

1 Sponsored by: Councilmembers Shawn Bunney and Roger Bush  
2 Requested by: Pierce County Council  
3  
4  
5

6 ORDINANCE NO. 2009-98  
7  
8  
9

10  
11 **An Ordinance of the Pierce County Council Consolidating and Reducing**  
12 **the Complexity of the Pierce County Development**  
13 **Regulations; Modifying the Pierce County Code (PCC) in**  
14 **Response to Recent Court Decisions, Addressing Native**  
15 **Vegetation Retention, Impervious Surface Standards, Vesting**  
16 **Requirements for Stormwater System Design and**  
17 **Construction, Tree Conservation Standards and Other**  
18 **Regulatory Changes; Repealing Chapter 18H.40 PCC, "Tree**  
19 **Conservation"; Repealing the Existing Chapter 18J.15 PCC**  
20 **and Adopting a New Chapter 18J.15 PCC, "Countywide Design**  
21 **Standards and Guidelines"; Amending Title 18 PCC,**  
22 **"Development Regulations – General Provisions," Title 18A**  
23 **PCC, "Development Regulations – Zoning," Section**  
24 **18B.60.090, "Areas of Special Control," Title 18H PCC,**  
25 **"Development Regulations – Forest Practices and Tree**  
26 **Conservation," and Title 18J PCC, "Development Regulations**  
27 **– Design Standards and Guidelines"; Adopting Findings of**  
28 **Fact; and Setting an Effective Date.**  
29

30 **Whereas**, the Pierce County Council initiated a review of measures that could be  
31 taken to stimulate economic growth through Pierce County Resolution No. R2008-77s;  
32 and  
33

34 **Whereas**, in response to Resolution No. R2008-77s, the Pierce County Office of  
35 Economic Development produced the Pierce County Economic Stimulus Report which  
36 was accepted by the Council through Resolution No. R2008-146; and  
37

38 **Whereas**, the Pierce County Economic Stimulus Report identifies a number of  
39 measures that could be taken to stimulate the local economy; and  
40

41 **Whereas**, among other things, the Economic Stimulus Report recommends that  
42 the Pierce County Development Regulations undergo a rigorous review to remove  
43 inconsistencies and improve the application and predictability of the regulations; and  
44

45 **Whereas**, the Pierce County Development Regulations are codified primarily  
46 within the Title 18 series of the Pierce County Code (PCC); and



1  
2       **Whereas**, the Pierce County Development Regulations have become  
3 progressively more complex since their original adoption in 1995 due to increasing  
4 environmental requirements at the state and federal level; adoption of community plans;  
5 and adoption of new regulations in response to emergent issues and Comprehensive  
6 Plan amendments; and  
7

8       **Whereas**, the page volume of these regulations has grown from approximately  
9 370 pages in the year 1999 to approximately 1,500 pages in the year 2009; and  
10

11       **Whereas**, numerous areas of overlap and duplication exist with the Pierce  
12 County Development Regulations; and  
13

14       **Whereas**, Pierce County's last major effort to reform and improve the usability of  
15 the development regulations occurred more than a decade ago in 1997 with the  
16 adoption of Ordinance No. 97-84; and  
17

18       **Whereas**, the Pierce County Council appropriated \$100,000 in the 2009 Pierce  
19 County Budget for the implementation of the Pierce County Economic Stimulus Report,  
20 including consolidation of the Pierce County Development Regulations; and  
21

22       **Whereas**, code simplification and consolidation may result in a more easily  
23 administered development code and greater efficiencies in operation of the Planning  
24 and Land Services Department; and  
25

26       **Whereas**, the Pierce County Council adopted Resolution No. 2009-56 that  
27 directed Planning and Land Services to initiate a process to consolidate and reduce the  
28 complexity of the Pierce County development regulations and provide recommendations  
29 for code consolidation and simplification to the Pierce County Planning Commission and  
30 the Pierce County Council; and  
31

32       **Whereas**, the Pierce County Council adopted native vegetation retention  
33 standards and guidelines and impervious surface standards and guidelines through the  
34 adoption of individual community plans and carried over said standards into countywide  
35 "Directions" standards in response to the listing of Chinook salmon and bullhead trout  
36 as threatened species under the federal Endangered Species Act; and  
37

38       **Whereas**, these standards and guidelines are intended to address water quality  
39 impacts resulting from the development and urbanization of watersheds and the  
40 corresponding impacts to streams and other water bodies which provide habitat for fish;  
41 and  
42

43       **Whereas**, the standards are based upon studies which demonstrate that loss of  
44 vegetation and increases in impervious surfaces within a watershed have a direct  
45 correlation to a loss of water quality within the basin; and  
46



1           **Whereas**, Pierce County's standards for minimum native vegetation retention  
2 and maximum impervious surface coverage are codified in Section 18J.15.030 (PCC)  
3 and vary by zone classification; and  
4

5           **Whereas**, these standards apply uniformly to all development within a given  
6 zone; and  
7

