

AGENDA

Clallam County Planning Commission

Virtual/Audio PC Meeting of February 2, 2022 6:00 p.m.

The Clallam County Planning Commission will conduct a regularly scheduled meeting appearing via Zoom video conferencing. No in-person meeting will be held at this time due to the ongoing Covid-19 pandemic. To appear by Zoom please visit <https://zoom.us/join> or call (888) 475-4499 or (253) 215-8782, then enter Meeting ID: 884 8360 2640 and Passcode: 12345.

The information provided to the Commission in preparation for this meeting is available at: <https://websrv7.clallam.net/forms/uploads/PlanningCommissionPacket.pdf>

- A. CALL TO ORDER**
- B. PLEDGE OF ALLEGIANCE**
- C. ROLL CALL**
- D. WELCOME**
- E. APPROVAL OF MINUTES:**
- F. ANNOUNCEMENTS** – vacancy in District 2
- G. PUBLIC COMMENT** – Please Limit Comments to Three Minutes
- H. UNFINISHED BUSINESS** – Nomination and Election of Chair and Vice-Chair
- I. PUBLIC HEARING: NONE**
- J. WORK SESSION ITEMS:** Proposed Forestry Ordinance, Peirce County example
- K. PUBLIC COMMENT** – Please Limit Comments to Three Minutes
- L. ADJOURNMENT**

Members:

Chair, Jane Hielman & Vice-Chair

Robert Miller; Steve Gale; Ron Long; N. Bonnie Booth; M. Ingrid Carmean; Philip Giuntoli; Jeff Carter

Department of Community Development Staff:

Donella Clark, Principal Planner, Greg Ballard, Senior Planner

MINUTES

Clallam County Planning Commission

Virtual Meeting of January 5, 2022 at 6:00 PM

- A. CALL TO ORDER: The meeting was called to order at 6:00 p.m.
- B. PLEDGE OF ALLEGIANCE.
- C. ROLL CALL: Members present were Chair Jane Hielman, Vice-Chair Clausen, Robert Miller, Steve Gale, Ron Long, N. Bonnie Booth, M. Ingrid Carmean and Philip Giuntoli. Mary Ellen Winborn, Director; Donella Clark, Principal Planner; Greg Ballard, Senior Planner; represented staff from the Department of Community Development.
- D. WELCOME: Chair Hielman welcomed all in attendance
- E. APPROVAL OF MINUTES: December 1, 2021
- F. ANNOUNCEMENTS: Jane Heiman, Ingrid Carmen, and Bonnie Booth discussed the upcoming visit of the Bayside Housing project in Port Townsend. They also discussed their meeting with Mary Ellen Winborn about Future Housing.
- G. PUBLIC COMMENT PERIOD: Ed Bowen asked why the DCD Director was not present, and whether DCD is meeting their obligations to enforce forestry regulations as outline in the County Charter. He also questions why DCD has brought back this issued after over 10 years, and whether the county has an obligation to do COHP. He also pointed out the comment made by Ted Allison with Department of Natural Resources in the packet.
- H. UNFINISHED BUSINESS: None.
- I. PUBLIC HEARING ITEM: None.
- J. WORK SESSION ITEMS: Greg Ballard, Clallam County DCD provided a discussion on forestry and the responsibilities of DNR to require Forest Practice Application (FPA) on any property over 2.5 acres regardless of their zoning or whether the property is within a timber taking program. It was also discussed that once a FPA is required that the landowner must state whether they will be continuing the property in forestry use, which requires DCD to not issue development permits on the harvest area and requires DNR reforestation requirements to be met. If the landowner indicates that they want to convert the property from forestry use to obtain development permits (i.e. building, septic, land divisions, etc) on the harvest area they are currently required to obtain a Class IV General Conversion from DNR (with DNR fee of \$1,500). For these permits DNR asks DCD whether they want to be lead for SEPA to ensure that Clallam County Codes can be met.

DCD were processing Conversion Option Harvest Permits (COHP) until around 2016, which provided landowners the ability prepare a plan and obtain development permits within 6 years of the harvest (examples were provided in the January 5, 2022 PC Packet). These COHP (DCD fee of \$500) and their requirements were being implement through a Class III FPA (with a cost from DNR of \$100). DNR had issue that COHP were allowing people to convert their property from forestry use within 3 years of the harvest without doing SEPA. Around 2016 DNR changed the FPA form to indicated that COHP could only occur within Urban Growth Area, and DCD stopped processing COHP outside of UGA and all conversions were occurring through a Class IV General FPA. Ted Allison, DNR provided an e-mail in the packet that DNR was generally support of COHP and did not see a requirement that they only occur within UGA. The conversion forestry ordinance also has a process to lift the 6 year development moratorium, which is currently only addressed in the Critical Areas Code for the harvest within critical areas.

Jeff Carter ask whether the harvesting of trees on residential lots is a current requirements being enforce. He also asked whether if you already have a house and development on a parcel whether a development moratorium. Staff indicated that the moratorium would only apply to timber harvest areas and would not impact someone who already had development on the parcel since they don't need development permits. Ingrid Carmean indicated that when COHP are being reforested they should be required to plant different trees species that represent the pre-harvest conditions. Ron Long indicated that he questioned whether the county should take over the Class IV general Conversion FPA from DNR based on the additional resources need by DCD to undertake this. Staff indicated that the process for the county to take over the Class IV General FPA was forwarded from DNR and that staff did not think we should pursue this endeavor. The PC indicated that they were generally supportive of having this conversion forestry ordinance brought back to them.

K. PUBLIC COMMENT PERIOD: Ed Bowen asked whether these plans would have to be prepared by a forester (like Forest Management Plans). Ken Readeau indicated that he had gone through the process for a 1 acre area and that the current process was smooth. He also thought the landowner should be able to choose the trees that are most appropriate and in his case the reforested areas should be planted in alders and hemlocks trees.

L. ADJOURNMENT: The meeting adjourned around 7 p.m.

27.11.100 Purpose/Introduction:

Timber management is regulated under the Forest Practices Act (RCW 76.09). A forest practice permit is required for the removal of 5,000 board feet or more of merchantable timber. This is the equivalent of approximately one standard log truck load of logs.

The Forest Practices Act (FPA) was enacted by the state legislature in 1974 to protect public resources while maintaining a viable forest products industry. Soon after, the Forest Practices Rules (FPR), Title 222 of the Washington Administrative Code (WAC), was developed in order to implement the objectives in the FPA.

Since 1974, the state Department of Natural Resources (DNR) has regulated timber management and the harvest of merchantable timber for commercial purposes under the FPR based on the type of forest practice permit or "class." Parcels over 2.5 acres in size are subject to a FPA regardless of the zoning district or if it is enrolled in a timber taxing program. In 1997, the FPA was amended giving authority to each city and county to exercise jurisdiction over all Class IV General forest practices. Under this type of forest practice permit, the harvest of merchantable timber is associated with the conversion of property to a use other than forestry.

Generally, DNR manages long-term forested land under the FPA and FPR, which are typically exempt from local government regulations, but would be subject to a 6 year development moratorium and reforestation requirements. Local government oversees forest lands that have a likelihood of future conversion to urban development (a non-forestry use) and regulates it under the Growth Management Act, and locally adopted comprehensive plans and their associated development regulations. Lands considered likely to be converted include:

- Lands within UGAs (except where the landowner has committed in writing to long-term forest management)
- Lands where the landowner has indicated intent to change from forestry to non-forestry use.

