

PIERCE CONSERVATION DISTRICT

PIERCE COUNTY, WASHINGTON

RESOLUTION NO. 2012-07-01

A RESOLUTION of the Board of Supervisors of Pierce Conservation District, relating to a system of rates and charges; proposing a system of rates and charges to Pierce County, Washington; and providing for other matters properly related thereto, all as more particularly set forth herein.

THE BOARD OF SUPERVISORS OF PIERCE CONSERVATION DISTRICT, WASHINGTON, does hereby resolves as follows:

SECTION 1. FINDINGS AND DETERMINATIONS. The Board of Supervisors (the “Board”) of Pierce Conservation District, Washington (the “District”) hereby makes and enters the following findings and determinations:

1.1. The District is a governmental subdivision of the State of Washington and a public body corporate and politic, created in Pierce County and operating since 1949. As a requirement for District formation, the State Conservation Commission found that “the public health, safety, and welfare warrant the creation” of the District. RCW 89.08.080. In addition, the Legislature made express findings relating to conservation districts, stating that “the preservation of these lands is necessary to protect and promote the health, safety, and general welfare of its people” and that “it is hereby declared to be the policy of the legislature to provide for the conservation of the renewable resources of the state...and thereby...to protect and promote the health, safety, and general welfare of the people of the state.” RCW 89.08.010. Under chapter 89.08 RCW, the Legislature has provided that the services, improvements and programs of the District are necessary to the public health, safety and welfare of the District and the state. The District exercises public health, safety and welfare (police power) functions in unincorporated Pierce County and currently in the cities of Tacoma, Lakewood, Puyallup, Sumner, University Place, Gig Harbor, Steilacoom, Fircrest, Buckley, Milton and DuPont.

1.2 Improper land-use practices have caused and have contributed to, and are now causing and contributing to, a progressively more serious erosion of the lands of the District. It is necessary that land-use practices contributing to soil wastage and soil erosion be discouraged and discontinued, and appropriate soil-conserving land-use practices, and works of improvement for flood prevention of agricultural and nonagricultural phases of

the conservation, development, utilization and disposal of water be adopted and carried out to preserve natural resources, protect public lands, and protect and promote the health, safety and general welfare of the people of the District (the “Conservation Projects”). The District programs assist land to be managed for sustainable, profitable production of food and crops as a better choice than lands left to become filled with noxious weeds or converted to polluting activities. Many District programs are designed to help private land managers do a better job of protecting natural resources as they make a living from their land.

1.3 Pursuant to chapter 89.08 RCW, the District is responsible for and authorized to carry out Conservation Projects within the District, including but not limited to soil conservation; measures to address property compliance with Clean Water Act standards; habitat protection; habitat restoration and technical assistance; NPDES support; education; water quality monitoring; rain garden programs; invasive species programs; and, agriculture and forest land assistance. District programs, Conservation Projects and improvements include:

1.3.1 Purchase properties or conservation easements to protect high-quality wildlife habitat and key properties which support the District's resource conservation mission. Implement appropriate habitat restoration or enhancement projects. Maintain existing agricultural activities where possible to preserve local farmland and support local agricultural producers, including providing food assistance programs to the elderly and disabled in the County through coordination of farm-to-market, public market and other programs.

1.3.2 Cooperative activities to restore high-quality habitat include personal site visits with landowners; development of best management practices plan; recommendations for invasive/non-native weed eradication; project coordination and implementation (e.g. stream planting with volunteers). Many local, state and federal agencies are working to save salmon. Unlike most others, the District works directly with private landowners who have direct control over management activities on their lands, for the benefit of those properties and the land and waters of the District.

1.3.3 Promote District-wide best management urban, suburban and rural conservation practices through education and outreach activities such as catch basin marking, Pierce EcoNet and Puget Sound Starts Here campaign. Lead projects at the request of partners (cities and Pierce County) to help them meet their NPDES requirements and offset burdens on rates and charges for stormwater management programs. Coordinate with Pierce County municipalities in meeting Clean Water Act demands and NPDES compliance.

1.3.4 Provide District-wide water quality improvement upon urban, suburban and rural properties by conducting water quality trainings and workshops, such as the macro-

invertebrate monitoring workshop. Lead field trips on topics including water quality, salmon, native plants, stormwater, stream ecology, and macro-invertebrates. Promote best management practices at fairs and other public events. Participate in Pierce County Children's Water Fest. Train and coordinate citizen water quality monitoring volunteers on streams and lakes of Pierce County. Maintain water quality monitoring equipment and supplies. Partner with municipalities, the Tacoma-Pierce County Health Department, the Washington Department of Ecology, and USGS on specific projects (e.g. TMDL monitoring, groundwater model). Manage water quality data; upload data to Naturemapping website; submit reports upon request. Assist Pierce County with macro-invertebrate sampling. All of these programs offset the cost of Clean Water Act compliance on other entities and ratepayers.

