

1 Sponsored by: Councilmembers Roger Bush, Timothy M. Farrell, Stan Flemming, Joyce McDonald,
2 Dick Muri, Dan Roach, and Rick Talbert
3 Requested by: County Council
4
5

6 **ORDINANCE NO. 2011-18**

7
8

9 **An Ordinance of the Pierce County Council Temporarily Allowing**
10 **Extensions of the Expiration Date of Certain Development**
11 **Related Applications, Permits and Approvals in Response to**
12 **the Economic Downturn in the Construction Industry;**
13 **Adopting Procedural Requirements for Such Extensions;**
14 **Adopting Interim Amendments to Titles 18 and 18F of the**
15 **Pierce County Code (PCC), Related to Granting of**
16 **Extensions; Adopting a New Section 2.05.135 PCC,**
17 **Establishing Fees for Extensions; Establishing a Sunset Date;**
18 **Setting an Effective Date; and Adopting Findings of Fact.**
19

20 **Whereas**, the Pierce County Economic Stimulus Report dated September 15,
21 2008, recommends that extensions to the expiration date of preliminary plats be
22 considered by the Council; and
23

24 **Whereas**, the severe downturn in the local, regional, and national housing
25 markets, reduced demand for new housing, tightened credit market, and difficulty
26 obtaining the financing necessary to complete a project, have resulted in a situation
27 where developers of new housing and subdivisions are unable to finalize development
28 proposals in a timely manner; and
29

30 **Whereas**, in order to prevent the expiration of development applications and
31 approvals during the economic downturn, extensions of the expiration dates of certain
32 development related applications and approvals are needed; and
33

34 **Whereas**, the expiration of a development application or approval can have
35 significant financial impacts to a developer and also adversely affects the financial
36 institutions and other investors which have provided financing in support of a
37 development proposal; and
38

39 **Whereas**, the national scale of the housing market downturn and tightening
40 credit markets have severely affected many builders and developers in Pierce County
41 and many of these builders and developers are now struggling financially; and
42

43 **Whereas**, the construction industry is a major employer in Pierce County,
44 accounting for approximately 8.5% of all jobs in Pierce County; and
45



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1 **Whereas**, construction related activity is a significant tax generator and provides
2 much needed revenue to local governments to finance public safety and other needed
3 public services; and
4

5 **Whereas**, Section 18.60.030 of the Pierce County Code provides for extensions
6 of development permit applications including, but not limited to applications for formal
7 subdivision, short subdivision, large lot division, binding site plan, building permit,
8 shoreline substantial development permit, use permit, and variances, but limits the
9 number and duration of such extensions; and
10

11 **Whereas**, Pierce County Code provide for extensions of development permit
12 approvals for certain development approval types, but limits the number and duration of
13 such extensions; and
14

15 **Whereas**, Title 18 PCC sets forth Pierce County's vesting procedures including
16 the duration of vested rights; and
17

18 **Whereas**, providing for additional extensions of certain development related
19 applications and approvals, including the extension of the vested rights associated with
20 these applications and approvals, may aid the local economy by helping the
21 construction industry to weather the economic downturn while preserving the
22 investments made in the development permitting process; and
23

24 **Whereas**, maintaining the viability of development applications and approvals will
25 also help to ensure that the development industry is in a position to respond more
26 quickly once favorable economic conditions return; and
27

28 **Whereas**, the Council previously authorized limited time extensions through
29 Ordinance No. 2008-115s which sunset on July 1, 2009, and Ordinance No. 2009-67s
30 which sunset on December 31, 2009; and
31

32 **Whereas**, Senate Bill 6544 approved by the Washington State Legislature in
33 2010 amended Chapter 58.17 Revised Code of Washington, to temporarily provide for a
34 seven year approval time period for final plats; and
35

36 **Whereas**, the Council desires to extend the period in which time extensions can
37 be sought in response to continued economic challenges; and
38