If all or a portion of the harvest areas are converting from forestry use, future development would be subject to the Critical Area requirements (per Section 27.12.035(10) CCC, and other county regulations. Currently all conversions are reviewed through a Class IV General Conversion reviewed by DNR. This includes a SEPA Threshold Determination that the local jurisdiction can take the SEPA lead to ensure that the County regulations are met.

This ordinance is to provide guidance and additional options for the transition from forestry to non-forestry use. This includes establishing the process to lifting the 6 year development moratorium, and provides standards for a Conversion Option Harvest Plan, which is a voluntary plan developed by the landowner and reviewed by the county. A COHP meeting county requirements provides the landowner additional options for the issuance of development permits within 6 years of timber harvest.

27.11.200 Definition:

Except as provided for in this section, this chapter will use existing definitions which are already in common use regarding the subject of forest practices. This shall include all the definitions contained in the Washington State Forest Practices Act (RCW 76.09.020), Rules for the Washington State Forest Practices Act (WAC 222-16), and the Clallam County Code.

(1) "Conversion from Forestry Use/Commercial Timber Management" or "Conversion" means any timber harvest requiring a Class IV General Forest Practices as defined by RCW 76.09.050. This refers to the cutting and removal of trees for the purpose of converting forest land to a use incompatible with forestry use or commercial timber management. Reforestation (per WAC 222-34) may not be required for these conversions. This term does not include COHP.

(2) "Conversion Option Harvest Plan (COHP)" means a voluntary plan developed by the landowner and approved by Clallam County, indicating the limits and types of harvest areas, size and type of trees to be retained, road locations, critical area buffers, and details including the location of the non-forest related use if known. This approved plan, when submitted to the Department of Natural Resources as part of the forest practice application

and followed by the landowner, maintains the landowner's option to convert to a use other than commercial forest product production (releases the landowner from the six-year moratorium on future development).

(3) "Development moratorium" means Clallam County shall deny any and all applications for uses incompatible with forestry use for a period of time established in Chapter 76.09 RCW.

(4) "Continued Forestry Use/Commercial Timber Management" refers to the cutting and removal of trees, usually through a Class II, Class III and Class IV special forest practices (as defined by RCW 76.09.050 & WAC 222-16-050), the harvested areas is retained in commercial timber management, and may be subject a development moratorium ~~(if not if the timber taxing program)~~. Depending on the size and number of trees retained, these FPA may require reforestation per WAC 222-34. With the exception of Forest Management in within the jurisdiction Clallam County Shoreline Master Plan, the county has limited regulatory authority for certain types of forest practices per RCW 76.09.240(1) & WAC 222-20-040(3).

27.11.300 Forest Practices – General Regulations.

(1) **Applicability.** Forest Practices (including road construction) subject to Chapter 76.09 RCW, the Washington State Forest Practices Act and its implementing regulations at WAC Title 222 conducted within all land use districts shall be subject to the provisions of this chapter. However, only Conversions, Lifting Development Moratoriums, & COHP, which are addressed in Sections 27.11.400, 500, & 700 below, are subject to a Forestry Permit from Clallam County. Also subject to the ~~2018~~2021 Shoreline Master Plan.

(2) **Application requirements for Clallam County Forestry Permits.** An application for Type I, II, & III Forestry Permits including Conversions, lifting development moratoriums, and COHP shall be submitted to the ~~administrator in~~DCD for review and approval on a form to be determined by the DCD Administrator (administrator). The application shall include:

- (a) The application checklist, including a legal description of the property;
- (b) The signature of the landowner of the property giving consent of the processing of the permit.
- (c) A written narrative specifying the proposed timber harvest addressing each applicable standards of this section and other applicable Clallam County Codes (such as critical areas)
- (d) A description and map describing legal access to the property.
- (e) Written authorization from the property owner agreeing to permit Clallam County to access the property to ensure compliance with the non-forestry-related conditions of the Forestry Permit issued by the WDNR.
- (f) The application ~~fees~~fees are outlined in the Clallam County DCD Planning Division Fee Schedule;

(3) **Site Plan requirements for Clallam County Forestry Permits.** The following shall be depicted either in required narrative above and/or on the site plan detailing the following (as applicable):

- (a) Location of existing and proposed roads, yarding areas, and access points;
- (b) The general description of the topography of the entire site (including slope direction and percent slope);
- (c) General location of dominant plant type (i.e. trees, shrubs, grassland);
- (d) A general description of the type and size/age of trees located on the site;
- (e) General location and type of soils;
- (f) Location and type of water bodies, drainage ways, or wetlands;
- (g) Location and type of critical areas (see Chapter 27.12 CCC);
- (h) Critical Area Buffers where trees/vegetation will be retained
- (i) How the proposal complies with all of the requirements of the Critical Areas Code, Chapter. 27.12 CCC
- (j) Areas where trees/vegetation will be retained including snags
- (k) Approximate limits of harvest area;
- (l) General location & intended non forestry use(s), if known;
- (m) Areas to be reforested
- (n) Location and approximate dimensions of all clearcut areas; and
- (o) Parcel boundaries and dimensions;

(4) **Criteria for Type I, II & III County Forestry Permits.** Type I, II, & III Forestry Permit shall be reviewed by the County, and the administrator shall approve, approve with conditions, or deny the application based on consistency with the following (following criteria):

- (a) The applicable standards of this title;
- (b) The Comprehensive Plan, CCC Title 31;

- (c) The Zoning Code, CCC Title 33;
- (d) The 2021 Shoreline Master Program;
- ~~(e) The Floodplain Management Code, Chapter 32.01 CCC;~~
- (f)(e) The Environmental Policy Code, Chapter 27.01 CCC;
- (gf) The Critical Areas Code, Chapter. 27.12 CCC;
- (g) The Stormwater Ordinance, Chapter 27.14 CCC
- (h) The Consolidated Permit Process Code, Chapter 26.10 CCC;
- (i) The public health, safety, welfare, use and interest.
- (j) The proposed action is consistent with land uses within the zoning district in which it is located and in the vicinity of the subject property.
- (k) (The proposed action will have not result in significant adverse impact on the surrounding land uses which can not be mitigated through the application of reasonable conditions.
- (l) Forest Practices Law found in RCW 76.09 and as implemented through the Forest Practice Act (WAC 222)

(5) **Emergency Conditions.** No prior notification or application shall be required for emergency forest practices necessitated by and commenced during or immediately after fire, windstorm, earthquake, structural failure or other catastrophic event. Within 48 hours after commencement of such practice the operator shall submit an application or notification to the WDNR with an explanation why emergency action was necessary so that the WDNR may evaluate the appropriateness of the "emergency" and of the actions taken. Such emergency forest practices are subject to Chapter 76.09 RCW, WAC Title 222, and county authorities derived from them (including the requirements of this code); provided, that the operator:

- (a) May take any reasonable action to minimize damage to forest lands, timber or public resources from the direct or indirect effects of the catastrophic event; and
- (b) Shall comply with any requirements of a notice to comply or stop work order as if the operations were conducted pursuant to an approved application. (RCW 76.09.060(7); WAC 222-20-070.)

(6) **Harvesting Timber without a Permit.** When harvesting takes place without a permit, except as provided in subsection (5) of this section, the county may impose the six-year moratorium of subsection 27.11.500(1) of this section from the date the unpermitted harvesting was discovered by the WDNR or the county. If the land is converted to non-forestry use, this also constitutes an illegal conversion that is subject to the enforcement provisions of subsections 27.11.600(iii) of this section. (RCW 76.09.060(3)(b)(i)(C) and (iii).)

27.11.400 Conversion from Forestry Use to Non-Forestry Use.

(1) **Purpose.** A Class IV General forest practices involve the conversion of forested lands to non-forestry uses, or forest operations being conducted on lands with a high likelihood for conversion to non-forestry use, such as in a designated urban growth areas.

