

**TITLE XVI
PLANNING AND SUBDIVISIONS**

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- 16.01 Plats, Subdivisions, and Dedications (Repealed)**
- 16.04 Short Plats and Short Subdivisions (Repealed)**
- 16.04A Short Subdivision and Boundary Line Adjustment Ordinance (Repealed)**
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Chapter 16.01

Plats, Subdivisions, and Dedications

(Chapter 16.01, Plats, Subdivisions, and Dedications, and the resolutions passed September 13, 1965, February 6, 1966, April 21, 1969, October 5, 1970, August 16, 1971, September 7, 1971, October 15, 1973, September 18, 1978, and August 20, 1979 covering said subject, repealed by Ord. C-87-90, [PLG- 011-90], June 25, 1990, vol. 31, p. 249)

Chapter 16.04

Short Plats and Short Subdivisions

(Chapter 16.04, Short Plats and Short Subdivisions, and Ord., August 10, 1970, vol. 13, p. 342; superseded and repealed by Ord. PD-79-97, August 20, 1979, vol. 18, p. 244)

Chapter 16.04A

Short Subdivision and Boundary Line Adjustment Ordinance

(Chapter 16.04A, Short Subdivision and Boundary Line Adjustment Ordinance, and the ordinances passed August 20, 1979, August 22, 1983, February 6, 1984, November 26, 1984, and September 23, 1991 covering said subject, repealed by Ord. C-85-98 [PLG-020-98], September 29, 1998, vol. 43, p. 11, effective December 1, 1998)

**Chapter 16.06
Land Divisions and Dedications**

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16.06.010 Short Title

The ordinance codified in this Chapter shall be known as the Island County Land Division Ordinance.

(Ord. C-85-98 [PLG-020-98], September 29, 1998, vol. 43, p. 11; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

16.06.020 Purpose

The purpose of this Chapter is to regulate the division of land and to promote the public health, safety, and general welfare in accordance with standards established by the State of Washington;

to promote effective use of land; to facilitate adequate provision for water, sewer, utilities, drainage, parks and recreation areas, sites for schools and school grounds and other public requirements; to provide for proper ingress and egress; and to require uniform monumenting of Land Divisions and conveyance by accurate legal description. This Chapter implements Chapter 58.17 RCW; serves as an official control pursuant to Chapter 36.70 RCW and serves as a development regulation pursuant to Chapter 36.70A RCW.

(Ord. C-85-98 [PLG-020-98], September 29, 1998, vol. 43, p. 11; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

16.06.030 Applicability

Every division of land for the purpose of development, lease, sale, gift, transfer of Ownership, or other conveyance and every adjustment of property lines shall proceed in compliance with this Chapter. Use or development of all Lots shall comply with all County development regulations including Lots created following procedures that are exempt from the requirements of this Chapter. The Subdivision and Short Subdivision provisions of this Chapter shall not apply to:

- A. Cemeteries. Any cemetery or burial plot, while used for that purpose;
- B. Boundary Line Adjustments. A division made by adjusting boundary lines between platted or unplatted Lots or both, which does not create any additional Lot, Tract, Parcel, site or division, nor create any Lot, Tract, Parcel, site or division which contains insufficient area and dimension to meet the minimum requirements for width and area for a building site. Boundary Line Adjustments are subject to the applicable provisions of this Chapter;
- C. Large Lot Segregation. Any Boundary Line Adjustment or division of land into Parcels each of which equals 1/64 of a section, or equals or exceeds ten (10) acres if the land, is not capable of description as a fraction of a section of land. Provided that, in the case of a Zone classification requiring a minimum Lot Area greater than ten (10) acres, each Parcel must comply with the Lot Area requirements of that classification. For purposes of computing the size of any Parcel for a large Lot segregation, the size of any Parcel which borders on a street and road shall be expanded to include the area which would be bounded by the center line of the road or street and the side Lot lines of the Parcel running perpendicular to such center line;
- D. Condemnation. Division of land due to condemnation, or sale under threat thereof, by an agency or division of government vested with the power of condemnation;
- E. Testamentary Divisions. Any division made by testamentary provision or the laws of descent;
- F. Existing Legal Lots. The development, sale, lease, transfer, gift, or other conveyance of Existing legally created Tracts, Lots, or Parcels acquired by any Owner as separate Parcels, and having separate and distinct legal descriptions;
- G. Existing Illegal Lots. Any division of land, created prior to August 10, 1970, in violation of County requirements;