39 **Whereas**, the Council finds that it is in the best interest of citizens of Pierce
40 County and the local economy to temporarily modify the procedures for extending
41 development related applications and approvals; and
42

43 **Whereas**, the local police power delegated to local governments by Art. XI,
44 Section 11 of the Washington Constitution authorizes interim regulatory controls as
45 have Washington's courts interpreting various sections of the Revised Code of
46



1 Washington; See Matson v. Clark County, 79 Wn. App. 641, 904 P.2d 317
2 (1995); Biggers v. Bainbridge Island, 162 Wn.2d 683; 169 P.3d 14; 2007; and Weden v.
3 San Juan County, 135 Wn.2d 678, 958 P.2d 273 (1998); and
4

5 **Whereas**, the proposed interim regulations are categorically exempt from
6 environmental review under the State Environmental Policy Act (SEPA) pursuant to
7 WAC 197-11-800(20); and
8

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

21
22 **BE IT ORDAINED by the Council of Pierce County:**
23

24 Section 1. PCC18.60.030 C. is hereby amended with the sunset date as
25 provided in Section 10 by adding exceptions as follows:
26

- 27 C. The application shall be deemed null and void if the applicant fails to submit
28 additional information within 180 days of the Department's or Hearing
29 Examiner's request, unless the applicant has been granted a time period
30 extension. The applicant shall be granted a 180-day extension if:
31 1. The applicant requests such an extension in writing prior to the expiration
32 of the initial 180-day time period; and
33 2. The Director or Hearing Examiner finds that unusual circumstances
34 beyond the applicant's control have prevented them from providing the
35 additional information within the initial 180-day time period. Only one
36 extension may be granted.
37

38 **Exception - 24 Month Extension of Active Applications and**
39 **Applications Extended Pursuant to Ordinance Nos. 2008-115s and**
40 **2009-67s.** The applicant or agent of record for any unexpired development
41 application filed prior to January 1, 2011, or any development application
42 previously extended pursuant to Pierce County Ordinance Nos. 2008-115s
43 or 2009-67s, shall be granted a 24-month extension of the application
44 expiration date upon submittal of a written request and payment of
45 required fees as set forth in Chapter 2.05 PCC.
46



1 Upon receipt of a properly filed written extension request, the Department
2 of Planning and Land Services shall notify the applicant or agent of record
3 in writing of the granting of the 24-month extension, including the date on
4 which the extension expires. The 24-month extension shall be calculated
5 from the date that the application would have otherwise expired pursuant
6 to the extensions granted in accordance with Ordinance Nos. 2008-115s
7 or 2009-67s. For all other applications, the 24-month extension shall be
8 calculated from the date on which the extension request was received by
9 the Planning and Land Services Department. In those cases where the
10 extension is requested for the underlying application (parent application),
11 all applications directly associated to the underlying application shall also
12 be extended. In all other cases, the extension shall be limited to the
13 specific application for which the extension is requested.
14

15 Any information requested by Pierce County to complete its review of the
16 subject application must be submitted by the applicant or their agent prior
17 to the expiration of the 24-month extension period. An additional
18 application review fee shall be required at the time of information submittal
19 as set forth in Chapter 2.05 PCC. Failure to submit all requested
20 information prior to the expiration of the 24-month extension period shall
21 result in the application being deemed null and void. No additional time
22 extensions beyond the 24-month extension shall be granted.
23

24 Information requested by the Pierce County Hearing Examiner shall not be
25 subject to time extension unless such an extension is authorized by the
26 Hearing Examiner.
27

28 For purposes of this exception, an application for final plat approval may
29 be considered a development application and shall be eligible to receive a
30 24-month extension as set forth above.
31

32 In no case shall an extension be granted pursuant to this exception for any
33 project located outside of the Urban Growth Area which is not consistent
34 with the allowed uses and density of the rural zone classification in which
35 the project is located.
36

