

1 Sponsored by: Councilmembers Amy Cruver and Derek Young  
2 Requested by: County Executive/Planning and Public Works Dept.

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6 **ORDINANCE NO. 2022-38**  
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9 **An Ordinance of the Pierce County Council Related to the Provision of**  
10 **Affordable Broadband Service; Repealing Chapter 18A.69 of**  
11 **the Pierce County Code (PCC), "Broadband Development**  
12 **Incentives," and Adopting a New Chapter 12.35 PCC,**  
13 **"Broadband Development Incentives"; Establishing**  
14 **Broadband Development Districts; Adopting Findings of**  
15 **Fact; and Setting an Effective Date.**  
16

17 **Whereas**, Pierce County completed a countywide Broadband Connectivity &  
18 Access Evaluation in April 2019. The evaluation found that many communities within  
19 Pierce County, particularly areas outside of cities and towns, do not have access to  
20 adequate broadband service; and  
21

22 **Whereas**, in response to the findings of the countywide broadband access  
23 evaluation, the Pierce County Council adopted Resolution No. R2019-74 which  
24 identified broadband internet as essential infrastructure. This Resolution initiated a  
25 review and revision of existing County policies, standards, and Code to remove barriers  
26 to incentivize broadband delivery; and  
27

28 **Whereas**, in March 2021, the County Council passed Ordinance No. 2021-9s to  
29 address those barriers including adopting a new broadband development incentive  
30 program to provide incentives within defined Broadband Development Districts (codified  
31 as Chapter 18A.69 of the Pierce County Code [PCC]); and  
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33 **Whereas**, the Broadband Development Districts were to be identified by  
34 Ordinance at a later date; and  
35

36 **Whereas**, the Planning and Public Works Department has identified proposed  
37 Broadband Development Districts which reflect contiguous unserved and underserved  
38 areas and has also identified related amendments to the Pierce County Code; and  
39

40 **Whereas**, on April 26, 2022, the Pierce County Planning Commission reviewed  
41 the proposed amendments in a public hearing and made a recommendation of approval  
42 to the Pierce County Council; and  
43  
44



1       **Whereas**, notice of the Planning Commission public hearing was published in  
2 *The News Tribune* on April 13, 2022; and

3  
4       **Whereas**, the Responsible Official conducted an environmental review of the  
5 broadband development incentive program and issued a Determination of  
6 Nonsignificance (DNS) on February 8, 2021, in accordance with the State  
7 Environmental Policy Act (SEPA); and

8  
9       **Whereas**, the proposed amendments are consistent with the Growth  
10 Management Act, VISION 2050, Countywide Planning Policies, and the Pierce County  
11 Comprehensive Plan; and

12  
13       **Whereas**, on June 28, 2022, the Pierce County Council Economic and  
14 Infrastructure Development Committee reviewed the proposed amendments to the  
15 Pierce County Code in a public hearing; and

16  
17       **Whereas**, on June 28, 2022, the Pierce County Council Economic and  
18 Infrastructure Development Committee made final recommendations to the Pierce  
19 County Council in a public hearing; and

20  
21       **Whereas**, the Pierce County Council has determined that amending the Pierce  
22 County Code is necessary to protect the public health, safety, and welfare, and protect  
23 the public interest; and

24  
25       **Whereas**, the Pierce County Council finds that it is in the public interest to adopt  
26 the amendments set forth; **Now Therefore**,

27  
28       **BE IT ORDAINED by the Council of Pierce County:**

29  
30       Section 1. Chapter 18A.69 of the Pierce County Code (PCC), "Broadband  
31 Development Incentives," is hereby repealed and a new Chapter 12.35 PCC,  
32 "Broadband Development Incentives," is hereby adopted as shown in Exhibit A, which is  
33 attached hereto and incorporated herein by reference.

34  
35       Section 2. The Pierce County Council hereby establishes Broadband  
36 Development Districts, for the purposes of Chapter 12.35 PCC, as shown in Exhibit B,  
37 which is attached hereto and incorporated by reference.

38  
39       Section 3. Findings of Fact are hereby adopted as shown in Exhibit C, which is  
40 attached hereto and incorporated herein by reference.

41  
42       Section 4. If any provisions of this Ordinance or the amendments to the Pierce  
43 County Code are found to be illegal, invalid, or unenforceable, the remaining provisions  
44 of this Ordinance shall remain in full force and effect.



1 Section 5. This Ordinance shall become effective on September 1, 2022.

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4 PASSED this 19<sup>th</sup> day of July, 2022.

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6  
7 ATTEST:

PIERCE COUNTY COUNCIL  
Pierce County, Washington

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10  
11 Denise D. Johnson  
12 **Denise D. Johnson**  
13 Clerk to the Council

Derek Young  
14 **Derek Young**  
15 Council Chair

16  
17 Bruce F. Dammeier  
18 **Bruce F. Dammeier**  
19 Pierce County Executive  
20 Approved  Vetoed \_\_\_\_\_, this  
21 25<sup>th</sup> day of July,  
22 2022.

23 Date of Publication of  
24 Notice of Public Hearing: June 29, 2022

25  
26 Effective Date of Ordinance: September 1, 2022  
27

"NEW CHAPTER"

*Chapter 12.35*

***BROADBAND DEVELOPMENT INCENTIVES***

**Sections:**

- 12.35.010 Purpose.**
- 12.35.020 Applicability.**
- 12.35.025 Designated Broadband Development Districts.**
- 12.35.030 General Provisions.**
- 12.35.040 Financial Incentives.**
- 12.35.050 Regulatory Incentives.**
- 12.35.060 Procedure for Review and Approval.**

**12.35.010 Purpose.**

The purpose of this Chapter is to encourage the development of broadband service in areas of the County designated as Broadband Development Districts where broadband service is not currently available or is limited. This includes unserved areas, where internet service is either not available at all or is limited to dial up and satellite internet service. It also includes underserved areas where internet service is available by other means, but at speeds less than the Federal Communications Commission (FCC) and Washington State required minimums of 3 megabits per second (Mbps) upload and 25 Mbps download. The implementation of these incentives recognizes the public benefit that broadband service can contribute to the economic development and quality of life for local communities and businesses within underserved and unserved areas. This Chapter is intended to cite the incentives available that are designed to encourage development of broadband service within Broadband Development Districts. To be eligible for incentives under this Chapter, applicants shall be a participant in the Affordable Connectivity Program.