- H. Innocent Purchaser. Any Lot, Tract, Parcel, site or division of land, created prior to January 1, 1985, the Owner of which demonstrates, by notarized affidavit, that he or she is an innocent purchaser for value and had no actual or constructive notice of the violation;
- I. Lot Combinations and Boundary Line Correction. Any adjustment of boundary lines that meets the criteria set forth in ICC 16.06.080; and
- J. A division for the purpose of leasing land for Facilities Providing Personal Wireless Services while used for that purpose.
- K. A division of land into Lots or Tracts of less than three (3) acres that is recorded in accordance with chapter 58.09 RCW and is used or to be used for the purpose of establishing a site for construction and operation of consumer-owned or investor-owned electric utility facilities. Base density requirements shall continue to apply for purposes of residential development to any Lots, Tracts, or Parcels created pursuant to this provision. For purposes of this subsection, “electric utility facilities” means unstaffed facilities, except for the presence of security personnel, that are used for or in connection with or to facilitate the transmission, distribution, sale, or furnishing of electricity including, but not limited to, electric power substations. This subsection does not exempt a division of land from the zoning and permitting laws and regulations of cities, towns, counties, and municipal corporations. Furthermore, this subsection only applies to electric utility facilities that will be placed into service to meet the electrical needs of a utility’s existing and new customers. New customers are defined as electric service locations not already in existence as of the date that electric utility facilities subject to the provisions of this subsection are planned and constructed.

(Ord. C-85-98 [PLG-020-98], September 29, 1998, vol. 43, p. 11; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38; amended by Ord. C-64-02 [PLG-012-02], August 19, 2002, vol. 46, p. 300; amended by Ord. C-61-06 [PLG-012-06], June 5, 2006, vol. 2006, p. 183; amended by Ord. C-56-07, June 4, 2007, vol. 2007, p. 172; amended by Ord. C-02-08 [PLG-011-07], March 17, 2008, effective July 1, 2008, vol. 2008, p. 113; amended by Ord. C-129-09 [PLG-018-09], November 16, 2009, vol. 2009, p. 521)

16.06.040 Definitions

Whenever the following words and phrases appear in this Chapter, they shall be given the meaning attributed to them by this section. When not inconsistent with the context, words used in the present tense shall include the future; the singular shall include the plural and the plural the singular; the word “shall” is always mandatory and the word “may” indicates a use of discretion in making a decision. Capitalized words and phrases identify terms defined in this Chapter, other Chapters in Title 16 or Chapters contained in Title 17 ICC.

Alteration: Any change to the boundaries of Lots within a recorded Final Short Plat or Final Plat which does not qualify as a Boundary Line Adjustment, Lot Combination, boundary line correction, Withdrawal or Vacation; any change in easements or areas dedicated to the public; or, any change in conditions of approval of such a Plat.

Alteration of a Critical Area: As defined in Chapter 17.02 ICC as it may be amended.

Applicant: Any Person who files an Application for Land Division who is either the Person(s) identified in the Assessor's Records as the Owner of Property on which that proposed activity would be located; or the authorized agent of such a Person.

Application: The information required to complete the review of a Land Division under this Chapter as set forth in ICC 16.06.060.

Block: A group of Lots, Tracts, or Parcels within well defined and fixed boundaries.

Boundary Line Adjustment: The adjustment of boundary lines between platted or unplatted Lots or both, which creates no additional Lot, or which creates no additional Lot that contains insufficient area and dimension to meet minimum requirements for width and area for a building site. The combination of two or more Lots where no public Dedication is modified, is a Lot Combination and is not a Boundary Line Adjustment.

Certificate of Title: A certificate from a title company identifying the record Owner(s) of property and any Person or entity having a legal interest in the property.

Contiguous: Land adjoining and touching other property including lands separated from each other by Private Road or private right-of-way.

Critical Areas: As defined in Chapter 17.02 ICC as it may be amended.

Dedication: The deliberate appropriation of land by an Owner for any general and public uses, reserving to himself no other rights than such as are compatible with the full exercise and enjoyment of the public uses to which the property has been devoted. Acceptance of a Dedication by the County is evidenced by the recording of a Final Plat or Short Plat.