37 **Exception – One-Time Reactivation of Cancelled Applications.**

38 Applications which were cancelled by the Department pursuant to Section
39 18.60.030 PCC between January 1, 2007, and January 1, 2011, shall be
40 eligible for reactivation upon the submittal of a written reactivation request
41 and the payment of the reactivation fee set forth in Section 2.05.135 PCC
42 when all of the following criteria are met:

- 43 1. Cancellation of the application occurred as the result of a failure to
44 submit required information within the time period specified by PCC
45 18.60.030 C.;
- 46 2. No refund of application fees has been issued by the Department for
47 the application being reactivated; and



- 1 3. The use proposed by the application being reactivated is allowed
2 under the zone classification in effect for the project site as of the date
3 of reactivation and complies with density and other bulk standards for
4 said zone classification.
5

6 Upon reactivation, the property owner or authorized agent shall have a
7 maximum of one year from the reactivation date to submit all information required
8 by the Department to complete review of the application. Failure to submit all
9 required information within the 1-year period shall result in the application being
10 cancelled and no further extensions or application reactivation shall be granted
11 by the Department.

12 Section 2. A new Section 18.160.065 PCC, "Extension of Approval," is hereby
13 adopted with the sunset date as provided in Section 10 as follows:
14

15 **18.160.065 Extension of Approval.**

- 16 A. The Department shall grant a one time, 24-month extension to the duration of
17 the approval for unexpired large lots, short plats, binding site plans, and use
18 permits which received final approval and were recorded prior to November 1,
19 2009, any approval previously extended pursuant to Ordinance Nos. 2008-
20 115s or 2009-67s, and any approval reactivated pursuant to Section
21 18.160.085 upon submittal of a written extension request and payment of
22 required fees as set forth in Chapter 2.05 PCC. The 24-month extension shall
23 be calculated from the approval expiration date established pursuant to
24 Section 18.160.060 PCC except for those approvals previously extended
25 pursuant to Ordinance Nos. 2008-115s or 2009-67s. Approvals previously
26 extended pursuant to Ordinance Nos. 2008-115s or 2009-67s shall have the
27 24-month extension calculated from the expiration date established pursuant
28 to said ordinances. In no case shall an extension be granted pursuant to this
29 Section to any project located outside of the Urban Growth Area which is not
30 consistent with the allowed use and density of the rural zone classification in
31 which the project is located. Upon receipt of a properly filed extension
32 request, the Department shall notify the property owner or agent of record in
33 writing of the granting of the 24-month extension including the date on which
34 this extension expires. During the 24-month extension period, Pierce County
35 shall continue to honor the terms and conditions under which the proposal
36 was approved including, but not limited to, zoning and proposed use.
37 B. Final plats previously extended pursuant to Ordinance Nos. 2008-115s or
38 2009-67s shall be eligible to receive a 24-month time extension pursuant to
39 the requirements set forth in subsection 18.160.065 A. above.
40

41 Section 3. A new Section 18.160.085 PCC, "One-Time Reactivation of Expired
42 Approvals," is hereby adopted with the sunset date as provided in Section 10 as follows:
43

44 **18.160.085 One-Time Reactivation of Expired Approvals.**

- 45 A. Any use permit, short plat, large lot, or preliminary plat approval received
46 between January 1, 2007 and June 1, 2010, which has expired pursuant



1 to Section 18.150.060 PCC, shall be eligible for reactivation for the
2 purpose of extension consideration upon the submittal of a written
3 reactivation request and the payment of the reactivation fee set forth in
4 Section 2.05.135 PCC when all of the following criteria are met:

- 5 1. Cancellation of the application occurred as the result of a failure on the
6 part of the applicant to make substantial progress on the project within the
7 time period specified by the approval of Section 18.150.060 PCC as
8 applicable; and
- 9 2. The use proposed by the approval being reactivated is allowed under the
10 zone classification in effect for the project site as of the date of reactivation
11 and complies with density and other bulk standards for said zone
12 classification.