**12.35.020 Applicability.**

The broadband development incentives for Broadband Development Districts, as specified in this Chapter, may be utilized within Broadband Development Districts designated by Pierce County and are based on the criteria specified for each financial or regulatory incentive as listed in PCC 12.35.040 and 12.35.050. This Chapter does not apply to any proposed broadband development projects outside of designated Broadband Development Districts. Any development proposals designed to take advantage of these incentives shall specify how, and in what timeframe, the project will provide at least FCC minimum broadband service to specified households and businesses within a designated Broadband Development District.

**12.35.025 Designated Broadband Development Districts.**

Broadband Development Districts are defined by Ordinance No. 2022-38. Districts may be viewed in more detail by visiting <https://matterhornwab.co.pierce.wa.us/publicgis/>.



1 **12.35.030 General Provisions.**

- 2 A. **Minimum Duration of Service Provision.** Broadband system development created  
3 consistent within the provisions of this Chapter shall be initiated within six months of  
4 the approval of the Broadband Development Incentives Program Agreement and  
5 completed based on the timeframe specified in the Agreement. Thereafter, once the  
6 project is completed, the service provider must make service available to the households  
7 and businesses specified for a minimum of ten years and in compliance with all other  
8 relevant terms of the applicable Franchise and applicable law. If the applicable Franchise  
9 has less than ten years of its duration remaining, the County shall renew or extend that  
10 Franchise for a period of time sufficient for the service provider to fulfill its ten-year  
11 obligation; provided, that the service provider is in substantial compliance with the  
12 requirements of the Franchise and applicable law at the time of the renewal or extension.
- 13 B. **Broadband Development Incentives Program Agreement.** A proposed project that  
14 seeks to utilize any of the incentives in this Chapter shall not be issued permits or  
15 receive necessary County approvals until the applicant has submitted a signed  
16 Broadband Development Incentives Program Agreement with the Planning and Public  
17 Works Department. The agreement shall include, but not be limited to:
- 18 1. Identification of all the incentives – monetary, non-financial, and regulatory – that  
19 the project proposes to incorporate;
  - 20 2. Identification of the minimum number of households and businesses that the project  
21 proposes to make service available to;
  - 22 3. The timeframe in which broadband service will be made available to the proposed  
23 number of households and businesses;
  - 24 4. Binding language that protects the County's interests in the event that a broadband  
25 service provider obtains the incentives but fails to make available broadband service  
26 to the designated households and businesses;
  - 27 5. Language that specifies the documentation that will be provided prior to the approval  
28 of necessary permits to develop that portion of an applicant's broadband system that  
29 incorporates the stipulated financial and regulatory incentives;
  - 30 6. Language that recognizes the need to possibly modify the Agreement if the  
31 submitted project requires alteration throughout the design, review, approval, and  
32 implementation process; and
  - 33 7. Language that stipulates the conditions of a breach of contract if the applicant fails to  
34 make broadband service available to the designated number of households and  
35 businesses stipulated under the Agreement.
- 36 C. **Monitoring Continued Compliance of the Agreement.** The Planning and Public  
37 Works Department shall be the responsible party to monitor both the implementation  
38 and continued provision of service availability to designated households and businesses  
39 during the term of the Agreement.
- 40 D. **Annual Report.** An annual report shall be forwarded to the Pierce County Council prior  
41 to the budgeting process that provides details on all the projects that utilized the  
42 provisions of this Chapter. The report shall include, but is not limited to, the total  
43 number of households and businesses where broadband service that was previously  
44 unavailable has been made available.
- 45 E. **Participation Measure.** The Planning and Public Works Department shall review the  
46 effectiveness of this Chapter as part of the periodic Comprehensive Plan update and may  
47 recommend modifications to the incentives, eligibility threshold, fee waiver and



reduction, distribution, and applicability to increase participation and achieve broadband development goals within underserved and unserved areas in the County.

**12.35.040 Financial Incentives.**

The financial incentives herein are intended to reduce the financial burden on broadband service providers concerning fees and other compensation typically charged by the County for access to the Right-of-Way (ROW) and County property in exchange for providing broadband services to households and businesses within underserved and unserved areas.

- A. **Expedited Permit Processing.** Each system construction project within a Broadband Development District will have access to an expedited permit process and shall be considered a priority for all Pierce County departments with review and approval responsibilities. A project manager within the Planning and Public Works Department shall be assigned and responsible to coordinate the review process among all departments.
- B. **Waived and Reduced Fees and Other Compensation.** Fees and other compensation listed under this Chapter or elsewhere in the Pierce County Code may only be reduced or waived if the amounts foregone are applied to the cost of broadband development for specific, agreed-to projects in Broadband Development Districts designed to make broadband service available to households and businesses within underserved and unserved areas of the County.

**Table 12.35.040. Financial Incentives**

Incentive	Minimum Threshold of Households/ Businesses	Limitations for Use of Incentive	Applicability	Specification of Incentive
<b>Expedited Permit Processing</b>				
Expedited Permit Review	Any number of Households/Businesses where service will be made available.	Within Broadband Development Districts.	The Households/ Businesses to be served on a per-Project basis.	All construction permits for broadband system development shall be a priority to review and process.
<b>Fees/Compensation Waivers or Reductions</b>				
Waived or Reduced Permit Fees.	Any number of Households/Businesses to be served in underserved and unserved areas.	Only in Broadband Development Districts.	Only the pertinent number of Households/ Businesses in underserved and unserved areas, based on the type of permit that will be issued.	Fees for Class A-Class D permits may be waived or reduced if the amount waived or reduced is used for broadband system deployment in the specified Broadband Development District(s).