Facilities Providing Personal Wireless Services: Unstaffed facilities that are used for the transmission or reception, or both, of wireless communication services including, but not necessarily limited to, antenna arrays, transmission cables, equipment shelters, and support structures.

Final Plat: The final drawing of the Subdivision and Dedication prepared for filing of record with the Island County Auditor, and containing all elements and requirements set forth in this Chapter.

Land Division: The segregation of a Parcel of land into smaller Parcels or Lots, including Short Subdivisions and Subdivisions.

Lot: A fractional part of divided land created by Short Subdivision or Subdivision.

Lot Combination: The combination of two or more Lots where no public Dedication is modified.

Owner: Any Person or Persons having a legal right or interest including a fee Owner, contract purchaser, mortgagor or mortgagee and beneficiary or grantor of a trust or deed of trust, but not including the grantee of an easement.

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Parcel: A legal division or segregation of land, including a Parcel established by the Assessor and assigned a number for assessment purposes. Includes Lots and Tracts.

Person: An individual (regardless of relationship or legal capacity), limited liability company, partnership, corporation, association, unincorporated organization, trust, or any other legal or commercial entity, including a joint venture or other such affiliated Ownership.

Personal Wireless Services: Any federally licensed personal wireless service.

Planning Department: Island County Department of Planning and Community Development.

Planning Director: The Director of the Department of Planning and Community Development or his or her designee.

Preliminary Plat: A neat and approximate drawing of a proposed Short Subdivision or Subdivision showing the general layout of streets and alleys, Lots, Blocks and other elements of a Subdivision consistent with the requirements of this title. The Preliminary Plat shall be the basis for the approval or disapproval of the general layout of a Short Subdivision or Subdivision.

Road, private: Any easement, Parcel, or right-of-way created to provide access that is not a Public Road.

Road, public: A road maintained by the State of Washington by a City or by Island County, regardless of whether right-of-way was acquired by deed, Dedication or prescriptive easement.

Short Plat: The map or representation of a Short Subdivision submitted for final approval and recording showing thereon the division of a Tract or Parcel into Lots, Blocks, streets, or other divisions.

Short Subdivision: The division of land into four (4) or fewer Lots, Tracts or Parcels for the purpose of development, sale, lease, transfer, gift, or other conveyance.

Subdivision: The division or redivision of land into five (5) or more Lots, Tracts or Parcels for the purpose of development, sale, lease, transfer, gift or other conveyance.

Tract: A Parcel of land which is created for purposes of common Ownership and use by two (2) or more property Owners, an association or government entity and is reserved for specifically designated functions. Tracts shall be lettered A, B, C, etc.

Vacation: The elimination of a Subdivision or Short Subdivision or removal of Lots or Dedicated lands therefrom after recording of the Final Plat or Short Plat and after sale of any Lots within the Land Division.

Withdrawal: The elimination of a Subdivision or Short Subdivision after recording of the Final Plat or Short Plat before sale of any Lots within the Land Division.

Zone: The Zoning designation of a Lot, Tract or Parcel based on the Island County Zoning Code, Chapter 17.03 ICC.

(Ord. C-85-98 [PLG-020-98], September 29, 1998, vol. 43, p. 11; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38; amended by Ord. C-136-98 [PLG-042-98], November 9, 1998, vol. 43, p. 65; amended by Ord. C-64-02 [PLG-012-02], August 19, 2002, vol. 46, p. 300)