(2) **SEPA Required.** (With the exception of a Class I FPA within an Urban Growth Area), Conversions (implement through a Class IV General Forest Practice Permits) shall require SEPA environmental checklist per RCW 43.21C.037. The County will take the lead for the SEPA Threshold Determination when it is necessary to ensure that Clallam County Codes area met.

(3) **Higher Level of Review.** Environmental review and conditioning of Class IV General forest practice applications is intended to be at a higher level than for continuance of forestry use, or a timber harvest meeting the COHP standards. The conversion of forested lands to non-forestry uses also entails the transition of the subject lands from being exempt from critical areas to being subject to the critical areas and other requirements of the Clallam County Codes (CCC).

(4) **Applicability.** Applications involving any of the following circumstances are considered Class IV General:

- (a) Lands that have been or are being converted to non-forestry use;
- (b) Forested land on parcels that are 2-1/2 acres or smaller in size;
- (c) Lands with a likelihood of future conversion to urban development within the next 10 years; and
- (d) Forest practices that would otherwise be Class III, but are taking place on lands that are not to be reforested because of the likelihood of future conversion to urban development (WAC 222-16-060 & 222-34-050).

- (e) All Class I, Class II (including timber harvest and road construction) and Class III forest practice applications in any designated unincorporated urban growth area.

(5) Continuing Forestry in Urban Growth Areas. Forest practices within a designated UGA require a Class IV General permit unless:

- (a) The landowner submits a signed statement of intent not to convert for 10 years, with an application, accompanied by either a written forest management plan acceptable to the WDNR or documentation that the land is enrolled under the provisions of Chapter 84.33 RCW (i.e., proof of forest tax class status). A mandatory development moratorium shall be applied (see subsection 27.11.500(1) of this section); or
- (b) A COHP approved by Clallam County is submitted to the WDNR as part of an application.

27.11.500 Regulations Governing Continuance of Forestry Use.

(1) Mandatory Six-Year Development Moratorium. The cutting and removal of trees through a Class II, Class III and Class IV special forest practices (as defined by RCW 76.09.050 & WAC 222-16-050), where the Forest Practice Application (FPA) indicates that the harvested areas is retained in forestry use/commercial timber management, will be subject a development moratorium imposed under the WAC 222-20-050(3) and RCW 76.09.060(3)(d). ~~A moratorium is typically not required if the subject property is in the timber taxing program. However, regardless of whether a development moratorium is recorded with the Clallam County Auditor's office,~~ For a period of six years from the date the DNR Forest Practice Application was approved and/or timber harvest, the county shall deny and all applications for all uses incompatible with forestry use, including but not be limited to building permits, septic system permits, subdivision approvals of areas subject to the application. (RCW 76.09.060(3)(b)(i),(ii), and (iii)).

(2) Exceptions to Development Moratorium. The following are not subject to a Development Moratorium:

- (a) A Class IV General FPA
- (b) A COHP approved by Clallam County, provided that the provisions of the COHP are implementation through the FPA issued by DNR.
- (c) Approved Class II, III or IV Special FPA applications that have either been withdrawn or expired, and no harvest in reliance upon such approval has taken place.
- (d) ~~Areas (minimum 1 acres in size)~~ where no timber was harvested under the FPA
- (e) Expansions, alterations, or maintenance of existing structures or the construction of accessory structures within developed areas (i.e. area not in forestry use as documented by current use or taxing program,)
- (f) Land Divisions/Boundary line adjustments done for purposes of conservation of open space/natural areas or on portions of the property where no timber harvest occurred.

(3) Release of Moratorium.

(a) Process & Notice. A property owner can wait until the required time period expires or apply to have the development moratorium released. The moratorium can be released for the construction of a single-family residence or for a development proposal other than a single-family residence.

(i) The administrator may "release" the development moratorium for the construction of one single-family residence and related accessory buildings on a legal lot and building site subject to a Type II review.

(ii) A release from a development moratorium, other than a single-family residence and related accessory buildings shall be subject to a Type III quasi-judicial procedure.

(iii) Prior to taking action on a request for release, and following the Type II or Type III procedure, the administrator provide notice as provided by Section 26.10.410 CCC. This shall include shall soliciting comments from adjacent owners (per Section 26.10.410(2)(a),(b)&(c) CCC); appropriate federal/state departments, and tribal governments.

(b) Criteria for release of moratorium. A release of development moratorium through a Type II or III process (see above) is subject to the following findings:

- (i) The person requesting the release did not attempt to avoid the county review or restrictions of a conversion forest practices application, which may be demonstrated by a transfer of property;

- (ii) Environmentally sensitive areas and their buffers, and shoreline area as set forth in this code and the Shoreline Master Program were not damaged in the forest practice operation, or that any such damage is repairable with restoration; and
- (iii) Corrective action can be undertaken to provide for compliance with applicable conversion standards established by this section which shall include the preparation of the applicable report to address the critical area impacted per Sections 27.12.800 to 865 CCC. This shall at a minimum ensure the restoration of an area twice the required major development buffers (specified in Chapter 27.12 CCC) protected in perpetuity. Another option would be to obtain critical area permits (per Sections 27.12.700 to 740 CCC) that the proposal would have been required subject to meet since this activity is no longer exempt from the critical areas review under 27.12.035(10). If the timber harvest has already impacted the critical areas, the required review of the critical areas permits shall be reviewed as if the timber harvest has not occurred and the critical areas were in their pre-harvest condition.
- (iv) The harvest of trees through a Class II, or III, or IV Special FPA did not undermine the County's ability to efficiently ensure the transition from forestry to non-forestry use. The removal of trees shall be coordinated with the likely subsequent use of the property (i.e. require landscaping buffers/screening between uses).

27.11.600 Illegal Conversions, and Enforcement.

(1) Conversion without a Class IV General Permit or COHP.

- (a) If land is converted to a use other than commercial forest product operations within six years after approval of a forest practices permit application that was not a Class IV General or did not have an approved COHP, the conversion constitutes a violation of each of the local and regional authorities to which the forest practice operations would have been subject if the application had stated that conversion was intended. (RCW 76.09.060(3)(b)(iii).)
- (b) The county shall impose the six-year moratorium of section 27.11.500(1) of this section from the date the unpermitted conversion was discovered by the WDNR or the county. (RCW 76.09.060(3)(b)(i)(C).)
- (c) Violations may be subject to civil or criminal penalties, as per Chapter 222-46 WAC. The county may also enforce its regulations as provided in subsection (1)(a) of this section, using the procedures in Sections 33.59 and 27.12.055 CCC.

(2) Failure to Comply with Reforestation Requirements.

- (a) It is the responsibility of DNR to ensure that reforestation WAC 222-34 occurs on lands devoted to continued forestry use (per 27.11.500 of this chapter). However, if reforestation does not occur within these areas or on areas required under the county forest permit requirements, the county may also enforce its regulations as provided in subsections (1) of this section.
- (b) Failure to reforest may also constitute a removal of forest tax designation and a change of use, and shall subject the lands to the payments and/or penalties resulting from such removals or changes. (RCW 76.09.060(3)(b)(ii).)

27.11.700 Conversion Option Harvest Plan (COHP)

(1) Purpose of COHP.