Table 12.35.040. Financial Incentives				
Incentive	Minimum Threshold of Households/Businesses	Limitations for Use of Incentive	Applicability	Specification of Incentive
Telecommunications Franchise Fees.	Any number of Households/Businesses within a Broadband Development District covered by a Telecommunications Franchise.	Fees will only be reduced in underserved and unserved areas.	The entire Project area within underserved and unserved areas.	Telecommunications Franchise Fees in underserved and unserved areas may be reduced based on the number of Households/Businesses to be provided service.
Use of County Property Compensation Waivers/Reductions				
Compensation for Use of County Property Outside of the Right-of-Way	The maximum number of residents and businesses that can be served by the Telecommunications system that accesses County property.	Availability of County property in underserved and unserved areas.	Entire Project Area served based on the use of County property and specification of the incentive.	The County will reduce or waive compensation for the use of County Property down from the typical market rate for use of such Property based on the number of Households/Businesses to be provided with service through use of the pertinent County property.

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**12.35.050 Regulatory Incentives.**

The regulatory incentives are designed to provide both flexibility in broadband system design as well as streamlined application, permitting, and regulatory requirements as provided for under this Chapter.

**A. Flexibility in Design.**

1. The County will work with broadband service providers to determine the most cost-effective routing and system deployment to provide service in underserved and unserved areas based on:
  - a. The use of overhead infrastructure if more expensive underground construction would normally be required;
  - b. The use of the most effective construction techniques in cases where more expensive construction techniques may be required;
  - c. A relaxation of stealth or concealment requirements that may be required in served areas; and
  - d. Other cost reduction mechanisms.
2. The broadband service provider must seek and receive written approval for any flexible designs that would otherwise not be allowed under current Pierce County ROW-related and other construction requirements.



1 B. **Streamlined Permitting, Applications and Regulatory Agreements.** The County will  
2 utilize streamlined permit applications and a streamlined permitting process, along with  
3 expediting permitting as indicated in PCC 12.35.040, to help speed deployment of  
4 broadband service in underserved and unserved areas.  
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6 **12.35.060 Procedure for Review and Approval.**

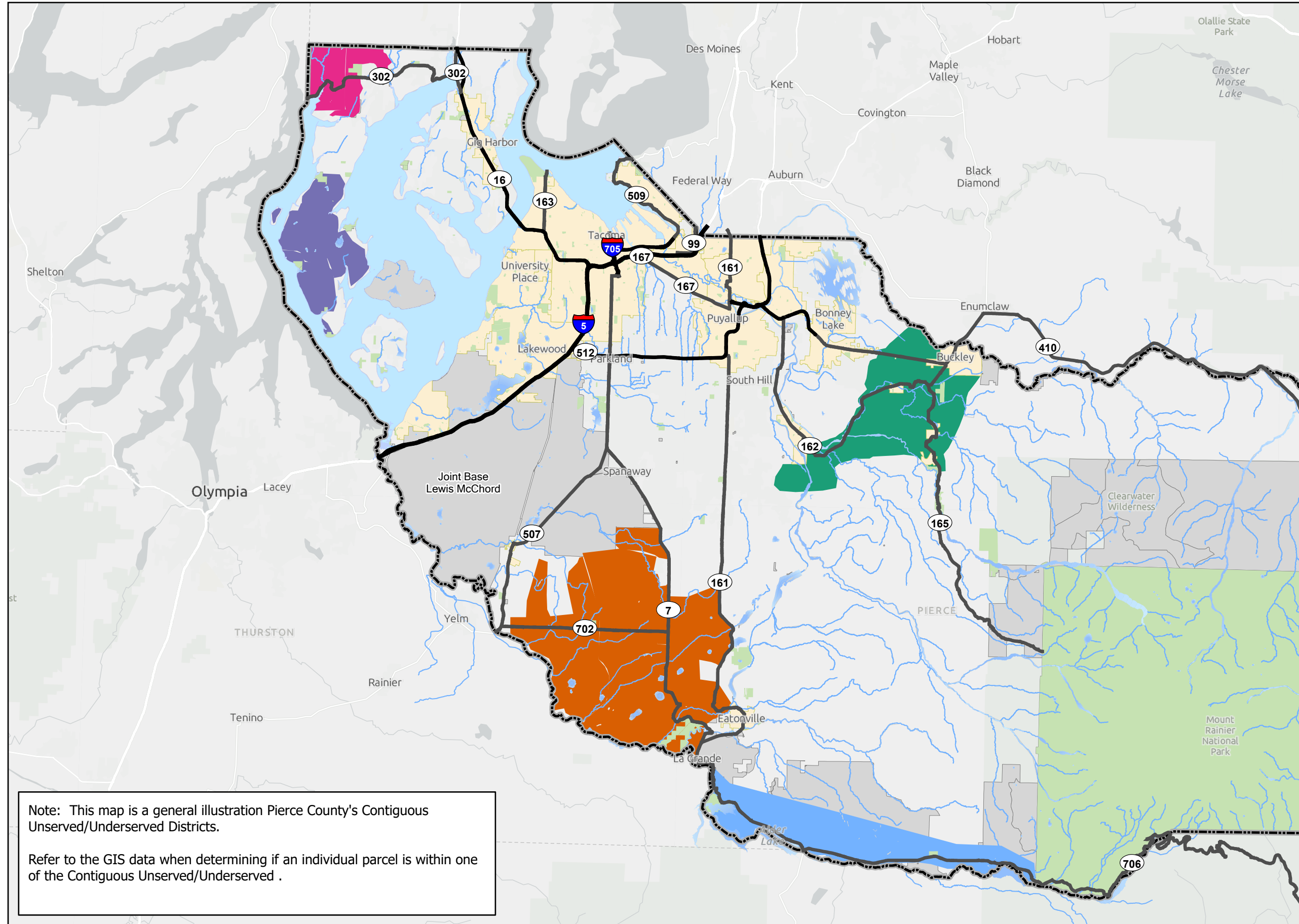
- 7 A. **Potential Customer Information Meeting.** A Potential Customer Information meeting  
8 shall be required for any Program Agreement that incorporates any of the financial or  
9 regulatory incentives provided for within this Chapter. The purpose of this Potential  
10 Customer Information Meeting is to make those where broadband service will become  
11 newly available aware of the impending provision of such services and to seek comment  
12 from potential customers.
- 13 B. **Broadband Development Incentives Program Agreement.** An application for a  
14 proposed project that incorporates any of the incentives in this Chapter shall not be  
15 approved until the applicant has submitted a signed Broadband Development Incentives  
16 Program Agreement stipulated in PCC 12.35.030 B. as a component of the application  
17 package.
- 18 C. **Required Implementation.** After the final approval of a new project that incorporates  
19 any incentives provided for within this Chapter, the project must be completed as soon  
20 as feasible, and no later than two years after approval, unless otherwise stated in the  
21 Program Agreement, and service provided for a 10-year period subject to the granting of  
22 any required Franchise extension or renewal as provided in PCC 12.35.030 A. If service  
23 is no longer made available at any point within the 10-year period following service  
24 activation because the service provider fails to do so or because the Franchise or  
25 Program Agreement is terminated by the County in accordance with the terms and  
26 provisions of the Franchise or Program Agreement, the service provider must pay back a  
27 pro-rated portion of the financial incentives obtained for the period of time that service  
28 does not remain activated over the 10-year period.  
29