16.06.050 Review Process and Approving Authority

- A. Planning Director Determinations. Determinations of the Planning Director regarding applicability of this Chapter and Application requirements shall be classified as a Type I decision pursuant to Chapter 16.19 ICC.
- B. Boundary Line Adjustments. Applications for a Boundary Line Adjustment shall be processed as a Type I Decision pursuant to Chapter 16.19 ICC. The approving authority is the Planning Director. Modifications of a Boundary Line Adjustment shall also be processed as a Type I Decision.
- C. Short Subdivisions. Applications for a preliminary Short Subdivision approval shall be processed as a Type II Decision pursuant to Chapter 16.19 ICC. A final Short Subdivision shall be processed as a Type I Decision. The approving authority for a Short Subdivision is the Planning Director. Alteration, Withdrawal or Vacation of a Short Subdivision shall also be processed as specified in ICC 16.06.170.
- D. Subdivisions. Applications for preliminary Subdivision approval of a Subdivision shall be processed as Type III Decisions pursuant to Chapter 16.19 ICC. Final Subdivisions shall be processed as a Type I Decision. The approving authority for a Preliminary Subdivision is the Hearing Examiner. The approving authority for a final Subdivision is the Board. Alteration, Withdrawal or Vacation of a Subdivision shall also be processed as specified in ICC 16.06.170.
- E. Lot Combinations and Boundary Line Corrections. Modifications to Lot boundaries that meet the requirements of ICC 16.06.080 will not be reviewed by the County.

(Ord. C-85-98 [PLG-020-98], September 29, 1998, vol. 43, p. 11; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38; amended by Ord. C-136-98 [PLG-042-98], November 9, 1998, vol. 43, p. 65)

16.06.060 Application Requirements

- A. Short Subdivision and Subdivisions. All Applications for preliminary approval of Short Subdivisions and Subdivisions shall include:
 - 1. A completed Application, in a format as established by the County, shall contain the following:
 - a) Name, mailing address, and telephone number of the Applicant and if applicable, duly authorized representative;
 - b) Assessor's tax account numbers of every Parcel included within the proposal;
 - c) Section, Township, Range, and Quarter Section;
 - d) Signature(s) of the Applicant(s);

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- e) Legal description of the real property as last recorded;
 - f) Number of Lots to be created;
 - g) Zoning classification;
 - h) Approximate size (acreage or square feet) of the total property;
 - i) If known by the Applicant, date the Parcel(s) were created as legal Lot;
 - j) Proposed source of water supply, including the name of the provider if to be served by a public system; and
 - k) Proposed method of sewage disposal, including the name of the district with jurisdiction, if to be served by sanitary sewer.
2. Such fees as set by the Board.
 3. If applicable, Certificate of Transportation Concurrency;
 4. Assessor's Quarter Section Maps including the following information:
 - a) Subject property;
 - b) Contiguous properties in the same Ownership;
 - c) All Parcels within a three-hundred (300) foot radius of the subject property; and
 - d) For Subdivision Applications, names and mailing addresses of property Owners of Parcels referenced above in 4.c).
 5. Copies of soil logs registered with the County Health Department as required by Chapter 8.07D ICC.
 6. If available, as-built drawings for existing septic systems.
 7. Documents that show means of legal access if the property does not abut a Public Road.
 8. A written statement describing the general purposes of the project and other pertinent matters not readily identifiable in map form.
 9. Environmental Checklist if required by Chapter 16.14C and Chapter 197-11 WAC.
 10. A legible map that shall include or show the requirements listed below. Where location of a feature or Structure is required, a site specific survey by a registered land surveyor is encouraged but not required:
 - a) Location and approximate dimensions of boundaries of land proposed to be divided, showing the full extent of the Parcel(s) from which the proposed Land Division is to be segregated;

- b) All Contiguous property owned by the same Person as the property proposed for Land Division;
- c) Location, approximate dimensions, and area of all proposed and existing Lots, Tracts, and lease areas. Proposed Lots to be identified by number (Lot 1, Lot 2, etc.) and proposed Tracts, including Private Roads, to be identified by letter (Tract A, Tract B, etc.);
- d) Approximate location and dimensions of existing Structures and other improvements, such as drainfields, wells, driveways, and fences;
- e) Approximate location of existing and proposed accesses to all Lots. Include if available, existing access permit numbers;
- f) Approximate location, width, and name of every recorded easement or right-of-way for public service or utilities, serving or affecting the subject property and existing and proposed Public and Private Roads within or adjacent to the proposal;
- g) Approximate location of existing drainage patterns and systems;
- h) If applicable, nature and location of proposed temporary and permanent stormwater systems;
- i) Approximate location of existing and proposed utilities, including well sites;
- j) Approximate location of all soil test holes;
- k) Approximate location of the natural features of the site, including but not limited to:
 - (i) Ravines and slopes greater than thirty-five percent (35%) with tops and toe of slope identified;
 - (ii) Critical Areas and their buffers on site or off-site when they may affect the proposal; and
 - (iii) Shorelines and approximate line of ordinary high water mark;
- l) Title block on the lower right corner of map to include:
 - (i) Name, address, and telephone number of the Applicant(s), and the Fee Owner(s), and
 - (ii) Date of drawing;
- m) Legal description of the property proposed for division;
- n) Legend that includes:

