

1 Sponsored by: Councilmember Robyn Denson

2 Requested by: County Council

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6 **ORDINANCE NO. 2023-42s**

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10 **An Ordinance of the Pierce County Council Modifying the Effective Date of**  
11 **Ordinance No. 2023-24 to Align the Repeal Dates of**  
12 **Ordinance Nos. 2023-5s and 2023-14 in Response to a**  
13 **Petition Filed with the Growth Management Hearings Board –**  
14 **Central Region Case No. 23-3-0005c.**

15  
16 **Whereas**, the Growth Management Act (GMA) was adopted in 1990 and  
17 obligates Pierce County to develop, adopt, and implement a Comprehensive Plan  
18 pursuant to the Revised Code of Washington (RCW) 36.70A.040; and

19  
20 **Whereas**, RCW 36.70A.080 allows local jurisdictions to adopt subarea plans  
21 consistent with the comprehensive plan as an optional element; and

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23 **Whereas**, RCW 36.70A.040 requires the County to adopt development  
24 regulations that are consistent with and implement the adopted comprehensive plan and  
25 subarea plans; and

26  
27 **Whereas**, the Pierce County Council adopted amendments to the Pierce County  
28 Development Regulations that implement the Comprehensive Plan and the Parkland-  
29 Spanaway-Midland Communities Plan through Ordinance No. 2023-5s on March 21,  
30 2023; and

31  
32 **Whereas**, on April 17, 2023, Futurewise filed a Petition for Review challenging  
33 the Pierce County Council's adoption of Ordinance No. 2023-5s, pursuant to the GMA,  
34 Chapter 36.70A RCW. The Petition was assigned Growth Management Hearings  
35 Board (GMHB) Case No. 23-3-0004; and

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37 **Whereas**, the effective date of Ordinance No. 2023-5s was set for May 1, 2023;  
38 and

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40 **Whereas**, on May 9, 2023, Futurewise filed a request with the GMHB to withdraw  
41 its Petition for Review in GMHB Case No. 23-3-0004 and dismiss the Case pursuant to  
42 WAC 242-03-720(1)(a); and



1           **Whereas**, on May 9, 2023, Futurewise filed a Petition for Review challenging the  
2 Pierce County Council's adoption of Ordinance No. 2023-5s, pursuant to the GMA,  
3 Chapter 36.70A RCW. The Petition was assigned GMHB Case No. 23-3-0005; and  
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5           **Whereas**, Pierce County received the Notice of Hearing and Preliminary  
6 Schedule of GMHB Case No. 23-3-0005 on May 11, 2023; and  
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8           **Whereas**, on May 25, 2023, Petitioner Futurewise provided an offer to Pierce  
9 County to dismiss GMHB Case No. 23-3-0005 if Pierce County agreed to repeal the  
10 amendment that permitted "Shared Housing Villages" as a conditional use permit in the  
11 Residential Resource Zone in the Parkland, Spanaway, Midland Communities Plan  
12 Area; and  
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14           **Whereas**, on May 26, 2023, the Tacoma Rescue Mission filed a Motion to  
15 intervene in GMHB Case No. 23-3-0005. The Motion to Intervene was granted by the  
16 Hearings Board on June 6, 2023; and  
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18           **Whereas**, the GMHB set the date of its Final Decision and Order in GMHB Case  
19 No. 23-3-0005 for November 6, 2023; and  
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21           **Whereas**, on May 23, 2023, the Pierce County Council adopted Ordinance No.  
22 2023-14 modifying the effective date of Ordinance No. 2023-5s to postpone the  
23 effective date of the challenged Ordinance until after the GMHB is scheduled to issue its  
24 Final Decision and Order. The effective date of Ordinance No. 2023-5s was set for  
25 December 1, 2023; and  
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27           **Whereas**, on June 1, 2023, Spanaway Concerned Citizens filed a Petition for  
28 Review challenging the Pierce County Council's adoption of Ordinance No. 2023-5s,  
29 pursuant to the GMA, Chapter 36.70A RCW. The Petition was assigned GMHB Case  
30 No. 23-3-0006; and  
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32           **Whereas**, Pierce County received an Order of Consolidation and Notice of  
33 Hearing and Preliminary Schedule, consolidating Case Nos. 23-3-0005 and 23-3-0006  
34 and assigning the new consolidated Case No. 23-3-0005c on June 21, 2023; and  
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36           **Whereas**, the GMHB set the date of its Final Decision and Order in consolidated  
37 GMHB Case No. 23-3-0005c for December 6, 2023; and  
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39           **Whereas**, Pierce County is subject to the GMA, Chapter 36.70A RCW; and  
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1       **Whereas**, Substitute Senate Bill 5399, Chapter 275, Laws of 2013 amended  
2 RCW 36.70A.300(4)(b) providing that “[u]nless the board makes a determination of  
3 invalidity, state agencies, commissions, and governing boards may not determine a  
4 county, city, or town to be ineligible or otherwise penalized in the acceptance of  
5 applications or the awarding of state agency grants or loans during the period of  
6 remand. This subsection (4)(b) applies only to counties, cities, and towns that have:

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8       (i) delayed the initial effective date of the action subject to the petition before the  
9 board until after the board issues a final determination; or (ii) within thirty days of  
10 receiving notice of a petition for review by the board, delayed or suspended the  
11 effective date of the action subject to the petition before the board until after the  
12 board issues a final determination.”; and

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14       **Whereas**, the County is vulnerable to loss of State Agency Grant funding unless  
15 the County delays or suspends the effective date of the action subject to the GMHB until  
16 after the Board issues a final decision and order (currently scheduled for December 6,  
17 2023); and

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19       **Whereas**, on July 25, 2023, the Pierce County Council adopted Ordinance No.  
20 2023-24, repealing Ordinance No. 2023-5s and Ordinance No. 2023-14 in their entirety  
21 in anticipation of a settlement agreement in GMHB Case No. 23-3-0005c; and

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23       **Whereas**, on August 9, 2023, the Pierce County Executive vetoed Ordinance No.  
24 2023-24 and on August 22, 2023, the Pierce County Council voted to override the veto.  
25 The effective date of Ordinance No. 2023-24 was set for December 15, 2023; and

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27       **Whereas**, this Ordinance is necessary to align the repeal dates of Ordinance No.  
28 2023-5s and Ordinance No. 2023-14 in order to resolve the pending GMHB Case No.  
29 23-3-0005c by settlement; **Now Therefore**,

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31       **BE IT ORDAINED by the Council of Pierce County:**

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33       Section 1. Section 5 of Ordinance No. ~~2023-5s~~2023-24 is hereby amended as  
34 follows:

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36               The effective date of the Ordinance shall be December 1-15, 2023.  
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1 Section 2. Findings. In support of the amended effective date of Ordinance No.  
2 ~~2023-5s2023-24~~ enacted by this Ordinance, the Pierce County Council adopts as its  
3 Findings the recitals set forth above.

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5 PASSED this 3<sup>rd</sup> day of October, 2023.

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9 ATTEST:

PIERCE COUNTY COUNCIL  
Pierce County, Washington

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12  
13 Denise D. Johnson  
14 **Denise D. Johnson**  
15 Clerk to the Council

Ryan N. Mello  
**Ryan N. Mello**  
Council Chair

Bruce F. Dammeier  
**Bruce F. Dammeier**  
Pierce County Executive

Approved  Vetoed   
9<sup>th</sup> day of October, this  
2023.

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24 Date of Publication of  
25 Notice of Public Hearing: September 27, 2023

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28 Effective Date of Ordinance: October 19, 2023  
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