# CONTIGUOUS UNSERVED/UNDERSERVED DISTRICTS

## Overview Map



**Entire County**

**Unserviced or Underserved Broadband Districts**

- Puyallup/White River Region
- Nisqually Region
- Alder Lake Region
- Key Peninsula South
- Key Peninsula North

Map Disclaimer: This is not a survey. Orthophotos and other data may not align. Pierce County assumes no liability for variations ascertained by actual survey. All data is expressly provided "as is" and with all faults.

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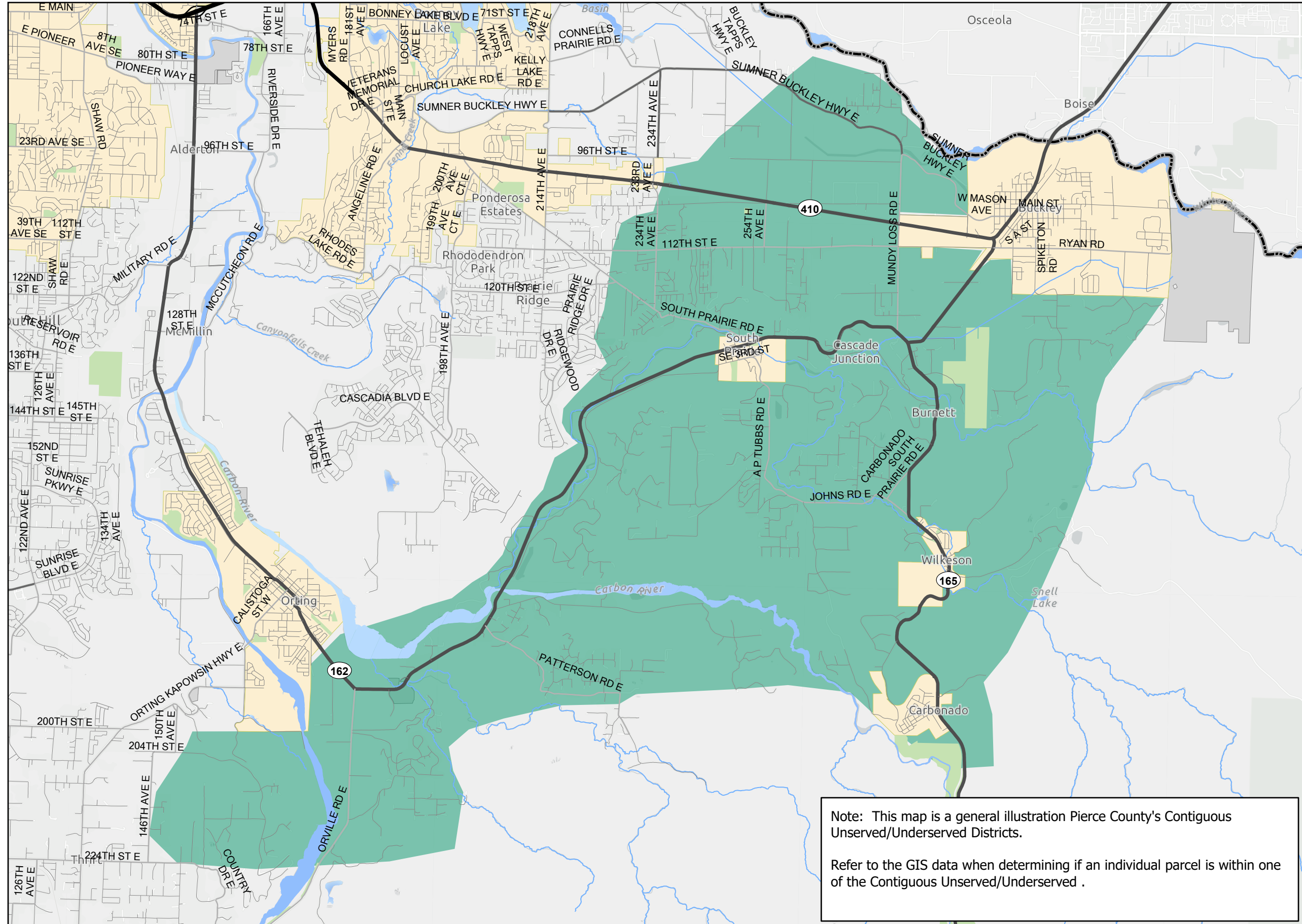
- Parks
- Cities (Pierce County Only)
- Federal & State Lands

Note: This map is a general illustration Pierce County's Contiguous Unserviced/Underserved Districts.

