

**FINDINGS OF FACT**

The Pierce County Council Finds:

1. The Pierce County Economic Stimulus Report, accepted by the Council through Resolution No. R2008-146, recommends that the Pierce County Development Regulations undergo a rigorous review to remove inconsistencies and improve the application and predictability of the regulations and identifies a number of measures that could be taken to stimulate the local economy.
2. The Pierce County Development Regulations have become progressively more complex since their original adoption in 1995 due to increasing environmental requirements at the state and federal level; adoption of community plans, and the response to other development-related issues.
3. There are numerous areas of overlap and duplication which exist within the Pierce County Development Regulations.
4. Pierce County's last major effort to reform and improve the usability of the development regulations occurred more than a decade ago in 1997 with the adoption of Ordinance No. 97-84.
5. The Pierce County Council adopted Resolution No. 2009-56 that directed Planning and Land Services to initiate a process to consolidate and reduce the complexity of the Pierce County development regulations and provide recommendations for Code consolidation and simplification.
6. The Pierce County Council originally adopted native vegetation retention standards and guidelines and impervious surface standards and guidelines through the adoption of individual community plans and integrated these standards and guidelines into a Countywide regulation in 2005 through the adoption of Ordinance No. 2004-58s as part of the "Directions for Protecting and Restoring Habitat" regulatory package.
7. The native vegetation retention standards are based upon studies which demonstrate that loss of vegetation and increases in impervious surfaces within a watershed have a direct correlation to a loss of water quality within the basin.
8. Pierce County's standards for minimum native vegetation retention and maximum impervious surface coverage are codified in Section 18J.15.030 of the Pierce County Code (PCC) and vary by zone classification and applied uniformly to all development within said zone classification.



- 1 9. A recent Washington Court of Appeals decision, *Citizens Alliance for Property*  
2 *Rights vs. Sims*, found that a generalized application of native vegetation retention  
3 standards to new development on a generalized basis without conducting a site  
4 specific evaluation to establish the essential nexus and rough proportionality of the  
5 requirement is inconsistent with recent Washington appellate court decisions.  
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- 7 10. The Pierce County Hearing Examiner has reached similar conclusions in recent  
8 Pierce County land use decisions and not required the replanting of sites.  
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- 10 11. The modification of Section 18J.15.030 PCC and amendments to Sections  
11 18J.30.095, 18J.40.050, 18J.80.050, and 18H.40.045 PCC are necessary to  
12 ensure that the Pierce County Code remains compliant with state and federal law.  
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- 14 12. Vegetation retention is appropriate for proposed developments within Pierce  
15 County's mapped open space corridors as these corridors have been established  
16 as a result of the presence of significant environmental characteristics, including  
17 but not limited to, priority habitat, fish and wildlife and riparian zones, and a clear  
18 nexus exists which supports the retention of native vegetation on parcels within  
19 these open space corridors.  
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- 21 13. Other regulations currently exist that may result in limitations on vegetation  
22 removal and impervious surface in areas outside of open space corridors. Those  
23 regulations are as follows:  
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- 25 • **Title 18E, Development Regulations – Critical Areas** (regulation that protects  
26 erosion, landslide, seismic, volcanic, mine, and flood hazard areas; streams;  
27 wetlands; certain fish and wildlife species and habitat; and aquifer recharge  
28 areas)
  - 29 • **Title 18H, Development Regulations – Tree Conservation Standards**  
30 (regulation that specifies tree unit density standards to reduce surface water  
31 runoff; flood control; provide fish and wildlife habitat; maintain water quality;  
32 cleanse the air; abate noise; and conservation energy)
  - 33 • **Title 18I, Development Regulations – Natural Resource Lands** (regulation  
34 that protects and conserves natural resource land features)
  - 35 • **Title 17A, Construction and Infrastructure Regulations – Site Development**  
36 **and Stormwater Management** (regulation that protects adjacent and/or  
37 downstream property owners from detrimental results compared to pre-  
38 development conditions)
  - 39 • **PIERCE COUNTY STORMWATER MANAGEMENT and SITE**  
40 **DEVELOPMENT MANUAL** (storm water regulation that can be increased by the  
41 Director to protect the health, safety, and welfare of the public on the basis of  
42 information regarding threatened water quality, erosion problems, habitat  
43 destruction, historic flooding, protection of uninterrupted services and  
44 endangerment to property)
  - 45 • **Title 20, Shoreline Use Regulations for Pierce County** (regulation that  
46 provides standards to regulate intensities and qualities of development  
47 consistent with the protection of the shoreline environments)



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- 14. Pierce County will continue to have the ability to conduct site specific impact assessments through the State Environmental Policy Act (SEPA) environmental review process and impose mitigation as appropriate, including imposing requirements for native vegetation retention when such retention is needed to mitigate significant adverse environmental impacts.
- 15. Section 18.160.050 B. of the Pierce County Code specifies that stormwater design and construction requirements for preliminary plats and use permits are vested at the time of preliminary plat or use permit application only when an associated site development permit application is submitted within 180 days of the completed preliminary plat or use permit application.
- 16. Washington Court of Appeals decision, *Westside Business Park, LLC. vs. Pierce County*, found that an application for plat approval must be reviewed under the applicable stormwater regulations in effect on the date a fully completed plat application is filed.
- 17. Amendments to Chapter 18.160 PCC that vest stormwater design and construction requirements for preliminary plats and use permits at the time of complete application submittal for a preliminary plat or use permit are necessary to ensure that the Pierce County Code remains compliant with state and federal law Pierce County.
- 18. All community plans have common design concerns that can easily be addressed on a Countywide level, rather than having varying regulations throughout the County. Where appropriate, these standards should be consolidated to one Countywide standard. Those standards found to be unique to the character of a community should remain.
- 19. This type of consolidation and application of Countywide standard may result in minor increases or decreases in standards and requirements within certain community plan areas; however, in all cases community plan policy objectives will be implemented.
- 20. The Land Use Advisory Commissions were presented the proposed amendments for their review and comment.
- 21. The Pierce County Planning Commission held three public hearings on the proposed amendments. On September 22, 2009, the Commission voted to approve a modified Code package for transmittal to the County Council.