Plats-Time Extensions.**

31 **A. General Requirements.**

- 32 1. The applicant or owner(s) may request a 1-time, 1-year time extension
33 beyond the five years within which to submit a final plat, unless approved
34 under 18F.40.090.
35

36 Exception: Effective until July 1, 2009, a 1-time, 24 month time
37 extension may be granted by the Hearing Examiner in lieu of, or in
38 addition to, the 1-time, 1-year time extension following the procedures set
39 forth in 18F.40.070 for any unexpired preliminary plat approved prior to
40 November 1, 2008; provided, however, that not more than one time
41 extension may be valid at any time for a preliminary plat. Further
42 provided, in no case shall more than two time extensions be granted to
43 any preliminary plat unless such a preliminary plat is vested under a prior
44 code which specifically allows multiple extensions. The extension shall be
45 calculated from the expiration date of any previously approved time
46 extension.
47



1 Section 4. Section 18F.50.050 A.2, of the Pierce County Code is amended by
2 adding an exception as follows:

3
4 **18F.50.050 Final Short Subdivisions and Final Large Lot Division Requirements.**

5 **A. Time Limitations.**

- 6
7 2. A proposed final short subdivision or final large lot division shall be
8 submitted to the Planning Department within three years of the effective
9 date of preliminary short subdivision/large lot division approval. The
10 Department shall review the proposed final short subdivision/large lot
11 division for compliance with the conditions of preliminary approval as set
12 forth in 18F.50.050 D.

13
14 Exception: Effective until July 1, 2009, any unexpired preliminary short
15 subdivision/preliminary large lot division approved prior to November 1,
16 2008, shall be granted a one-time 24 month time extension from the
17 expiration date of the initial three year period in which to submit a final
18 short subdivision/final large lot division upon submittal of a written request.
19 In order to receive the extension, the property owner or agent of record
20 shall submit a written request for the extension to the Department at least
21 30 days prior to the date upon which the preliminary short
22 subdivision/preliminary large lot division would otherwise expire. Upon
23 receipt of a written extension request, the Department of Planning and
24 Land Services shall notify the applicant or agent of record in writing of the
25 expiration of the initial three year period and the granting of the 24 month
26 extension including the date on which this extension expires. Failure to
27 submit an extension request prior to the expiration date of the preliminary
28 short plat/preliminary large lot shall result in the preliminary short
29 plat/preliminary large lot approval being deemed null and void.

30
31 Section 5. Section 18F.40.090 C., of the Pierce County Code is amended by
32 adding an exception as follows:

33
34 **18F.40.090 Phasing of a Final Plat.**

- 35
36 **C. Time Limitations.** The first phase of a phased subdivision must submit for final
37 plat approval within five years of the date of preliminary plat approval in
38 accordance with 18F.40.060 A.1. Final plat approval by the Examiner will
39 constitute an automatic 1-year extension of the remaining phases of such
40 preliminary plat from the prior phase expiration date. In no case may any
41 preliminary plat receive more than three 1-year time extensions or have more
42 than eight years from preliminary plat approval to receive final plat approval for
43 all phases.



1
2 Exception: Effective until July 1, 2009, a 1-time, 24 month time
3 extension may be granted by the Hearing Examiner to any phased
4 subdivision. This time extension shall be in addition to the three 1-year
5 time extensions allowed pursuant to this Section specified above.
6 Granting of this 24 month time extension shall extend the maximum time
7 period to receive final plat approval for all phases of the phased
8 subdivision to ten years from the effective date of preliminary plat
9 approval.

10
11 Section 6. Effective until July 1, 2009, the Hearing Examiner may approve a
12 phasing plan at the time of preliminary plat approval to any subdivision containing more
13 than 750 dwelling units that is vested under PCC 16.08.040 upon applicant request.
14 This phasing plan may allow for final plat submittal for multiple years beyond the five
15 year time period provided for pursuant to RCW 58.17.140. The Examiner shall have
16 discretion to determine the appropriate length of time beyond the statutory 5 year period
17 for the completion of the phased subdivision based on the number of dwelling units
18 included in the application and the general marketing conditions at the time of the public
19 hearing; provided, however, that the maximum time period allowed for completion of the
20 entire phased subdivision shall not exceed 12 years from the effective date of
21 preliminary plat approval. Approval of the phasing plan shall extend the maximum time
22 period to receive final plat approval for each phase of the phased subdivision to the
23 number of years from the effective date of preliminary plat approval that the Examiner
24 determines to be a reasonable estimate of the time necessary to complete the
25 development of the entire project. If the Examiner exercises the discretion granted by
26 this exception, the approved phasing plan shall be in lieu of the 1-year time extensions
27 allowed pursuant to PCC 16.08.040; provided, however, that the Hearing Examiner may
28 also approve a process for allowing up to three 1-year time extensions of the completion
29 date of the phased subdivision as set forth in the approved phasing plan as a condition
30 of project approval. This extension process may allow for the imposition of additional
31 conditions of project approval.

32
33 Section 7. For purposes of time extensions pursuant to Title 16, Title 17C, Title
34 18, Title 18A, and Title 18F of the Pierce County Code, the Council declares that the
35 current economic downturn is an unusual circumstance outside of an applicant's control
36 and shall serve as adequate justification for the granting of time extensions by the
37 Director or the Pierce County Hearing Examiner, as appropriate. Time extensions that
38 are granted pursuant to this declaration shall continue to be subject to the conditions of
39 approval and vested rights that applied to application or permit prior to the extension.
40 No new conditions shall be imposed except in those circumstances where the Council
41 determines by Ordinance that additional conditions are necessary to address a serious
42 threat to the public health, safety or welfare. This declaration by the Council shall
43 remain in effect until July 1, 2009.



1 Section 8. The Planning and Land Services Department is requested to forward
2 the interim regulations adopted pursuant to this ordinance to the Pierce County
3 Planning Commission for review by March 1, 2009. The Planning Commission is
4 requested to forward its recommendations to the Council no later than April 1, 2009.

5
6 Section 9. This ordinance shall become effective on January 1, 2009.
7

8 Section 10. The interim regulations established pursuant to this Ordinance shall
9 not be codified and shall sunset on July 1, 2009, unless reauthorized by the Pierce
10 County Council; provided, however, that any time extension or suspension approved
11 prior to the sunset date shall remain in effect for the duration of said extension or
12 suspension. Any time extension or suspension submitted in accordance with the
13 provisions of this Ordinance and prior to the sunset date shall be processed in
14 accordance with the provisions set forth herein.

15
16 Section 11. This Ordinance shall not apply to any action associated with a
17 violation of Pierce County Code and shall not authorize time extensions for information,
18 applications, permits, or other actions required for compliance.

19
20 Section 12. Findings of Fact as set forth in Exhibit A are hereby adopted.

21
22 **PASSED this _____ day of _____, 2008.**

23
24 ATTEST:

PIERCE COUNTY COUNCIL
Pierce County, Washington

25
26
27
28
29 _____
30 **Denise D. Johnson**
31 Clerk of the Council

Terry Lee
Council Chair

32
33
34 _____
35 **John W. Ladenburg**
36 Pierce County Executive
37 Approved _____ Vetoed _____, this
38 _____ day of _____,
2008.

39
40 Date of Publication of
41 Notice of Public Hearing: _____

42
43 Effective Date of Ordinance: _____
44