Refer to the GIS data when determining if an individual parcel is within one of the Contiguous Unserviced/Underserved .

# CONTIGUOUS UNSERVED/UNDERSERVED DISTRICTS

## Region Boundary Map



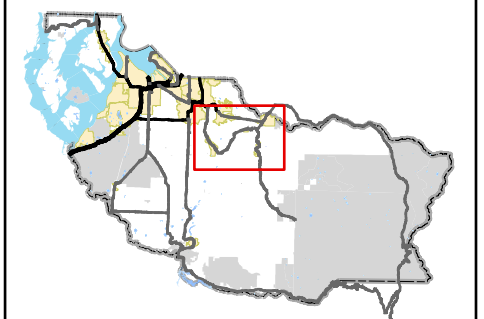
### Puyallup/White River Region

#### Unserved or Underserved Broadband Districts

■ Puyallup/White River Region

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- Parks
- Cities (Pierce County Only)
- Federal & State Lands

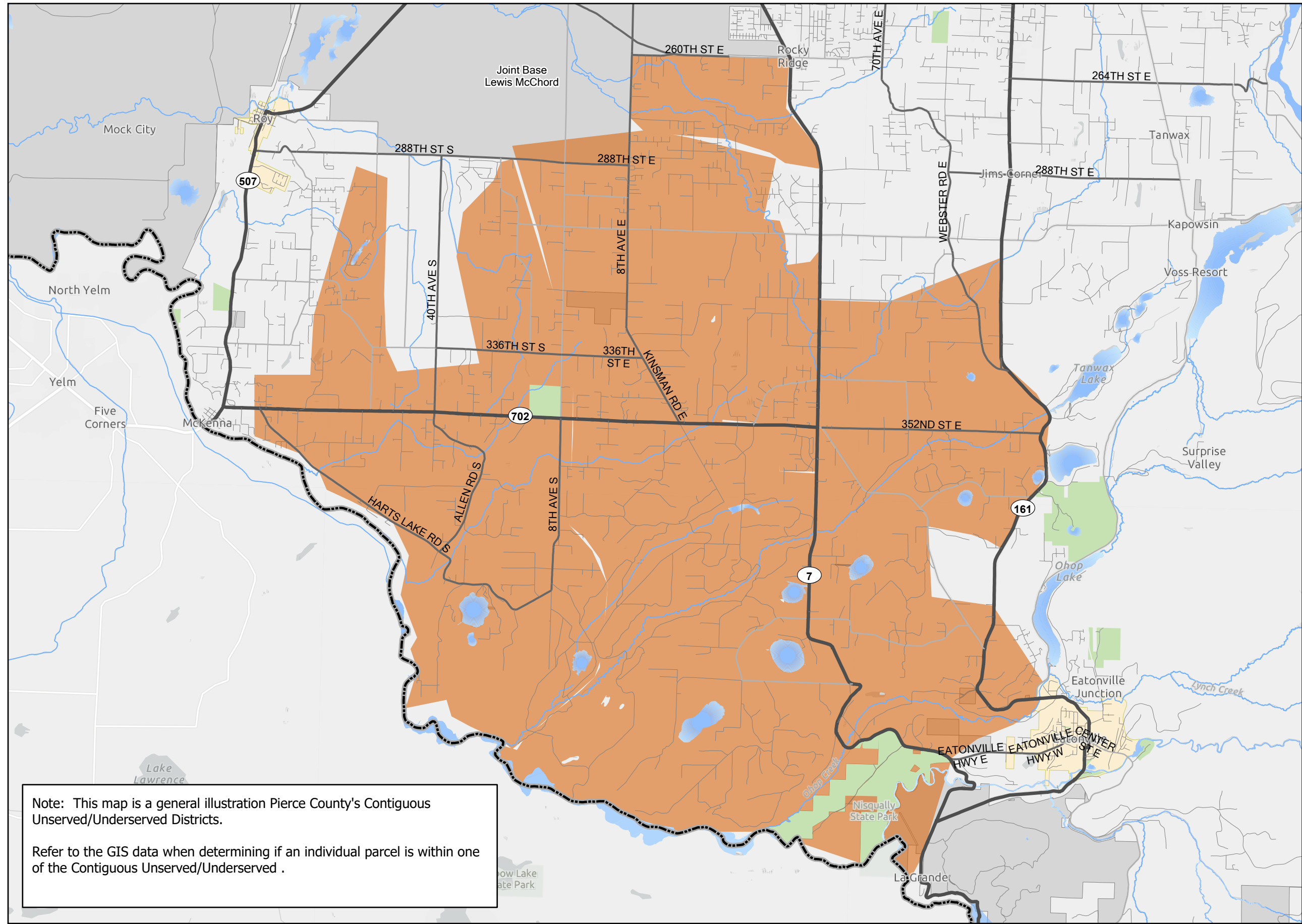


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Refer to the GIS data when determining if an individual parcel is within one of the Contiguous Unserved/Underserved .