- (a) A COHP is a voluntary plan developed by the landowner and reviewed by the county. A COHP provides landowners the option to thin forested areas to promote the health of the stand, allow roads improvements to be made to serve the timber harvest and future uses, clear trees from anticipated development areas or to provide view corridors, while maintaining the option to obtain non-forestry related permits in the near future. A COHP also maintains wildlife diversity by maintaining a diverse mix of tree and understory. A COHP also requires minimizing the disturbance of the forest duff layer, which should minimize wind and water erosions and maintain the natural infiltration rate of the area. By minimizing disturbed areas this may avoid the need for costly temporary erosion and sediment control Best Management Practices & Plans. Any harvest of trees shall be done accordance with the approved plans. Currently this approved plan is submitted to the WDNR as part of a Class II, Class III, or Class IV special forest practice application, and is attached to and becomes part of the conditions of the permit approved by the WDNR.
- (b) If the requirements of the COHP are continuously met by the landowner, the COHP maintains the landowner's option to convert to a use other than commercial forest product production; that is, it releases the landowner from the six-year moratorium on future development (see subsection 27.11.500(1) of this section)

without having to file a Class IV General application. (WAC 222-20-050(2)). Failure to meet the requirements of the COHP requires the imposition of the six-year moratorium, and conversions under such circumstances are illegal conversions; see subsection 27.11.600 of this section.

(2) **SEPA Requirements for COHP.** Both Type I & II COHP implemented through a Class II or III FPA by DNR are exempt from requiring a SEPA environmental checklist per RCW 43.21C.037, when developments permits are not proposed within three years of the date of the timber harvest requiring a FPA from DNR.

If development permits are proposed within 3 years of the date of the timber harvest requiring a FPA from DNR, the county will issue a SEPA Threshold Determination as part of the processing of the COHP.

(3) **COHP Standards.** All COHP that meet the following minimum standards shall be subject to a Type I review:

- (a) No more than 40 percent of the number of standing merchantable trees and trees 12 inches diameter-at-breast-height (dbh) or greater may be harvested under a COHP. With the exception of required roads, all stumps and understory shall remain undisturbed as much as possible. No brush raking is permitted. Additional harvesting within six years from the date the COHP harvest is completed will require a Type II or Conversion Forestry Permit by the county and a FPA permit from DNR.
- (b) Unless DCD determines buffers are not needed to protect aesthetics of the area and to ensure compatibility with adjoining uses, a 50-foot-wide buffer shall be preserved along public and private road, and property lines abutting non resource lands. When required, no more than 40 percent of the total number of standing merchantable trees and trees 12 inches dbh or greater may be removed within the buffer.
- (c) All roads in a COHP shall be designed to accommodate the potential for future development and subdivision of the property. Roads and skid trails shall minimize total road length. All roads in a COHP intended to serve future land divisions shall meet the design and construction standards specified in Chapter 29.30.200 CCC. All roads which propose to cross a stream shall be required to obtain an hydraulic project approval (HPA) permit, as determined by the Washington Department of Fish and Wildlife, prior to submittal of the COHP.
- (d) A COHP shall minimize the number and size of clearcut areas. No individual clearcut areas may exceed 20 percent of the total acreage, up to a maximum of two acres. The future removal of stumps, clearing of duff/understory, or grading or clearing will require compliance with the Clallam County Stormwater Ordinance (CCC 27.14).
- (e) The proposal complies with all of the requirements of the Critical Areas Code, Chapter. 27.12 CCC
- (f) The proposed timber harvest or road construction is not located within an area designated as Geologically Hazardous per Section 27.12.410 CCC.
- (g) All trees over 125 years old shall be retained where practical. Snags shall be retained where they do not pose a safety hazard.
- (h) Trees remaining on the site after the harvest will represent all species and size classes existing on the site before harvest, unless it is determined by DCD with consultation from DNR & WDFW that the removal of all of a specific tree would promote the health of the forest stand. Examples of this included removing a species of trees with a disease (like Douglas fir with laminated root rot) or a stand of alder that has met it full potential tree height. If these areas are not intended to be utilized for non-forest uses they shall be reforested at 300 to 400 trees per acre meeting the requirements found in Chapter 222-34 WAC. Areas requiring reforestations should include a variety of tree species that mimics the species that were present prior to the harvest, provides diverse forestlands/bio-diversity, and are appropriate the on-site conditions/constraints.
- (i) Trees remaining on the site will be of sufficient quality (good crown cover, deep root system, and healthy condition) to survive after the harvest is complete.
- (j) All required buffers shall be flagged and approved prior to harvesting.
- (k) No portion of the proposed harvest is classified as designated forest land or is located within a forest resource land use district;

4. **Maximum Thresholds for Type II COHP.** Exceeding the standards stated in Section (3) above shall be subject to a Type II Forestry Permit from DCD. A Type II COHP shall meet the Standards of Section 3 above to the greatest extent feasible, except that the following thresholds shall not be exceeded:

- (a) No timber or road construction shall occur within geologically hazardous areas unless the applicant can demonstrate that the proposed activity will not adversely impact the geologically hazardous area. This may

include submitting a geotechnical report meeting requirements of Section 27.12.820 CCC to DCD for review and approval.

(b) A minimum of 100 well distributed trees per acres, which represent the largest size and class trees shall be retained on-site, or a maximum of 75 percent of the number of standing merchantable trees and trees 12 inches diameter-at-breast-height (dbh) or greater may be harvested under a COHP (whichever retains more large trees)

(c) A maximum of 50 percent of the total acreage may be clear-cut. The future removal of stumps, clearing of duff/understory, or grading or clearing will require compliance with the Clallam County Stormwater Ordinance (CCC 27.14).

(d) Exceeding these thresholds shall require the timber harvest to be processed as a Conversion subject to the provisions of Section 27.11.400 of this Chapter.

5. Implementation of COHP. DNR shall review and take action on all permit applications that have approved COHPs attached within 30 days from the date of a complete application. Failure of the WDNR to take action within 30 days shall result in the COHP plan being approved as submitted. All COHP harvest activities shall be completed within two years from the date the COHP forest practice permit is issued by the WDNR.

(a) Failure to Comply with the Terms of a COHP.

(i) An approved COHP may not be altered or revoked by the permittee without written agreement by the administrator, or by the county without agreement by the permittee, and in either case must be approved by the WDNR.

(ii) If a landowner fails to comply with the requirements of the conversion option harvest plan, the county shall impose the six-year moratorium of subsection 27.11.500(1) of this section from the date the application for the permit was given final approval by the DNR. (RCW 76.09.060(3)(b)(i)(F).)

(iii) If a landowner fails to comply with the requirements of the conversion option harvest plan, any conversion that occurs constitutes an illegal conversion that is subject to the enforcement provisions of subsections 27.11.600(1)(b)&(c) of this section.

(b) Improvements Subject to this Code. If any off-site or on-site improvements are subject to development standards or permit requirements of this code, such requirements shall be met before a COHP approval is granted by the county.

Pierce County's
Development Regulations – Forest Practices Amended Ord. 2021-42s
Title 18H

Chapters:

18H.10 GENERAL PROVISIONS. Amended Ord. 2021-42s

18H.20 FOREST PRACTICES APPROVALS. Amended Ord. 2021-42s

18H.30 DEVELOPMENT MORATORIA. Amended Ord. 2021-42s

18H.10.010 Title.

This Title shall be officially cited as Title 18H PCC, Development Regulations – Forest Practices. (Ord. 2012-2s § 7 (part), 2012; Ord. 2004-58s § 5 (part), 2004)

18H.10.020 Purpose.

This Title establishes the minimum standards and requirements associated with local government review and jurisdiction over Forest Practices and conversion option harvest plans and establishes local procedures for forest practice related development moratoria in accordance with Chapter 76.09 RCW (Washington State Forest Practices Act.) (Ord. 2013-45s4 § 5 (part), 2015; Ord. 2012-2s § 7 (part), 2012; Ord. 2004-58s § 5 (part), 2005)

18H.10.030 Applicability.