1.3.5 Conserving and protecting high quality agricultural soils by providing landowner education and development of a best management practices plan to help livestock owners comply with mandated County regulations, thereby offsetting the cost and burden of the impacts of certain agricultural impacts. Act as hub for county-wide partnership of individuals, organizations and government agencies to support local agricultural economy. Provide technical assistance and funding opportunities for market-based incentives which retain high quality agricultural soils through prevention of land conversion to residential or commercial land use. Includes grants, loans, and technical assistance provided to local farm businesses and all market-based agricultural support organizations. Provide resources to help keep farmers on the land (e.g. mobile slaughter house, poultry processing unit, greenhouses and other agriculture infrastructure). Provide technical assistance and funding opportunities for market-based incentives which retain high quality agricultural soils. Provide funding opportunities to local agricultural businesses and non-profits which help retain high quality agricultural soils through prevention of land conversion to residential or commercial land use. Includes grants, loans, and technical assistance provided to local farm businesses and all market-based agricultural support organizations to the benefit of both the agricultural community and the District residences who receive better and more regular access to local produce, meats and other products.

1.3.6 Provide educational events along waterways draining into recreational and commercial shellfish production areas to prevent damage to shellfish beds caused by erosion and sedimentation of stream channels, reservoirs, dams, ditches, and harbors; loading the air with soil particles; loss of fertile soil material in dust storms; and the accumulation of soil on lower slopes and its deposit over alluvial plains. Educate the public about the importance of conservation and restoration of natural resources for the working waterfront, shellfish, aquatic health, food, water quality, slope stabilization, and habitat.

1.3.7 District Stream Team award-winning improvement projects, including remediation of knotweed infestation through control efforts on 150 acres of landowner properties within the South Prairie Creek watershed and a multi-year knotweed control

effort within the Nisqually River watershed in partnership with the Washington State Department of Natural Resources; planting of cedar trees at Silver Creek in Puyallup, and later-years' maintenance by clearing three foot rings around each cedar, clearing Silver Creek Trail of storm debris, and hand pulling ivy from larger, established trees in the area; planting of more than 300 native trees and shrubs as part of an overarching project to restore Meeker Creek by stabilizing the bank and shading the stream to provide more suitable habitat for salmon; installing a 100-foot buffer along a tributary to South Prairie Creek, clearing invasive blackberry shrubs and planting 700 native plants in the area; In partnership with the Nisqually Tribe, planting 1,200 native plants on five acres along Tanwax Creek; improving a riparian buffer along the Nisqually River at Wilcox Flat by planting 1,400 native trees and shrubs in an area cleared of blackberries and other weeds; former open lawn space was planted with 145 native plants on the Foss High School property in Tacoma to further enhance the Snake Lake watershed; and, over 1,100 storm drains and catch basins were stenciled with "Dump No Waste – Drains to Stream" to protect from non-point source pollution caused by stormwater runoff.

1.4 Part of the regulations and controls under both federal and state law regarding water pollution is the establishment and maintenance of appropriate measures for education and implementation of best management practices. See 33 U.S.C. 1251 et seq; 40 CFR 122.26(d)(2)(iv) (required measures for State NPDES programs including education and planning to implement best management practices and control techniques to reduce pollutants); Wash. Dept. of Ecology Phase I Municipal Stormwater Permit for Pierce County (requiring Education and Outreach program). The District provides such service, both independently and together with Pierce County and cities within the District. Pierce County has contracted with and continues to contract with the District to provide several elements of the mandated education and outreach programs.

1.5 Certain properties within the District receive direct or indirect benefit from the carrying out of Conservation Projects. Direct benefits are those benefits arising out of Conservation Projects conducted on property that benefits such property. Indirect benefits are those benefits received by property (e.g., down stream or adjacent parcels), but arising out of Conservation Projects conducted on other property.

1.6 It is appropriate for property owners within the District that benefit either directly or indirectly from the Conservation Projects to pay for the cost of carrying out the District's Conservation Projects.

1.7 The District engaged FCS Group ("FCS"), an independent financial consulting firm that provides economic, public finance, management consulting, and financial (rates, charges, and fees) services to public sector entities throughout the country, including city and county governments, utilities, municipal corporations and ports, special purpose districts, and state agencies. FCS has evaluated the services provided by the District and has developed a rate structure, as part of the Pierce Conservation District Rate Study (FCS

Group, 2012) that allocates the costs of District services to classes of property.