# CONTIGUOUS UNSERVED/UNDERSERVED DISTRICTS

## Region Boundary Map



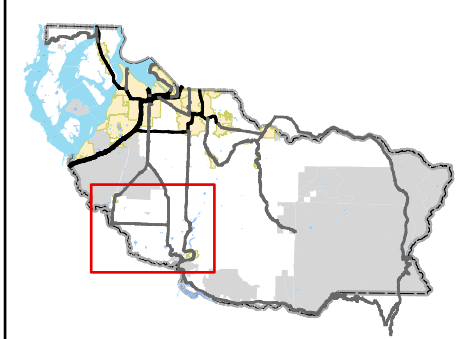
**Nisqually Region**

**Unserviced or Underserved Broadband Districts**

- Nisqually Region
- Alder Lake Region

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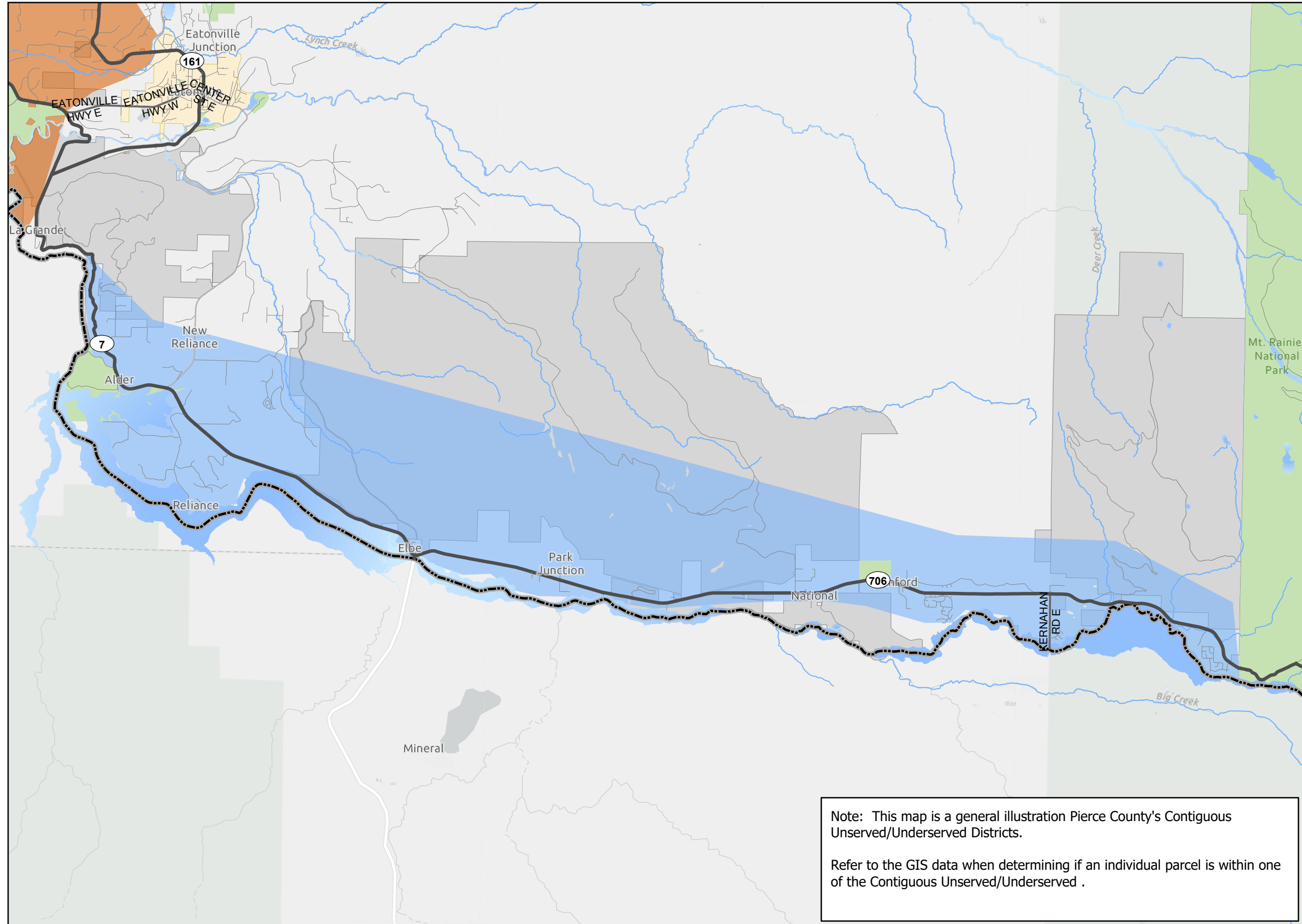


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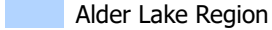
# CONTIGUOUS UNSERVED/UNDERSERVED DISTRICTS

## Region Boundary Map






### Alder Lake Region

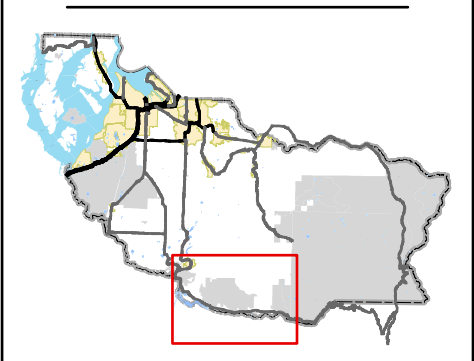
#### Unserved or Underserved Broadband Districts