This Title applies to all lands within unincorporated Pierce County. Unless the requirements of this Title are met, Pierce County shall not grant any approval or permission to alter the condition of any land or vegetation or to construct any structure or improvement regulated through the following: building permit, commercial or residential; binding site plan; site development permit; short subdivision; use permit; planned development district approval; subdivision; large lot division; forest practice approval pursuant to RCW 76.09; or any subsequently adopted permit or required approval not expressly exempted by this Title. (Ord. 2004-58s § 5 (part), 2004)

18H.10.040 Relationship to Chapter 76.09 RCW. Amended Ord. 2021-42s

A. This Title is directly related to specific subsections in Chapter 76.09 RCW and its rules that refer to Class IV forest practices, conversion option harvest plans, conversion of land to a non-forestry use, and forest practice related development moratoria. The application of this Title to forest practice activities regulated by Chapter 76.09 RCW shall be limited to:

1. Class IV-General forest practices;
2. Class II, III, and IV-Special forest practices where the landowner elects to be processed as a conversion option harvest plan (COHP);
3. Class I forest practices within urban growth areas (UGAs) that involve timber harvesting or road construction;
4. Class I forest practices outside UGAs on lands which have been or are in the process of being converted to a non-forestry use; and
5. Imposition and removal of development moratoria pursuant to RCW 76.09.060.
6. Definitions in Chapter 76.09 RCW are adopted by reference.

B. This Title establishes the minimum standards necessary for local review and approval of Class IV-General forest practices, COHP, and Class I forest practices.

C. The provisions of this Title provide the criteria for the establishment or removal of development moratoria and exceptions for single-family dwellings located on lands subject to a development moratorium.

D. All forest practice approvals and associated development moratoria issued by Pierce County pursuant to RCW 76.09.060 shall comply with this Title.

(Ord. 2017-89s § 5 (part), 2018; Ord. 2009-18s3 § 6 (part), 2009; Ord. 2004-58s § 5 (part), 2004)

18H.10.055 Compliance With Other Codes. Amended Ord. 2021-42s

An application filed pursuant to this Title shall also comply with the following Titles of the Pierce County Code, as now existing or hereafter amended:

- A. Title 18, Development Regulations – General Provisions;
- B. Title 18A, Development Regulations – Zoning;
- C. Title 17A, Construction and Infrastructure Regulations – Site Development and Stormwater Drainage;
- D. Title 18D, Development Regulations – Environmental;
- E. Title 18E, Development Regulations – Critical Areas;
- F. Title 18F, Development Regulations – Land Divisions and Boundary Changes;
- G. Title 18J, Development Regulations – Design Standards and Guidelines;
- H. Title 19A, Comprehensive Plan; and
- I. Title 18S PCC, Development Policies and Regulations – Shorelines.

(Ord. 2013-45s4 § 5 (part), 2015; Ord. 2010-70s § 14 (part), 2010; Ord. 2009-18s3 § 6 (part), 2009)

18H.10.060 Reconsideration and Appeals.

Procedures for appeal of any administrative decision and procedures for reconsideration or appeal of a Hearing Examiner decision issued pursuant to this Title are set forth in Chapter 1.22 PCC. (Ord. 2004-58s § 5 (part), 2004)

18H.10.070 Fees.

Fees for applications and/or reviews of reports or studies filed pursuant to this Title are set forth in Chapter 2.05 PCC. (Ord. 2004-58s § 5 (part), 2004)

18H.10.080 Compliance.

The regulations for compliance with the provisions of this Title are set forth in Chapter 18.140 PCC, Compliance. (Ord. 2004-58s § 5 (part), 2004)

18H.10.090 Liability of the County.

Nothing in this Chapter shall be deemed to impose any liability upon the County or upon any of its officers or employees, or to relieve the owner or occupant of any private property from the duty to keep in safe and healthy condition the trees upon their property. (Ord. 2017-89s § 5 (part), 2018; Ord. 2004-58s § 5 (part), 2004)

18H.10.100 Severability.

If any provision of this Title is held invalid, the remainder of this Title or the application of the provision to other persons or circumstances shall not be affected. (Ord. 2004-58s § 5 (part), 2004)

Chapter 18H.20

FOREST PRACTICE APPROVALS Amended Ord. 2021-42s

18H.20.010 Purpose.

This Chapter sets forth procedures and criteria for Pierce County approval of Class IV-General forest practices, conversion option harvest plans (COHP) and certain Class I forest practices, regulated under the Washington State Forest Practices Act, Chapter 76.09 RCW. (Ord. 2017-89s § 5 (part), 2018; Ord. 2004-58s § 5 (part), 2004)

18H.20.020 Exemptions.

Unless proposed on a Shoreline of Statewide Significance, the following activities are exempted from the provisions of this Chapter:

- A. Class I forest practices located outside of UGAs, except when the forest practices are associated with the conversion of land to a non-forestry use.
- B. Class I forest practices located within UGAs that do not involve road construction or timber harvesting.
- C. Class II, III, and IV-Special forest practices on ownerships of contiguous forest land greater than 20 acres in a UGA where the landowner submits a 10-year statement of non-conversion to the Department of Natural Resources (reforestation agreement) together with either an acceptable 10-Year Forest Management Plan or proof that the land is currently enrolled in Designated Forest Land, under the provisions of Chapter 84.33 RCW.
- D. Class II, III, and IV-Special forest practices located outside UGAs, which are permitted or approved by the Department of Natural Resources, and do not have an associated COHP.

(Ord. 2017-89s § 5 (part), 2018; Ord. 2013-45s4 § 5 (part), 2015; Ord. 2006-103s § 3 (part), 2006; Ord. 2004-58s § 5 (part), 2004)

18H.20.025 Shorelines of Statewide Significance.

Although a forest practices approval from the County is not required, the following requirement shall be met:

- A. For Class I, II, and III Forest Practices located within 200 feet of the OHWM of Shorelines of Statewide Significance, selective commercial timber cutting shall not exceed 30 percent of the merchantable trees in any 10-year period. Shorelines of Statewide Significance are identified in PCC 18S.20.020.

(Ord. 2013-45s4 § 5 (part), 2015)

18H.20.030 Class IV-General Forest Practices.

- A. State and Local Approval. Pursuant to the RCW, Pierce County is designated lead agency for compliance with the State Environmental Policy Act. Pierce County is also permitted to exercise any: (1) Land use planning or zoning authority, (2) Taxing powers, (3) Regulatory authority with respect to public health, and (4) Authority granted by Chapter 90.58 RCW (Shoreline Management Act); provided, that the land use planning or zoning authority regulations shall not be inconsistent with the forest practice regulations enacted under Chapter 76.09 RCW. Accordingly, a SEPA threshold determination is required to be obtained from Pierce County prior to obtaining a Class IV-General forest practices permit from Pierce County. Prior to conducting any forest practices defined as Class IV-General, an approved Class IV-General forest practices permit shall be obtained from Pierce County.

B. Application Filing. Applications for Class IV-General approvals shall be reviewed for completeness in accordance with Departmental submittal standards checklist and pursuant to Title 18 PCC, Development Regulations – General Provisions.