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- (i) Site address if assigned and Assessor Parcel number of the property proposed for division; and
 - (ii) Total approximate area of the site and approximate area of each proposed and existing Parcel or Lot;
 - o) North arrow; and
 - p) Engineering scale and bar scale (not larger than 1" = 20' or smaller than 1" = 200').
 11. Reports and determinations that are required by County Critical Area Regulations, Chapter 17.02 ICC.
- B. Boundary Line Adjustments. All Applications for Boundary Line Adjustments shall include:
1. The Application requirements set forth in subsection A.1.a) through d) and A.2 also apply to Boundary Line Adjustments.
 2. Legible Boundary Line Adjustment map prepared, on paper not larger than 8.5" by 14", drawn to scale, which shall include the following for all Lots involved in the adjustment. Where location of a feature or Structure is required, a site specific survey by a registered land surveyor is encouraged but not required. If the proposed boundaries are not determined by site specific survey, a notation shall be placed by the County on the face of the map approved by the Planning Director stating that the boundaries have not been formally surveyed:
 - a) North indicated with an arrow;
 - b) Use a scale such as; 1" to 100 feet; or whatever engineering or architectural scale which will allow the greatest detail on a single map;
 - c) Approximate area calculations for the existing and proposed Lots;
 - d) Approximate location of any significant natural features, such as Critical Areas;
 - e) Section, Township, Range and Assessor's Parcel Number for all Parcels;
 - f) Names of adjacent streets and easements with access shown to the adjusted Parcels;
 - g) Approximate location of all existing Structures;
 - h) Approximate location of drainfields and well sites; and
 - i) Signature and address of Person who prepared the map.
 3. Legal Description of each revised Lot or Parcel.

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- C. Modification of Application Requirements. The Planning Director may waive or modify any Application requirements deemed unnecessary or redundant to the purposes of this Chapter, to adapt to specific and unique site conditions, or to allow adjustment for projects of limited scale and impact. Provided that any action taken by the Planning Director pursuant to this Section may be appealed as provided in ICC 16.06.050.

(Ord. C-85-98 [PLG-020-98], September 29, 1998, vol. 43, p. 11; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38; amended by Ord. C-136-98 [PLG-042-98], November 9, 1998, vol. 43, p. 65; amended by Ord. C-44-00 [PLG-011-00], June 5, 2000, vol. 44, p. 429, readopted June 19, 2000, vol. 44, p. 446; amended by Ord. C-02-08 [PLG-011-07], March 17, 2008, effective July 1, 2008, vol. 2008, p. 113)

16.06.070 Boundary Line Adjustments

- A. Criteria for Approval of a Boundary Line Adjustment. The Planning Director shall approve all complete Boundary Line Adjustment Applications for adjustments which are consistent with the following criteria:
 - 1. The Lots involved in the adjustment are Contiguous legally created Lots;
 - 2. The proposed adjustment would not create any additional Lot, Tract or Parcel and will not create a split-Zoned Parcel;
 - 3. Except as provided in subsection 8 below, the proposed adjustment would not create a Lot of insufficient width or dimension to meet the minimum Lot size required in the Zone in which the Lot(s) is/are located;
 - 4. Except as provided in subsection 8, the proposed adjustment would not cause an existing Structure to fail to comply with required setbacks;
 - 5. Except as provided in subsection 8, the adjustment would not violate the conditions of another permit or approval issued by County;
 - 6. Legal means of access to a public or Private Road is clearly provided for or waived by the Applicant. Waiver shall be noted clearly on the face of the map approved by the Planning Director;
 - 7. The Applicant acknowledges in writing that compliance with all applicable County Codes including those contained in Titles 8, 11, 13 and 17 ICC will be required before development of the modified Lots is permitted. This statement shall be noted by the County clearly on the face of the map approved by the Planning Director.
 - 8. Adjustment among existing Lots. For adjustments among two (2) or more Lots in which one (1) or more of the Lots involved in the adjustment is smaller than the current zoning classification, the adjustment would allow a Lot to more nearly conform to the Lot size or setback requirements of Chapter 17.03 ICC or create more buildable Lot configurations. For example, a smaller Lot may be made larger by reducing the size of a larger Lot so that, on balance, greater conformity is achieved.