-  Nisqually Region
-  Alder Lake Region

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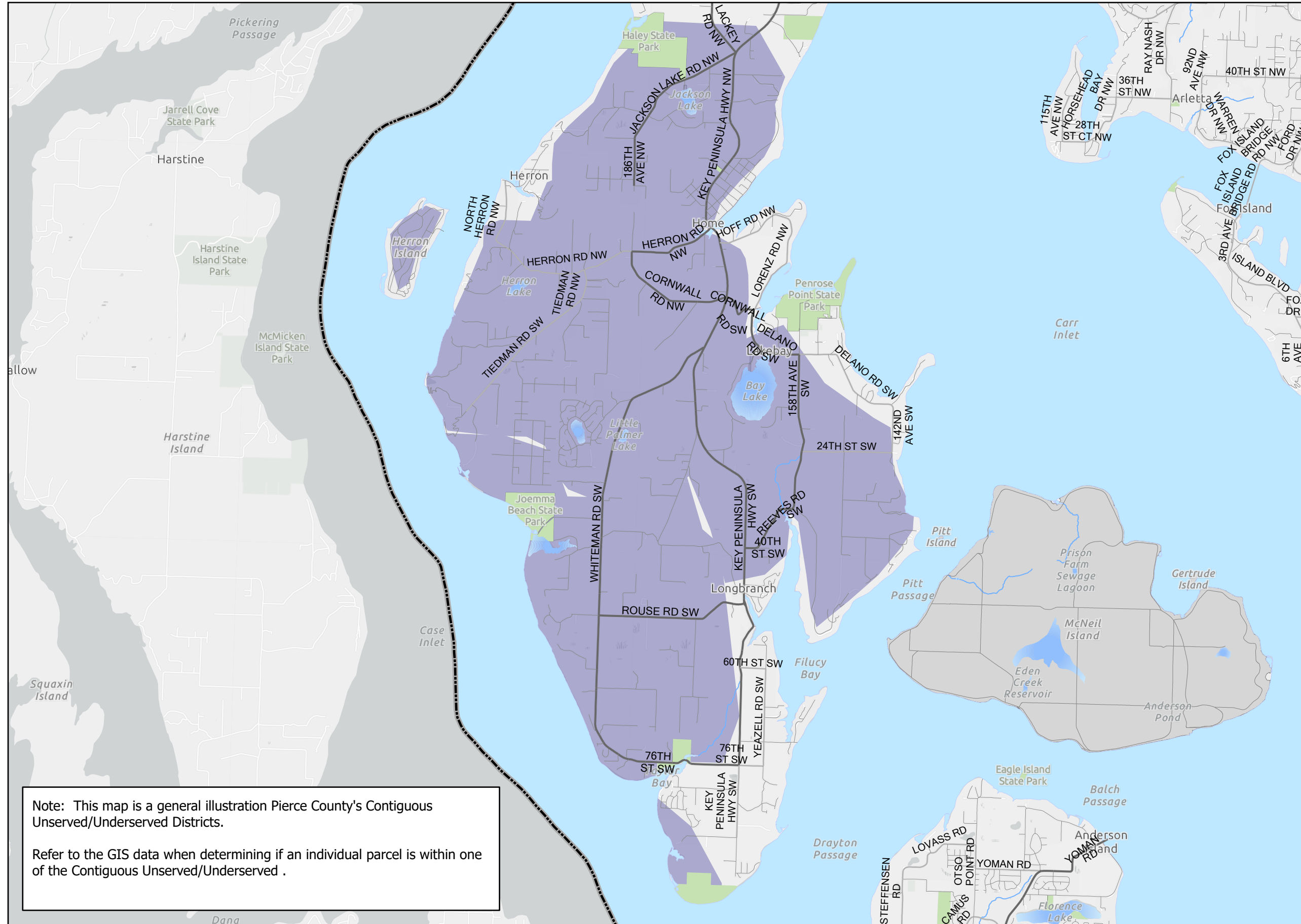
-  Parks
-  Cities (Pierce County Only)
-  Federal & State Lands

Note: This map is a general illustration Pierce County's Contiguous Unserved/Underserved Districts.  
Refer to the GIS data when determining if an individual parcel is within one of the Contiguous Unserved/Underserved .



# CONTIGUOUS UNSERVED/UNDERSERVED DISTRICTS

## Region Boundary Map






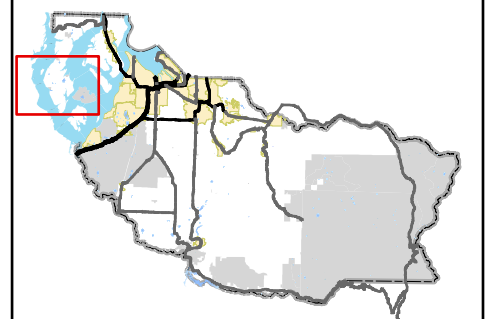
### Key Peninsula South Region

#### Unserved or Underserved Broadband Districts

Key Peninsula South

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-  Parks
-  Cities (Pierce County Only)
-  Federal & State Lands