C. General Requirements.

1. An application for a Class IV-General approval shall be submitted prior to conducting forest practices on the project site.
2. A Class IV-General approval shall not be issued until a SEPA threshold determination has been issued for the proposed forest practices.
3. A Class IV-General approval shall not be issued until either a Site Development permit, which addresses the proposed logging and associated clearing, has been issued, or it is determined by Pierce County that a Site Development permit is not required.
4. A Class IV-General approval will not be issued until any pending development permit applications that are associated with the site have been approved/issued.
5. Where an interlocal agreement regarding tree preservation has been entered into between a city or town and Pierce County, the city's or town's tree preservation standards shall be applied to forest practices occurring within their designated urban growth area or urban service area, if those standards are more restrictive.
6. Class IV-General forest practices shall comply with all applicable provisions of the Pierce County Code, including the Tree Conservation provisions of Chapter 18J.15 PCC.
7. Class IV-General forest practices shall comply with any conditions of approval established through the associated development permit or approval.
8. Class IV-General forest practices conducted on land in an Urban Growth Area (UGA) that are not associated with an application for land division or subdivision, use permit, commercial building permit, or single- or two-family residential building permit shall be limited to the removal of not more than 35 percent of the total volume of merchantable timber throughout the gross area of the parcel during any 6-year period, or until one of these development permit applications is approved/issued and another Class IV-General forest practices is obtained.
9. The site shall be posted with a copy of the issued Class IV-General approval prior to the initiation of timber harvest and until the harvest is finished at the main entrance to the property in such a manner that it is visible to the general public without having to trespass on the property.

D. Required Findings. A Class IV-General approval may be issued by the Director only if all of the following findings can be made regarding the proposal and are supported by the record:

1. The granting of the proposed Class IV-General approval will not be detrimental to the public health, safety, and general welfare.
2. The granting of the proposed Class IV-General approval will not be injurious to the property or improvements adjacent to and in the vicinity of the proposal.
3. The granting of the proposed Class IV-General approval will not result in significant adverse environmental impacts.

4. The granting of the proposed Class IV-General approval is consistent with the general requirements set forth in 18H.20.030 C.

5. The granting of the proposed Class IV-General approval is consistent and compatible with the goals, objectives, and policies of the Comprehensive Plan, appropriate community plan, and the provisions of this Title.

E. Burden of Proof. The applicant has the burden of proving that the forest practices comply with the provisions of this Title.

F. Approval Authority.

1. The Director shall review all requests for approvals, any comments received, and applicable County regulations or policies, and may inspect the property prior to rendering a decision.

2. The Director may approve an application, approve the application with conditions, require modification of the proposal to comply with specified requirements or local conditions, or deny the application if it fails to comply with requirements of this Title.

(Ord. 2017-89s § 5 (part), 2018; Ord. 2013-45s4 § 5 (part), 2015; Ord. 2009-98s § 6 (part), 2010; Ord. 2009-18s3 § 6 (part), 2009; Ord. 2006-103s § 3 (part), 2006; Ord. 2004-58s § 5 (part), 2004)

18H.20.040 Class I Forest Practices.

A. Class I forest practices that result in the cutting and/or removal of less than 5,000 board feet of timber for personal use (e.g., firewood, fence posts, etc.) in any 12-month period, the culture and harvest of Christmas trees and seedlings, and/or emergency fire control or suppression shall not be required to obtain any forest practices approval from Pierce County. Although a forest practices approval is not required, the following requirements shall be met:

1. Class I forest practices proposed within a wetland, stream, landslide hazard area, erosion hazard area, fish and wildlife area, or other critical area and associated buffer regulated pursuant to Title 18E PCC, Development Regulations – Critical Areas, shall comply with all applicable requirements of that Title.

2. Class I forest practices proposed within other open space areas or buffers, including but not limited to natural buffer areas, screening buffers, and tree conservation areas established pursuant to any other permit, approval, or regulation, shall comply with the following standards:

a. Written authorization from the Planning and Public Works Department shall be required prior to the removal of trees except as provided by PCC 18H.20.040 A.2.e.

b. Tree cutting shall be authorized only when:

(1) It is demonstrated to the satisfaction of the Planning and Public Works Department that a hazard exists to public health or safety, the safety of private or public property, or the health of surrounding trees. In these cases, the landowner shall be required to submit a report and replanting plan from a registered landscape architect, certified arborist, professional forester or other expert approved by Pierce County that document the hazard, the specific actions that must occur to abate the threat, and the schedule for replanting; or

(2) The permit or approval that established the open space or buffer area expressly authorizes the proposed tree cutting.

- c. Tree cutting shall be limited to limbing and crown thinning, unless otherwise justified by the landowner's expert.
 - d. The landowner shall replace any trees that are felled or removed with new trees at a ratio of two replacement trees for each tree felled, topped or removed. Replacement trees shall meet the standards set forth in PCC 18J.15.030.
 - e. Diseased, Danger, and/or Hazard trees determined to pose an imminent threat or danger to public health or safety, or to public or private property, or serious environmental degradation may be removed or limbed by the landowner prior to receiving written approval from Pierce County; provided that within 14 days following such action, the landowner shall submit the necessary report and replanting schedule demonstrating compliance with the requirements of this Section.
3. The forest practices shall comply with all applicable requirements of Pierce County Code, including but not limited to Title 17A PCC, Construction and Infrastructure Regulations – Site Development and Stormwater Drainage, Title 18E PCC, Development Regulations – Critical Areas, Title 18J PCC, Development Regulations – Design Standards and Guidelines, and Title 20 PCC, Shoreline Management Use Regulations.

B. Any forest practice within the Urban Growth Area resulting in the cutting and/or removal of more than 5,000 board feet of merchantable timber shall be processed as a Class IV-General forest practice pursuant to RCW 76.09.050(1), including those that meet the criteria for Class I forest practices pursuant to WAC 222-16-050(3), e.g., forest practices involving a single landowner where contiguous ownership is less than 2 acres in size. All such forest practices shall comply with the requirements and approval criteria for Class IV-General forest practices set forth in PCC 18H.20.030, except that those meeting the criteria for Class I forest practices pursuant to WAC 222-16-050(3) shall not be subject to environmental review under the State Environmental Policy Act (Chapter 43.21C RCW).

(Ord. 2017-89s § 5 (part), 2018; Ord. 2017-12s § 2 (part), 2017; Ord. 2016-33 § 2 (part), 2016; Ord. 2016-14s § 5, 2016; Ord. 2010-70s § 14 (part), 2010; Ord. 2009-98s § 6 (part), 2010; Ord. 2009-18s § 6 (part), 2009; Ord. 2006-103s § 3 (part), 2006; Ord. 2004-58s § 5 (part), 2004)

18H.20.050 Conversion Option Harvest Plans (COHP). Amended Ord. 2021-42s

A. Optional Process. A Conversion Option Harvest Plan (COHP) is a voluntary plan required of a Class II, III, or IV-Special forest practices operation, pre-approved by Pierce County, produced to preserve the forest landowners' option to convert that forest land to a non-commercial forest use, as well as exempt the forest landowner from the development moratorium. COHPs are approved by the county to provide a landowner with the flexibility of harvesting timber upon their land prior to applying for a development permit, but still maintain the option to convert that land to a non-commercial forestry use. Sites that meet their jointly approved COHP conditions are not subject to the 6-year development moratorium ordinarily imposed under RCW 76.09.

B. Application Filing. An application for a COHP shall be reviewed for completeness in accordance with Departmental submittal standards checklist and pursuant to Title 18 PCC, Development Regulations – General Provisions, and any applicable standards set forth in RCW 76.09 and its rules.

C. General Requirements.

1. A COHP shall include a narrative description of the objectives of the timber harvest, relationship of the harvest to future development of the site, built and natural features present at the site, measures to be taken to preserve and protect critical areas, harvest method, including type of equipment to be used, and the expected dates of commencement, and completion of all harvest activity.