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B. Approval of a Boundary Line Adjustment.

The Planning Director shall affix an official stamp or statement to the map stating that the adjustment is consistent with this section. The approved Boundary Line Adjustment Application, map, and legal descriptions shall be recorded with the Island County Auditor. If the Lots involved in the adjustment are in separate Ownership, proper transfer of title of the property shall be recorded. The Boundary Line Adjustment becomes final upon recording.

(Ord. C-85-98 [PLG-020-98], September 29, 1998, vol. 43, p. 11; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38; amended by Ord. C-136-98 [PLG-042-98], November 9, 1998, vol. 43, p. 65)

16.06.080 Lot Combinations and Boundary Line Corrections

Any proposed adjustment of boundary lines which meets the criteria established in this Section may be recorded with no review by the County.

A. Boundary line corrections must meet all of the following criteria:

1. Survey by a land surveyor determines that:
 - a) the current legal description incorrectly identifies a property line location which is inconsistent with a location recognized by property Owners through established use; or
 - b) there is a defect in the recorded legal description which creates gaps or overlaps between existing Lot lines.
2. A notarized and recorded statement indicates that all affected property Owners agree with the proposed legal description resulting from the proposed boundary line correction.
3. A new legal description or deed is recorded.

B. Combination of two or more Lots into one Lot provided a new legal description is recorded.

(Ord. C-85-98 [PLG-020-98], September 29, 1998, vol. 43, p. 11; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

16.06.090 Preliminary Short Subdivision Approval

A. Purpose: The purpose of this section is to provide a simple and expeditious review process to divide property into four (4) or fewer Lots.

B. Applicability: This section shall apply to every division of land into four (4) or fewer Lots.

Provided that land within a Short Subdivision that has been recorded within five (5) years immediately preceding, may be further divided only by Subdivision, EXCEPT that, when the Short Plat contains fewer than four (4) Lots, the Owner may file an Alteration or new

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Application within the five (5) year period to create up to a total of four (4) Lots within the original Short Plat boundaries.

- C. Criteria for Preliminary Approval. No Application for Preliminary Plat shall be approved unless it meets the requirements of this Chapter and Titles 8, 11, 13 and 17 ICC pertaining to such development.
- D. Preliminary Approval. Upon preliminary approval of a Short Subdivision, the approving authority shall affix his/their signature(s) in an appropriate place on the plan, along with a brief statement that the approving authority has granted preliminary approval of the Short Subdivision, referencing any conditions of final approval, if any, and the date of its preliminary approval.
- E. Conditions. The approving authority shall have the authority to place on any Short Subdivision granted preliminary approval, appropriate conditions to ensure that the development is consistent with RCW 58.17.110, applicable ordinances of the County and to carry out the recommendations of the reviewing departments.
- F. Expiration of Preliminary Approval.
 - 1. Preliminary Short Subdivision approval shall expire if all requirements for final approval have not been fulfilled and the Short Plat approved and recorded within five (5) years of the date of the preliminary approval of the proposed project, or the first phase of such project if a project phasing schedule has been approved. Provided that any judicial appeal filed and accepted for review after preliminary approval shall automatically stay the time periods referenced above until a final decision on the appeal is rendered. The above five (5) year period shall also apply to all pending Applications which have been granted preliminary approval as of the effective date of this Chapter.
 - 2. An Applicant who files a written request with the approving authority at least thirty (30) days before the expiration of the final approval period shall be granted a single one (1)-year extension. However, said extension may be granted by the approving authority only upon a finding that the Applicant has attempted in good faith to complete the Short Plat within the designated period.