8           **Whereas**, a recent Washington Court of Appeals decision, *Citizens Alliance for*  
9 *Property Rights vs. Sims*, found that a generalized application of native vegetation  
10 retention standards to new development on a generalized basis without conducting a  
11 site specific evaluation to establish the essential nexus and rough proportionality of the  
12 requirement is inconsistent with recent Washington appellate court decisions; and  
13

14           **Whereas**, the Pierce County Hearing Examiner has reached similar conclusions  
15 in recent Pierce County land use decisions; and  
16

17           **Whereas**, in response to these decisions, the Department of Planning and Land  
18 Services has been conducting site specific evaluations of native vegetation retention  
19 needs and impervious surface controls as a component of the departmental review of  
20 land use applications; and  
21

22           **Whereas**, repeal of Section 18J.15.030 PCC and amendments to Sections  
23 18J.30.095, 18J.40.050, 18J.80.050, and 18H.40.045 PCC are necessary to ensure that  
24 the Pierce County Code remains compliant with state and federal law; and  
25

26           **Whereas**, Pierce County will continue to have the ability to conduct site specific  
27 impact assessments through the State Environmental Policy Act (SEPA) environmental  
28 review process and impose mitigation as appropriate; and  
29

30           **Whereas**, requirements for critical area protection pursuant to Title 18E,  
31 Development Regulations – Critical Areas continues to apply and places limitations on  
32 vegetation removal and impervious surface areas when critical areas are present; and  
33

34           **Whereas**, Section 18.160.050 B. PCC specifies that stormwater design and  
35 construction requirements for preliminary plats and use permits are vested at the time of  
36 preliminary plat or use permit application only when an associated site development  
37 permit application is submitted within 180 days of the completed preliminary plat or use  
38 permit application; and  
39

40           **Whereas**, a Washington Court of Appeals decision, *Westside Business Park,*  
41 *LLC. vs. Pierce County*, found that an application for plat approval must be reviewed  
42 under the applicable stormwater regulations in effect on the date a fully completed plat  
43 application is filed; and  
44

45           **Whereas**, in response to this decision, Pierce County vests stormwater design  
46 and construction requirements for preliminary plats and use permits at the time of  
47 complete application submittal for a preliminary plat or use permit; and



1  
2       **Whereas**, amendments to Chapter 18.160 PCC are necessary to ensure that the  
3 Pierce County Code remains compliant with state and federal law; and  
4

5       **Whereas**, the amendments contained in attached Exhibits A and E are intended  
6 to align Chapter 18J.15 and 18.160 PCC with applicable decisions of the state's  
7 appellate courts; **Now Therefore**,

8  
9       **BE IT RESOLVED by the Council of Pierce County:**

10  
11       Section 1. Chapter 18H.40 of the Pierce County Code, "Tree Conservation," is  
12 hereby repealed.  
13

14       Section 2. The existing Chapter 18J.15 of the Pierce County Code is hereby  
15 repealed and a new Chapter 18J.15 PCC, "Countywide Design Standards and  
16 Guidelines," is hereby adopted as shown in Exhibit E, which is attached hereto and  
17 incorporated herein by reference.  
18

19       Section 3. Title 18 PCC, "Development Regulations – General Provisions" is  
20 hereby amended as shown in Exhibit A, which is attached hereto and incorporated  
21 herein by reference.  
22

23       Section 4. Title 18A PCC, "Development Regulations – Zoning" is hereby  
24 amended as shown in Exhibit B, which is attached hereto and incorporated herein by  
25 reference.  
26

27       Section 5. Section 18B.60.090 PCC, "Areas of Special Control," is hereby  
28 amended as shown in Exhibit C, which is attached hereto and incorporated  
29 herein by reference.  
30

31       Section 6. Title 18H PCC, "Development Regulations – Forest Practices and  
32 Tree Conservation," is hereby amended as shown in Exhibit D, which is attached hereto  
33 and incorporated herein by reference.  
34

35       Section 7. Title 18J PCC, "Development Regulations – Design Standards and  
36 Guidelines," is hereby amended as shown in Exhibit E, which is attached hereto and  
37 incorporated herein by reference.  
38

39       Section 8. Findings of Fact are hereby adopted as shown in Exhibit F, which is  
40 attached hereto and incorporated herein.  
41  
42



1 Section 6. This Ordinance shall become effective on \_\_\_\_\_, 2010.

2  
3 **ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, **2009**.

4  
5  
6 ATTEST:

**PIERCE COUNTY COUNCIL**  
Pierce County, Washington

7  
8  
9  
10 \_\_\_\_\_  
11 **Denise D. Johnson**  
12 Clerk of the Council

\_\_\_\_\_

**Roger Bush**  
Council Chair

13  
14  
15 \_\_\_\_\_

**Pat McCarthy**  
Pierce County Executive  
Approved \_\_\_\_\_ Vetoed \_\_\_\_\_, this  
18 \_\_\_\_\_ day of \_\_\_\_\_,  
19 \_\_\_\_\_,  
20 2009.

21  
22 Date of Publication of  
23 Notice of Public Hearing: \_\_\_\_\_

24  
25 Effective Date of Ordinance: \_\_\_\_\_

26