2. The COHP shall be submitted prior to application for development and/or conducting forest practices on the project site.
3. The COHP shall be approved by the Department prior to the submittal of the associated forest practices permit to the DNR.
4. The approval of a COHP shall not release a landowner from the requirement to reforest a site pursuant to Chapter 222-34 WAC. The site shall be reforested to the standards of Chapter 222-34 WAC if not converted (issuance of a building permit or site development permit, preliminary plat approval or use permit approval) within three years from the issuance of an associated forest practices permit by the Washington Department of Natural Resources (DNR).
5. The COHP shall comply with all applicable standards and provisions of the Pierce County Code and Chapter 76.09 RCW.
6. The COHP shall result in the removal of not more than 90 percent of the total volume of merchantable timber, by species, throughout the gross area of the parcel. Retained trees shall consist of timber that is equivalent to the average size, species, and age of the harvested trees. Trees should be selected for retention based upon a consideration of windthrow potential, wildlife value, aesthetics, and compatibility with future development. Narrow strips of trees along a parcel's perimeter boundaries should be avoided due to windthrow potential. Trees located inside regulated wetlands may be included toward the 10 percent retention requirement.
7. Significant Trees. At a minimum, 30 percent of all significant trees as identified within Table 18J.15.030-1 shall be retained. Garry (Oregon White) Oak trees and stands meeting the criteria set forth in PCC 18E.40.020 D. (Habitats of Local Importance) shall be subject to additional retention and protection pursuant to PCC 18E.40.040 C.
8. Trees Proposed for Retention. Trees proposed for retention must meet the following minimum standards:
 - a. Must have a post-development life expectancy of greater than 10 years;
 - b. Must have a relatively sound and solid trunk with no extensive decay or hollow and no significant trunk damage;
 - c. Must have no major insect or pathological problem;
 - d. Must have no significant crown damage;
 - e. Must be fully branched and generally proportional in height and breadth for the tree age; and
 - f. Individual trees and groupings of trees proposed for retention must be windfirm in their post logging state.
- D. Burden of Proof. The applicant has the burden of proving that the COHP complies with the provisions of this Title.
- E. Approval Authority.
 1. The Director shall review all requests for approvals, any comments received, and applicable County regulations or policies, and shall inspect the property prior to rendering a decision.
 2. The Director may approve an application for a COHP, approve the application with conditions, require modification of the proposal to comply with specified requirements or local conditions, or deny the application if it fails to comply with requirements of this Title.

3. A Pierce County approved COHP application shall be submitted to the DNR in association with the pertinent Class II, III, or IV-Special forest practices application. A COHP shall not be final until the County approves the COHP and the Department of Natural Resources issues the associated forest practices application or notification.

(Ord. 2017-89s § 5 (part), 2018; Ord. 2009-98s § 6 (part), 2010; Ord. 2009-18s3 § 6 (part), 2009; Ord. 2006-103s § 3 (part), 2006; Ord. 2004-58s § 5 (part), 2004)

18H.20.060 Additional Requirements Applicable to all Applications.

A. Site Plans. All Class IV-General and COHP applications submitted pursuant to this Chapter shall include a site plan containing the following information, if applicable:

1. Harvest boundaries and tree retention areas;
2. The approximate location of any structures;
3. The location of all existing and proposed streets, rights-of-way, easements, skid roads, haul roads, and landings within the proposal;
4. The location of future land development such as a building site, septic drainfield areas, and/or well;
5. Site topography at a contour interval of 40 feet;
6. Critical areas and critical area buffers including, but not limited to, wetlands, streams, landslide, wildlife habitat, and erosion hazard areas, regulated pursuant to Title 18E PCC, Critical Areas;
7. Drainage ways; and
8. North seeking arrow and scale shall be shown on all site plans. The scale shall be no smaller than one inch to 200 feet.

B. Field Marking of Site Features. At the time of submittal of any application required pursuant to this Title, the following features shall be clearly marked at the site with flagging or colored paint by the applicant:

1. Critical areas and critical area buffers regulated pursuant to Title 18E PCC, Critical Areas;
2. Landing areas;
3. Tree retention areas; and
4. Cutting boundaries.

(Ord. 2017-89s § 5 (part), 2018; Ord. 2009-18s3 § 6 (part), 2009; Ord. 2004-58s § 5 (part), 2004)

18H.20.070 Modifications.

A one-time modification to any application submitted pursuant to this Chapter may be permitted administratively provided the proposed modification is minor in nature and does not enlarge the area approved to be harvested or increase the volume of timber approved to be harvested by more than 10 percent or result in forest practices occurring within a critical area, critical area buffer, or tree retention area. Any modification exceeding these thresholds shall require a new application and associated fees. (Ord. 2004-58s § 5 (part), 2004)

18H.20.080 Time Limitations.

A. Expiration of Approvals.

1. A Class IV-General approval shall be valid for two consecutive years following the date of issuance unless a longer time period has been established through an associated approval (e.g., preliminary plat approval, Conditional Use Permit, etc.) in which case the time limits applicable to the associated approval shall apply.
2. A COHP shall be valid for a period of two years unless a longer period of time is established for the associated forest practices permit or approval issued by DNR in which case the time limits applicable to the DNR permit or approval shall apply. If, however, a forest practices permit is not approved by DNR and executed by the landowner within two years of the approval of the COHP, the COHP shall become null and void.
3. A time extension of a development permit by the Hearing Examiner shall extend any associated Class IV-General approval. (Ord. 2004-58s § 5 (part), 2004)

Chapter 18H.30

DEVELOPMENT MORATORIA Amended Ord. 2021-42s

18H.30.010 Purpose. Amended Ord. 2021-42s

This Chapter provides the criteria for establishing development moratoria. It also provides standards for the Hearing Examiner to remove a 6-year development moratorium, and for the Director to authorize the construction of one single-family dwelling unit on a site that is subject to a 6-year development moratorium. (Ord. 2004-58s § 5 (part), 2004)

18H.30.020 Development Moratoria. Amended Ord. 2021-42s

A. General Requirements. Where development moratoria are applicable, all applications for permits or approvals relating to non-forestry uses of land (e.g., building permits, development applications, project construction, subdivision approvals) shall not be accepted by Pierce County for a period of six years. All development moratoria established in this Chapter shall be mandatory, pursuant to Chapter 76.09 RCW.

B. Applicability of Development Moratorium. The applicability of 6-year development moratoria pursuant to Chapter 76.09 RCW shall be as follows:

1. Class I forest practices shall not be subject to a 6-year development moratorium when conducted in accordance with Chapter 76.09 RCW and its rules.
2. Class IV-General forest practices approved by Pierce County shall not be subject to a 6-year development moratorium when conducted in accordance with Title 18H PCC and all associated conditions of approval imposed on the approved forest practices permit.
3. Class II, III, or IV-Special forest practices with an associated COHP, shall not be subject to a 6-year development moratorium when conducted in accordance with Chapter 76.09 RCW and its rules, an approved forest practices permit (if applicable), and the Pierce County approved COHP.
4. Class II, III, or IV-Special forest practices which do not have an associated COHP shall result in the imposition of a 6-year development moratorium.
5. Any forest practice conducted in violation of Chapter 76.09 RCW or its rules, and/or Title 18H PCC including failure to comply with the conditions of an approved forest practices permit or failure to obtain required forest practices permits or approvals, shall result in the imposition of a 6-year development moratorium.
6. The violation of an approved COHP or condition of a COHP approval shall result in the imposition of a six year development moratorium.