1.8 In determining a rate structure, the Board has considered the discretionary factors set forth by the Legislature in Chapter 60, Laws of 2012, including

1.8.1 Services furnished, to be furnished, or available to landowners in the District;

1.8.2 Benefits received, or to be received, or available to property in the District;

1.8.3 The character and use of land in the District;

1.8.4 The nonprofit public benefit status of land users in the District;

1.8.5 The income level of persons served or provided benefits, including senior citizens and disabled persons; and

1.8.6 Other matters that present a reasonable difference as a grounds for distinction among properties.

1.9 The Board finds that seven classes or categories of property are appropriate: residential, commercial, agricultural, institutional/public, vacant/undeveloped, open space, and forest, as further defined in this Resolution. There is a rational basis for distinguishing land within the District into classes on the basis of property use and the variation of properties within these classes is found to reflect differences in services and/or benefits received, to be received or available from the Conservation Projects.

1.10 The Board finds that it is appropriate to assign weighting factors to each class of property that reflect distinctions among those properties relating to the services and/or benefits received, to be received or available from the District. The weighting factors include (1) services and/or benefits received, to be received or available that are insignificant or immeasurable to certain property; (2) services and/or benefits received, to be received or available to classes of property to a lesser degree; and, (3) services and/or benefits received, to be received or available that more fully support property (compared to other classes of property). There is a rational basis for distinguishing services/benefits received or available from District services and Conservation Projects with the use of such weighting factors and the variation of services/benefits within these factors is found to be minor and to reflect only minor differences in services benefit received or available from the Conservation Projects.

1.11 The administrative cost of calculating the charge for each individual property and maintaining accurate information would be very high. Therefore, a flat charge for each parcel within each property class is less costly to administer than calculating a separate

charge for each parcel and is equitable because of the similarities of the characteristics and uses within each property class. The District considered but determined a per acre charge may result in miscalculations and confusion among rate payers and was not appropriate for use at the current time.

1.12 The rates proposed to Pierce County (“County”) by this Resolution were calculated within the parameters of a rate model from the FCS Rate Study. Under the rate model, the estimated annual costs of each Conservation Project were allocated to ratepayers as follows:

1.12.1 number of parcels in each of the property categories;

1.12.2 direct and indirect services/benefits received by or available to property within each property category, as generally described in this Resolution; and

1.12.3 a weighting factor reflecting the degree of services/benefits received by or available to each property class for each Conservation Project as described in Section 1.10, above.

1.13 The FCS Rate Study calculated rates per parcel per year for six of the classifications, as follows: residential (\$6.9432), commercial (\$6.9297), agricultural (\$5.7658), institutional/public (\$6.9339), vacant/undeveloped (\$5.4876), and open space (\$5.4944). The rate model provides a reasonable basis for establishing the rates proposed by this Resolution. As adjusted proportionally: residential (\$5.0000), commercial (\$4.9884), agricultural (\$4.1521), institutional/public (\$4.9934), vacant/undeveloped (\$3.9518), and open space (\$3.9567), such rates do not exceed the maximum rates permitted under Chapter 60, Laws of 2012. These rates are an allocable share of the costs of services/benefits received or available to the property owners in the District from District services, programs and Conservation Projects, all for the preservation of natural resources, protection of public lands and waters, and protection and promotion of the health, safety and general welfare of the lands and people of the District.

1.14 The rates proposed herein to pay the costs of carrying out the Conservation Projects are fees for which the federal government is liable under the Clean Water Act to the same extent as any other classification of land. 33 U.S.C. § 1323(a), and Pub.L. 111-378, § 1, 124 Stat. 4128 (2011); and, *United States of America v. City of Renton, et al.*, Western District of Washington Cause No. C11-1156JLR (2012). However, the District determines that Mount Rainier National Park and the extensive federal forests and other resource lands within Pierce County contribute substantially to the conservation of natural resources and are thereby excluded from the system of rates recommended by this Resolution. Additionally, Joint Base Lewis McChord (“JBLM”) property is not identified in the Pierce County Assessor data base of properties, and efforts to identify and classify parcels within JBLM are not currently warranted in light of the speculative revenue that may be generated from imposing rates on JBLM.

1.15 Land classified as forest as described in this Resolution provide benefits to the programs of the District, and are also served by District programs. But, the cost to administer a rate program regarding such land does not appear warranted (cost to administer to be in excess of likely revenues under formula set out in Chapter 60, Laws of 2012). Therefore, there is a reasonable basis to currently exempt such forest land from the rates proposed herein.