- 13 B. The reactivation of the approval granted pursuant to PCC 18.160.085 A.
14 above shall be for extension consideration only. Upon approval of the
15 reactivation, the property owner or authorized agent shall have 60 days
16 from the reactivation date to submit a request for time extension pursuant
17 to Section 18.160.065 PCC. Failure to submit a request for extension
18 within the 60-day period shall mean that the approval shall remain in an
19 expired state and no further reactivation or extensions shall be granted. In
20 the event that the extension requested pursuant to Section 18.160.065
21 PCC is denied, the approval shall be returned to an expired state and no
22 further reactivation or extensions shall be granted.

23
24 Section 4. PCC 18F.40.070 A.1. is hereby amended with the sunset date as
25 provided in Section 10 by adding an exception as follows:

26
27 **18F.40.070 Preliminary Plats-Time Extensions.**

28 **A. General Requirements.**

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

32 Exception: A 24-month time extension may be granted by the Hearing
33 Examiner in lieu of, or in addition to any previously granted time extension
34 for any unexpired preliminary plat approved prior to November 1, 2009,
35 which would otherwise expire prior to December 31, 2013. In no case,
36 however, shall a 24-month extension be granted pursuant to this
37 exception to any preliminary plat located outside of the Urban Growth
38 Area which is not consistent with the allowed use or density of the rural
39 zone classification in which the project is located.

40
41 Section 5. PCC 18F.50.050 A.2 is hereby amended with the sunset date as
42 provided in Section 10 by adding an exception as follows:

43
44 **18F.50.050 Final Short Subdivisions and Final Large Lot Division Requirements.**

45 **A. Time Limitations.**

46



1 2. A proposed final short subdivision or final large lot division shall be
2 submitted to the Planning Department within three years of the effective
3 date of preliminary short subdivision/large lot division approval. The
4 Department shall review the proposed final short subdivision/large lot
5 division for compliance with the conditions of preliminary approval as set
6 forth in 18F.50.050 D.

7
8 Exception: Any unexpired preliminary short subdivision/preliminary large
9 lot division approved prior to November 1, 2009, shall be granted a 24-
10 month extension to the time period in which to submit a final short
11 subdivision/final large lot division upon submittal of a written request and
12 payment of required fees as set forth in Chapter 2.05 PCC. The extension
13 request and required fees must be submitted to the Department prior to
14 the date upon which the approval would otherwise expire. Upon receipt of
15 a properly filed extension request, the Department shall notify the property
16 owner or agent of record in writing of the granting of the 24-month
17 extension including the date on which this extension expires. The 24-
18 month extension shall be calculated from the original expiration date or the
19 expiration dated previously established by Ordinance Nos. 2008-115s and
20 2009-67s, as applicable. Failure to submit an extension request prior to
21 the expiration date of the preliminary short plat/preliminary large lot shall
22 result in the preliminary short plat/preliminary large lot approval being
23 deemed null and void. In no case shall an extension be granted pursuant
24 to this exception to any project located outside of the Urban Growth Area
25 which is nonconforming to the use or density of the rural zone
26 classification in which the project is located.

27
28 Section 6. For purposes of time extensions pursuant to Titles 16, 17C, 18, 18A,
29 and 18F of the Pierce County Code, the Council declares that the current economic
30 downturn is an unusual circumstance outside of an applicant's control and shall serve
31 as adequate justification for the granting of time extensions by the Director or the Pierce
32 County Hearing Examiner, as appropriate. Time extensions that are granted pursuant
33 to this declaration shall continue to be subject to the conditions of approval and vested
34 rights that applied to the application or permit prior to the extension. No new conditions
35 shall be imposed except in those circumstances where the Council determines by
36 Ordinance that additional conditions are necessary to address a serious threat to the
37 public health, safety or welfare. This declaration by the Council shall remain in effect
38 until November 1, 2011.