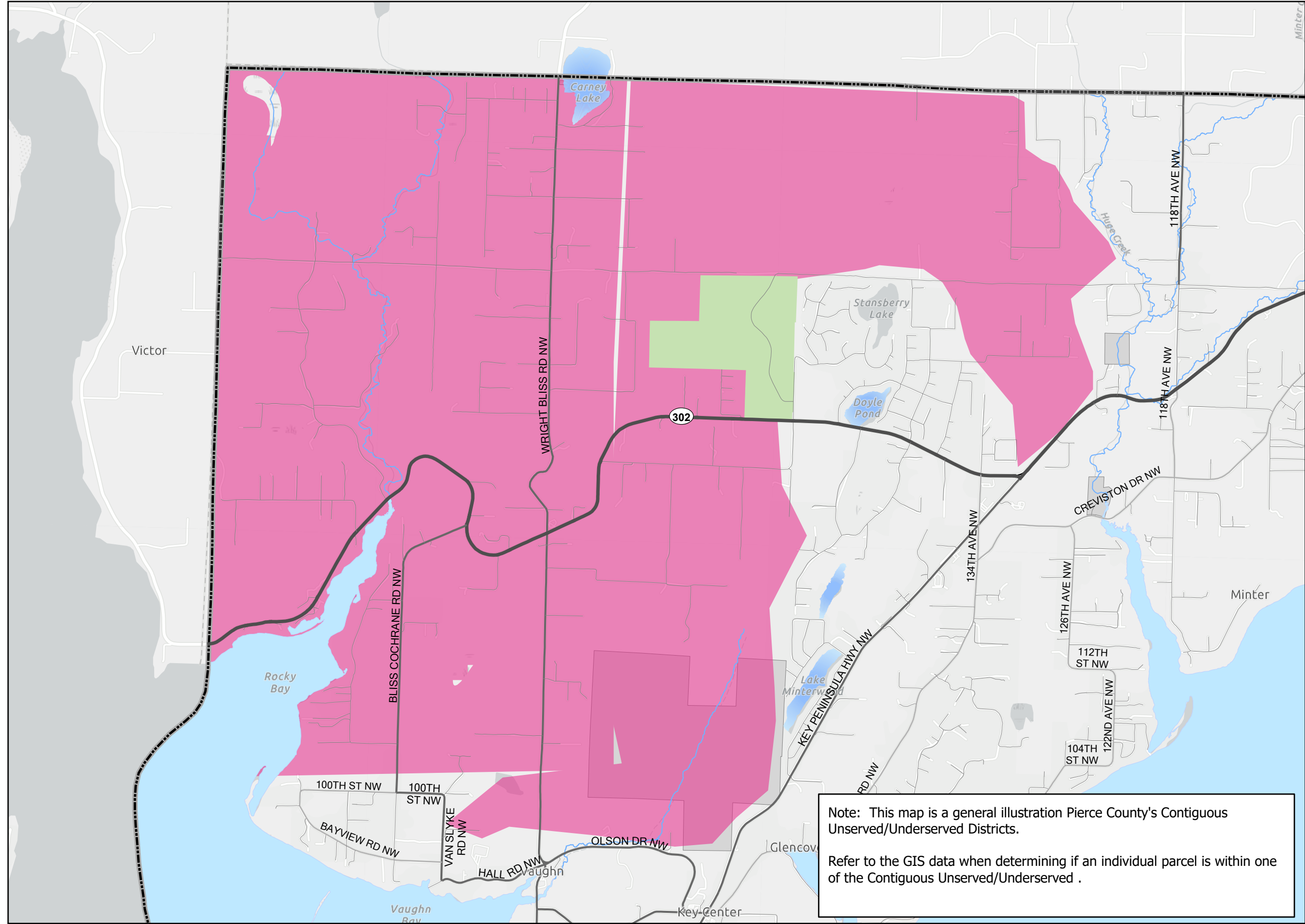


Note: This map is a general illustration Pierce County's Contiguous Unserved/Underserved Districts.

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# CONTIGUOUS UNSERVED/UNDERSERVED DISTRICTS

## Region Boundary Map



### Key Peninsula North Region

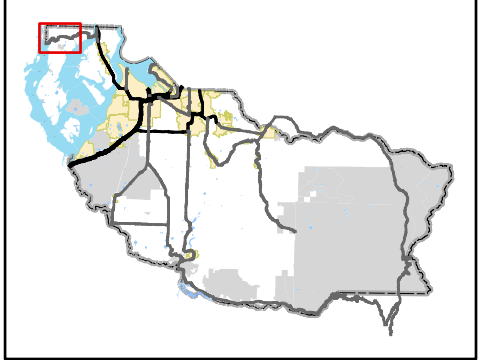
#### Unserviced or Underserved Broadband Districts

Key Peninsula North

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- Parks
- Cities (Pierce County Only)
- Federal & State Lands

Note: This map is a general illustration Pierce County's Contiguous Unserviced/Underserved Districts.  
 Refer to the GIS data when determining if an individual parcel is within one of the Contiguous Unserviced/Underserved .



**FINDINGS OF FACT**

The Pierce County Council finds that:

1. In March 2021, the County Council passed Ordinance No. 2021-9s to address barriers to broadband service delivery by adopting a new Broadband Development Incentive program to provide infrastructure development incentives within unserved and underserved as designated Broadband Development Districts (Chapter 18A.69 of the Pierce County Code [PCC]).
2. Broadband Development Districts were not defined in Ordinance No. 2021-9s.
3. The 2021 Broadband Infrastructure Strategic Plan and Facilitation study analyzed broadband service in the county and found broad, contiguous areas which are unserved or underserved based upon best publicly available data, including a desk review of existing infrastructure and data furnished by internet service providers.
4. Approximately 6,300 rural homes and businesses are located within the analyzed unserved or underserved areas of Pierce County.
5. The unserved and underserved areas are only a general representation of broadband access as publicly available data was not precise enough to determine service at the parcel level and, therefore, small pockets of poorly served locations may exist outside of the delineated areas.
6. The proposed amendments designate the unserved and underserved areas as broadband development districts in order to activate the existing incentive program.
7. The Proposal would add provider participation in the Federal Communications Commission’s (FCC) Affordable Connectivity Program to ensure equitable and affordable broadband access to low-income customers.
8. The proposed amendments clean-up the Pierce County Code by moving the Broadband Development Incentives from Title 18A PCC to Title 12 PCC.
9. The proposed amendments support improved internet access and service in areas where it is most lacking.
10. The proposed amendments would ensure future broadband infrastructure delivers broad benefits to county residents and businesses in a cost-effective manner through affordability provisions and public-private partnerships.



- 1 11. The proposed amendments would advance education equity and economic equity  
2 by improving accessibility to broadband internet service.  
3
- 4 12. The proposed amendments would advance livability equity by ensuring new  
5 service is affordable to low-income households.  
6
- 7 13. Notice of the Planning Commission public hearing was published in *The News*  
8 *Tribune* on April 13, 2022.  
9
- 10 14. The Responsible Official conducted an environmental review of the proposed  
11 amendments and issued a Determination of Nonsignificance (DNS) on February 8,  
12 2021, in accordance with the State Environmental Policy Act (SEPA).  
13
- 14 15. The proposed amendments are consistent with the Growth Management Act,  
15 VISION 2050, Countywide Planning Policies, and the Pierce County  
16 Comprehensive Plan.  
17
- 18 16. On June 28, 2022, the Pierce County Council Economic and Infrastructure  
19 Development Committee reviewed the proposed amendments to the Pierce  
20 County Code in a public hearing; and on June 28, 2022, passed the Committee's  
21 recommendations to the full Council for further consideration.  
22
- 23 17. On July 19, 2022, the Pierce County Council reviewed the proposed amendments  
24 to the Pierce County Code in a public hearing; and approved the proposed  
25 Development Regulation amendments.  
26
- 27 18. The Pierce County Council finds that it is in the public's interest to prioritize County  
28 resources to advance a Countywide broadband network to make reliable,  
29 affordable, high-speed internet available to all Pierce County residents.  
30