1.16 The consideration, development, adoption and implementation of the rates proposed herein follows the public hearing held on July 19, 2012, held by the District pursuant to RCW 89.08.400(2), public notice of which was properly provided by postings throughout the District and through publication.

1.17 By Resolution No. 2012-07-02, the District has established a process providing for landowner appeals of the individual rates as may be applicable to a parcel or parcels.

SECTION 2. DEFINITIONS.

2.1 “Agricultural land” means those parcels in the Pierce County Assessor’s property classifications of: 8150, Horticultural Specialties; 8200, AG Related Activities; 8300, CU Farm & Agri RCW 84.34 Current use; 8400, Fishing Activities and Services; 8491, Cultivated Tidelands.

2.2 “Billing year” means the calendar year that bills are sent through the property tax statement.

2.3 “Commercial land” means those parcels in the Pierce County Assessor’s property classifications of: 1600, Hotels/Motels; 1700, Institutional Lodging; 1840, Retirement Home; 1860, Other Group Qtrs; 2100, Food Mfg; 2200, Textile Mill Mfg; 2300, Apparel & Finish Mfg; 2400, Lumber & Wood Mfg; 2500, Furniture Mfg; 2600, Paper Prod Mfg; 2700, Printing Publishing; 2800, Chemical Mfg; 2900, Metro Industries; 3000, Rubber Plastic Prod; 3100, Leather Mfg; 3200 Stone/Clay Glass Mfg; 3300, Prim Metal Industries; 3400, Fab Metal Products; 3500 Sci Instr Photo Optical Watch Mfg; 3900, Misc Mfg; 4112, RR Equip Maint; 4113, RR Passenger Terminals; 4300, Aircraft Transportation; 4600, Auto Parking; 4700, Communication; 4800, Utilities; 4900, Other Trans Utilities; 5020, Office Condo; 5030, Det Garage Condo; 5050, Marina Slip Condos; 5060, Warehouse Condo; 5100, Wholesale Trade; 5200, Bldg Mtrl Farm Equip Retail; 5300, Gen Merchandise Retail Trade; 5320, Discount Stores; 5350, Big Box Power Ctr; 5360, NGB Community SC; 5380, Regional SC; 5390, Older Business Dist; 5400, Food Retail Trade; 5410, Conven Store May Have Gas; 5430, Specialty Food Mkts; 5500, Auto Wrecking Retail; 5505, MH Sales Retail; 5510, RV Sales Retail; 5515, Auto Dlr New and Used Retail; 5525, Auto Accessories Retail; 5530, Gas Station Serv Gar; 5540, Gas Station Mini Mart; 5550, Fueling Stations; 5560, Gas Station Cashier Booth; 5600,

Apparel Accssrs Retail; 5700, Retail Home Furnishings; 5800, Restaurant; 5805, Fast Food; 5815, Espresso Shop; 5820, Taverns; 5822, Entertainment Bars; 5825, Sports Bar Rest Larger Tav; 5900, Other Retail Trade; 5999, Retail Stand Alone; 6100, Off Insurance Real Estate Finance; 6110, Banks; 6120, Credit Unions; 6199, Misc Office Space; 6200, Personal Services; 6210, Lndry & Dry Cleaning Serv; 6231, Salons Spas Barber Shops; 6241, Funeral Crematory Serv; 6242, Cemeteries; 6300, Business Services; 6310, Gen Warehousing Storage; 6373, Refrig Warehouse; 6380, Mini Warehousing; 6390, Rental Equip Auto Truck; 6394, Equipment Leasing; 6400, Repair Services; 6410, Auto Repair Services; 6412, Car Wash; 6420, Mini Lube Service; 6500, Professional Services; 6510, Hospital; 6511, Medical Offices Services; 6512, Dental Services; 6516, Nursing Convalescent Hospitals; 6520, Veterinarian Services; 6600, Contractor Services; 6700, Governmental Services; 6900, Misc Services; 7210, Motion Picture Theaters; 7300, Amusements; 7400, Rec Activities; 7410, Golf Courses; 7420, Marinas; 7500, Resorts Camps; 8500, Mining Activities; 8505, Quarry Sand Rock; 8900, Other Resource Prod; 9186, Ind Indian Reserv Lnd.

2.4 “Forest land” means those parcels in the Pierce County Assessor’s property classifications of: 8800, Desig Forest Lnd RCW 84.33; 9200, Non Comm Forest; 9500, CU Timberland RCW 84.34 Current Use.