(Ord. C-85-98 [PLG-020-98], September 29, 1998, vol. 43, p. 11; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38; amended by Ord. C-136-98 [PLG-042-98], November 9, 1998, vol. 43, p. 65)

16.06.100 Binding Site Plans (Reserved)

(Ord. C-85-98 [PLG-020-98], September 29, 1998, vol. 43, p. 11; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

16.06.110 Preliminary Subdivision Approval

- A. Purpose. The purpose of this section is to establish a review process to divide property into five (5) or more Lots.
- B. Applicability. This section shall apply to every division of land into five (5) or more Lots.
- C. Criteria for Preliminary Approval. No Application for Preliminary Plat shall be approved unless it meets the requirements of this Chapter and Titles 8, 11, 13 and 17 ICC pertaining to such development.
- D. Preliminary Approval. Upon preliminary approval of a Subdivision, the approving authority shall affix his/her signature(s) in an appropriate place on the plan, along with a brief statement that the authority has granted preliminary approval of the Subdivision, referencing any conditions of final approval, if any, and the date of its preliminary approval.
- E. Conditions. The approving authority shall have the authority to place on any Subdivision granted preliminary approval, appropriate conditions to ensure that the development is consistent with RCW 58.17.110, applicable ordinances of the County, and to carry out the recommendations of the reviewing departments as applicable.
- F. Expiration of Preliminary Approval.
 - 1. Preliminary Subdivision approval shall expire if all requirements for final approval have not been fulfilled and the Final Plat approved and recorded within five (5) years of the date of the preliminary approval of the proposed project, or the first phase of such project, if a project phasing schedule has been approved. Provided that any judicial appeal filed and accepted for review after preliminary approval shall automatically stay the time periods referenced above until a final decision on the appeal is rendered. The above five (5) year period shall also apply to all pending Applications which have been granted preliminary approval as of the effective date of this Chapter.
 - 2. An Applicant who files a written request with the approving authority at least thirty (30) days before the expiration of the final approval period shall be granted a single one (1)-year extension. However, said extension may be granted by the approving authority only upon a finding that the Applicant has attempted in good faith to complete the Final Plat within the designated period.

(Ord. C-85-98 [PLG-020-98], September 29, 1998, vol. 43, p. 11; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38; amended by Ord. C-136-98 [PLG-042-98], November 9, 1998, vol. 43, p. 65)

16.06.120 Application Requirements for Final Approval

Application for final approval of a Short Subdivision or Subdivision shall be made by submitting the original Application together with all requirements as listed below.

- A. Application Form. A completed Application form shall contain the following:
1. Name, mailing address, and telephone number of the designated contact Person, the Applicant and the Owner;
 2. Assessor's tax account numbers of every Parcel included within the proposal;
 3. Section, Township, Range, and Quarter Section;
 4. Signature of the Owner or signature of the contact Person with a notarized letter of authorization from the Owner;
 5. If applicable, project title and number assigned at time of Application;
 6. Date of preliminary approval; and
 7. Certification by the Applicant(s) that all conditions required by preliminary approval for final approval have been completed prior to submittal of the final Application or that provisions for bonding or other surety for required improvements have been made.
- B. Certificate of Title. Dated no earlier than thirty (30) days prior to submittal.
- C. If applicable, covenants, conditions, and restrictions.
- D. Completed checklist incorporating any conditions of preliminary approval.
- E. Certification that water source/system has been approved.
- F. Such documents or other information as may be required to demonstrate compliance with and/or satisfaction of all terms and conditions of preliminary approval.
- G. Fees as set by the Board.
- H. Final Map. The final Subdivision or Short Subdivision map shall be drawn based on a site specific survey as specified in ICC 16.06.110 in permanent black ink on one (1) or more sheets capable of reproduction, 18" by 24" in size, and bearing the following information (unless specifically waived by the approving authority at the time of preliminary approval):
1. The legal description of the land contained in the Land Division;
 2. The boundary lines of the Land Division showing the full extent of the Parcel from which the Land Division is to be segregated;
 3. Boundary lines of all proposed Lots and Tracts;
 4. The length and bearing of boundary lines, Lots, and Tracts;
 5. The location of monuments or evidence used as ties to establish the boundaries;