C. Consequences of a Development Moratorium.

1. Pierce County shall not accept applications for any development of land that is subject to a 6-year development moratorium. Provided that any reports or studies associated with a request for a single-family dwelling exception pursuant to PCC 18H.30.050 may be accepted, reviewed, and approved in conjunction with the request.
2. In those cases where a development moratorium is imposed on a parcel that is subject to pending development applications, Pierce County shall immediately cease to review the applications and shall deny the applications. The County shall provide notice of the moratorium to the applicant prior to the denial of applications and shall allow the applicant 30 days from the date of the notice to apply for moratorium removal pursuant to 18H.30.040. If an application

for moratorium removal is received during the 30-day period, the denial of any development applications will be postponed until such time as a decision on the moratorium removal request is rendered.

3. All development moratoria imposed by Pierce County shall extend to the harvest area, including any associated road construction, indicated in the forest practices permit. If no forest practices permit was issued, or a condition of a COHP approval is violated, the moratorium shall apply to the entire parcel.

4. Pierce County shall notify the appropriate State agency if a forest practices activity that meets the definition of a Class II or III forest practices has been initiated on a parcel without an approved forest practices permit.

D. Effective Date of a Moratorium.

1. The 6-year development moratorium shall be imposed from the effective date of the applicable Class II, Class III, or Class IV-Special forest practices permit.

2. If forest practices occur on a site without the appropriate permit, a 6-year development moratorium shall be imposed from the date the unpermitted forest practices were documented by Pierce County or DNR.

3. Where a site is subject to an approved forest practices permit with or without a COHP, forest practices occurring at the site which are outside the scope of the approved permit shall be considered unpermitted forest practices for moratorium purposes. In these cases, a 6-year development moratorium shall be imposed from the date the unpermitted forest practices were documented by Pierce County or DNR.

4. If a condition of a COHP approval is violated, a 6-year development moratorium shall be imposed from the date the unpermitted forest practices were documented by Pierce County or DNR.

(Ord. 2017-89s § 5 (part), 2018; Ord. 2009-18s3 § 6 (part), 2009; Ord. 2006-103s § 3 (part), 2006; Ord. 2004-58s § 5 (part), 2004)

18H.30.030 Allowable Activities.

The following activities shall be allowed on any parcel that is subject to a development moratorium:

A. The division of land into lots, each of which is one thirty-second of a section of land or larger or 20 acres or larger; provided, the proposed division meets the minimum lot size or density requirements in Title 18A PCC.

B. Repair or remodeling within the existing footprint of existing structures.

C. Reconstruction of a structure damaged or destroyed due to fire, explosion, wind, flood, earthquake, or other similar calamity.

D. The construction of a structure typically accessory to a residence, such as a garage, greenhouse or storage building, may be permitted on a parcel up to a maximum of 576 total square feet.

E. Essential Public Facility uses specified under the Essential Public Facilities Category in PCC 18A.33.240 of the Pierce County Zoning Code.

F. A Site Development Permit application may be submitted, reviewed and approved to address any site development violations on the parcel.

G. A Wetland and/or Critical Fish and Wildlife Habitat area application per Title 18E PCC may be submitted, reviewed and approved to address any wetland and/or critical fish and wildlife habitat areas violations on the parcel.

(Ord. 2017-89s § 5 (part), 2018; Ord. 2013-85 § 1 (part), 2013; Ord. 2013-30s2 § 8, 2013; Ord. 2009-18s3 § 6 (part), 2009; Ord. 2006-103s § 3 (part), 2006; Ord. 2004-58s § 5 (part), 2004)

18H.30.050 Request for Single-Family Dwelling Exception. Amended Ord. 2021-42s

The Director may administratively grant an exception to the mandatory 6-year development moratorium to allow the construction of one single-family dwelling unit and associated accessory structures, including septic system and wells, pursuant to the following standards:

A. General Requirements.

1. An application for a Request for Single-Family Dwelling Exception may not be submitted until after the associated DNR forest practices permit has been closed/withdrawn by the DNR.
2. The area that is permitted to be developed pursuant to this administrative exception shall not exceed two acres in size. The area shall be undivided and shall be rectangular in shape.
3. Upon approval of a single-family dwelling exception, a memorandum of agreement (MOA) shall be recorded with the Pierce County Auditor by the landowner. The MOA shall identify the actions to be taken by the landowner to correct any violations of County ordinances or regulations.
4. When the moratorium was imposed as a result of harvesting under an approved Class II, Class III, or Class IV-Special forest practices permit, a minimum of three years shall have elapsed from the effective date of the forest practices application or notification. The three years may be waived if the applicant provides the County information that no critical areas and buffers were impacted by logging activities and the critical areas and buffers have been preserved pursuant to Pierce County regulations and that 190 trees per acre have been planted and survived a growing season unless reforestation was not required by the DNR permit.
5. The determination of compliance with County regulations shall be made as part of the application for the Single-Family Dwelling Exception. An initial determination that County regulations have been complied with, including that no critical areas and buffers were impacted, shall be made prior to continued processing of the Single-Family Dwelling Exception application. A building permit for a single-family home and accessory structures may be filed concurrently; however, if it is determined that critical areas and buffers were impacted by logging activities, then the 3-year waiting period shall apply.
6. When the moratorium was imposed as a result of unpermitted harvesting or a violation of an approved COHP or Class IV-General forest practices permit, a minimum of three years shall have elapsed from the date the moratorium was imposed by Pierce County.
7. The development moratorium shall remain in effect for all other non-forestry uses of the site.
8. Only one Single-Family Dwelling Exception application may be submitted on a parcel during the 6-year development moratorium.

B. Review Criteria. One single-family dwelling, permitted accessory structures, septic system, well, lawn and landscaped area, and access road may be constructed together with site development activities necessary to construct the dwelling on land subject to a development moratorium provided that:

1. The construction of the single-family dwelling, lawn and landscaping area, accessory structures, and access road are in compliance with all applicable County regulations.

2. Where critical areas have been impacted and after the 3-year waiting period, the landowner mitigates any damage to critical areas and critical areas buffers resulting from the forest practices in accordance with the requirements set forth in Title 18E PCC. The mitigation requirement shall apply to the entire parcel, including those areas outside of the maximum two acre exception area set forth in the request.
3. Reforestation of the parcel has occurred, if required pursuant to Chapter 222-34 WAC, when the moratorium was imposed as a result of permitted harvesting. Reforestation shall not be required in the area subject to the Single Family Dwelling Exception application.
4. The harvest area, excepting the area subject to the Single Family Dwelling Exception application, shall be reforested pursuant to Chapter 222-34 WAC when the moratorium was imposed under PCC 18H.30.020 B.5.
5. The entire area reforested pursuant to PCC 18H.30.050 B.3. or 18H.30.050 B.4. requires at a minimum 190 tree seedlings per acre survive for at least one growing season.
6. Trees and seedlings shall be of a commercial tree species native to the Puget Sound Basin. Reforested areas, wherever possible, should represent a mix of coniferous and hardwood native tree species.
7. The trees and seedlings to be replanted shall be free from injury, pests, disease and nutritional disorders.
8. It is recommended, wherever possible, that replanting within the harvest area take into consideration the long term functionality of the forest stand and connectivity with other habitat areas.

(Ord. 2017-89s § 5 (part), 2018; Ord. 2009-18s3 § 6 (part), 2009; Ord. 2006-103s § 3 (part), 2006; Ord. 2004-58s § 5 (part), 2004)

18H.30.060 Time Limitations.

A. Expiration of Approvals.

1. A Single Family Dwelling Exception approval shall be valid for two consecutive years following the date of issuance.

(Ord. 2006-103s § 3 (part), 2006)