2.5 “Institutional/public land” means those parcels in the Pierce County Assessor’s property classifications of: 6720, Fire Stations; 6730, Postal Services; 6740, Prisons; 6750, Military Bases; 6800, Educational Services; 6810, Elem Schools 1 to 6; 6820, Sec Schools 7 to 12; 6830, University/Colleges; 6840, Jr Colleges; 6850, Voc Trade Schools; 6860, Nursery Schools; 6870, Special Training Schools; 6910, Religious Services; 7100, Cultural Activities; 7110, Libraries; 7200, Other Pub Assembly.

2.6 “Open space land” means those parcels in the Pierce County Assessor’s property classifications of: 4100, Transit RR Right of Way; 4111, OP Prop RR Right of Way; 4200, Vehicle Transportation; 4400, Marine Craft Transportation; 4500, Street Right of Way; 4830, Drainflds Catch Basins; 4836, Well Sites; 7600, Parks; 7630 Grnbelt Common Areas; 8100, Ag Not Current Use; 8140, Farms Not Current Use; 8510, Mineral Rights; 9109, Floodway; 9112, Wetlands Recorded; 9300, Water Areas; 9330, Bays or Lagoons; 9390, Other Water Areas; 9391, Saltwater Tidelands; 9400, CU Open Space RCW 84.34 Current Use; 9900, Other Undevel Land.

2.7 “Parcel” means the smallest separately segregated unit or plot of land having an identified owners(s), boundaries, and areas as defined by the Pierce County Assessor and recording in the Pierce County Assessor real property file or maps, and assigned a separate property tax account number.

2.8 “Residential land” means those parcels in the Pierce County Assessor’s property classifications of: 1101, Single Family Dwelling; 1152, Mobile/Mfg Home; 1154, MH Sr/

Disabled Exempt Admin Combo; 1155, MH Title Elim; 1197, Comm Lnd With Sfr; 1202, Duplex 2 Units; 1203, Triplex 3 Units; 1204, Fourplex 4 Units; 1300, Rm Boarding House; 1305, Multi Fam Apts 5 Units or More; 1306, Multi Fam High Rise 5 Units or More; 1307, Subsidized Units 5 or more; 1308, Subsidized High Rise Units 5 or more; 1401, Sfr Condo; 1402, Duplex Condo; 1403, Triplex Condo; 1404, Fourplex or More Condo; 1405, Apt/Condo 3 Stor or Less; 1410, Apt Condo High Rise; 1440, MH Park Condo; 1500, MH Park; 1800, Other Residential; 7430, Boat Houses.

SECTION 3. RATE SCHEDULE. The following rate schedule is proposed to the County for a term of five (5) years, unless modified by subsequent District action and County approval. The Board may recommend adjustment of these rates from time to time, to reflect the budgeted costs of carrying out the District's improvements, services and Conservation Projects and any changes in land categories. The rates are as follows.

- 3.1 The rate for residential land shall be \$5.00 per parcel per year.
- 3.2 The rate for commercial land shall be \$4.99 per parcel per year.
- 3.3 The rate for agricultural land shall be \$4.15 per parcel per year.
- 3.4 The rate for institutional/public land shall be \$4.99 per parcel per year.
- 3.5 The rate for vacant/undeveloped land shall be \$3.95 per parcel per year.
- 3.6 The rate for open space land shall be \$3.96 per parcel per year.
- 3.7 Forest land shall be exempt from the rates proposed in this Resolution.

Specific rates per parcel shall be shown on a spreadsheet provided by the District to the Pierce County Assessor, consistent with Chapter 89.08 RCW.

SECTION 4. IMPLEMENTATION. The Executive Director is authorized and directed to take all appropriate and necessary acts to implement this Resolution, including presentation of this Resolution to the County and coordination with the County, including the County Assessor, and correction of any parcel's classification or classification reference in Section 2.

SECTION 5. RATIFICATION AND CONFIRMATION. Any action taken consistent with the authority and prior to the effective date of this Resolution is hereby ratified, approved and confirmed.

SECTION 6. EFFECTIVE DATE. This Resolution shall become effective immediately upon its adoption.

ADOPTED BY THE BOARD OF SUPERVISORS of Pierce Conservation District, Washington, at a regular open public meeting thereof, and effective this 19th day of July, 2012.

PIERCE CONSERVATION DISTRICT,
WASHINGTON

Jeanette Dorner, Chair

David Seago, Vice Chair

David Batker, Supervisor

Ernie Bay, Supervisor

Sheila Wynn, Supervisor

ATTEST:

Ryan Mello, Executive Director

PAGE 1

PAGE 2