39
40 Section 7. This Ordinance shall not apply to any action associated with a
41 violation of Pierce County Code and shall not authorize time extensions for information,
42 applications, permits, or other actions required as a result of such violations. Further,
43 this Ordinance shall not preclude or otherwise alter Pierce County's authority to
44 suspend or modify vested rights when necessary to address an issue of public health or
45 safety pursuant to a formal declaration of the Pierce County Council.



1 Section 8. A new Section 2.05.135 of the Pierce County Code, "Fees for
2 Extensions Granted Pursuant to Ordinance No. 2011-18," is hereby adopted as follows:
3

4 **2.05.135 Fees for Extensions Granted Pursuant to Ordinance No. 2011-18.**

- 5 A. Application extension pursuant to Section 1. of Ordinance No. 2011-18:
6 1. Request for application extension\$ 155.00
7 2. Applications extended pursuant to Ordinance No. 2011-18 shall be subject to
8 a one-time review/resubmittal fee equal to 25 percent of the fee originally
9 assessed for the application being extended. In those cases where the
10 underlying application (parent application) and associated applications are
11 being extended, a single fee shall be assessed based upon the original fee
12 for the underlying application (parent application) only. The required fee(s)
13 shall be collected at the time of the submittal of supplemental application
14 information pursuant to Section 18.60.030 following the granting of the
15 extension and shall be in addition to the fee set forth in subsection 2.05.135
16 A.1. above.
17 B. Extension of approval pursuant to Section 2. of Ordinance No. 2011-18:
18 1. Extension of approval-Use Permit.....\$ 810.00
19 2. Extension of approval-Final Large Lot/Short Plat.....\$ 235.00
20 3. Extension of approval-Final Plat/Binding Site Plan\$ 470.00
21 C. Extension of preliminary plat approval pursuant to Section 4. of Ordinance No.
22 2011-18:
23 1. Preliminary plat extension.....\$ 470.00
24 D. Extension of short plat/large lot approval pursuant to Section 5. of Ordinance
25 No. 2011-18:
26 1. Short plat/large lot extension\$ 235.00
27 E. Expired Application Reactivation Fee pursuant to Section 1. of Ordinance No.
28 2011-18:
29 1. Expired Application Reactivation. 30 percent of original application fee
30 F. Expired Approval Reactivation for Extension Consideration pursuant to Section
31 3. of Ordinance No. 2011-18:
32 1. Expired Approval Reactivation\$ 310.00*

33 *Note: Reactivation is for purposes of considering extension of the approval only.
34 The request for extension shall be subject to a separate extension fee as set forth in
35 this Chapter.
36

37 Section 9. Findings of Fact as set forth in Exhibit A are hereby adopted and
38 incorporated herein by reference.
39

40 Section 10. Sections 1. through 5. of this Ordinance shall sunset on
41 November 1, 2011, provided, however, that any time extension or suspension approved
42 prior to the sunset date shall remain in effect for the duration of said extension or
43 suspension. Any time extension or suspension submitted in accordance with the
44 provisions of this Ordinance and prior to the sunset date shall be processed in
45 accordance with the provisions set forth herein.
46
47



1 Section 11. This Ordinance shall become effective on May 15, 2011.

2
3 PASSED this 19th day of April, 2011.

4
5 ATTEST:

PIERCE COUNTY COUNCIL

Pierce County, Washington

6
7
8 Denise D. Johnson

9
10 **Denise D. Johnson**

11 Clerk of the Council

Roger Bush

12 **Roger Bush**

13 Council Chair

14 Pat McCarthy

15 **Pat McCarthy**

16 Pierce County Executive

17 Approved Vetoed , this

18 27 day of April,
19 2011.

20
21 Date of Publication of

22 Notice of Public Hearing: March 23, 2011

23
24 Effective Date of Ordinance: May 15, 2011