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6. The location, dimensions, and Auditor’s file number of all easements and/or private rights-of-way within or serving the Short Subdivision or Subdivision and the purpose thereof, together with the names of all public and private rights-of-way within or adjoining the Land Division;
7. The location of all Critical Areas and their buffers, and other development-limiting overlay Zones within the Land Division;
8. Owner’s consent and acknowledgment of the Land Division, signed by the Owners of the property;
9. Approved addresses of each Lot;
10. The boundaries and locations of all Parcels dedicated to the public or reserved for community use;
11. Subdivision name;
12. Title block on the lower right corner to include:
 - a) Name of the Applicant(s), Owner(s), and surveyor; and
 - b) Date of preparation.
13. Island County Application File Number and all tax Parcel numbers associated with the proposal in a block on upper right corner;
14. North arrow;
15. Engineering scale (written out) and bar scale;
16. A marginal line shall be drawn completely around each sheet, leaving an entirely blank margin of two inches on the left edge, and one-half inch on the other three sides;
17. The title, scale, north arrow shall be shown on each sheet of the Final Plat;
18. All signatures placed on the Final Plat shall be original signatures written in permanent black ink;
19. Necessary certificates and declarations, including:
 - a) Surveyor Certificate

This map correctly represents a survey made by me or under my direction in conformance with the requirements of Island County and the Washington State Survey Recording Act, in the month of _____, [year].

Signature and Seal

Certificate Number

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- e) Certificate of Title (for Subdivisions only)

Recorded _____, [year], in volume _____, page _____, under Auditor’s _____, records of Island County, Washington.

- f) Planning Director’s Approval Certificate (for Subdivisions only):

This Plat conforms to the requirements of Subdivisions as established by Chapter 16.06 of the Island County Code and is hereby approved this _____ day of _____, [year].

Name (as appropriate), Planning Director

- g) Engineer’s Approval Certificate (for Subdivisions only):

Examined and approved in accordance with RCW 58.17.160(1) and Chapter 11.01, Island County Code, this _____ day of _____ [year].

Name (as appropriate), Island County Engineer

- h) Board of County Commissioner’s Approval Certificate (for Subdivisions only):

This Plat conforms to the requirements of Subdivisions as established by Chapter 16.06, Island County Code, and is hereby approved this _____ day of _____, [year].

Name (as appropriate), Commissioner, Chairman

Name (as appropriate), Commissioner

Name (as appropriate), Commissioner

Name (as appropriate), Clerk of the Board

- i) Planning Director’s Certificate (for Short Subdivisions only)

This Short Plat conforms to the requirements as established by Chapter 16.06 of the Island County Code and is hereby approved this _____ day of _____, [year].

Short Plat Administrator or Planning Director

(Ord. C-85-98 [PLG-020-98], September 29, 1998, vol. 43, p. 11; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38; amended by Ord. C-136-98 [PLG-042-98], November 9, 1998, vol. 43, p. 65; amended by Ord. C-106-07 [PLG-008-07], October 8, 2007, vol. 2007, p. 315)

16.06.130 Final Approval of Short Subdivisions and Subdivisions

A Subdivision or Short Subdivision shall not be deemed finally approved until:

- A. A copy of the Application with the signature and statement of the approving authority is filed by the Applicant with the Planning Department.
- B. All site and off-site improvements required as a condition of preliminary approval are completed or, at the discretion of the Board of County Commissioners by recommendation of the Planning Director and County Engineer, are secured by bond or other surety.
- C. The boundaries of the property and Lots created therein proposed as shown on the Land Division shall be shown on a survey made by a registered land surveyor or under his direction, in conformance with legal requirements pertaining to surveying. The land surveyor shall certify on the Land Division that it is a true and correct representation of the lands actually surveyed.
 1. All surveys shall conform to standard practices and principles for land surveying;
 2. All permanent monuments within the Land Division shall be located and described; and
 3. All permanent monuments and markers shall be shown on the face of the Land Division.
- D. The final Land Division, incorporating any conditions of preliminary approval, is filed for record with the County Auditor. The procedure for recording is as follows:
 1. Upon approval of a final Land Division , the Planning Director shall forward the original and one (1) paper copy of the plan and associated documents to the Auditor for recording.
 2. Upon receipt of an approved final Land Division , the Auditor shall record the plan and associated documents and place the original in the appropriate volume of plats. Following recording, the legal description of each Lot or reference for each building, in a Land Division shall be known as:
 - a) Short Plats:
 Lot # __, of Short Plat No. __#, as recorded under Auditor's File No. __# in Volume __# of Short Plats, Page(s) __#, records of Island County, State of Washington; or
 - b) Plats:
 Lot # __, Block __#, Division #__, Plat of (name of Plat) as per Plat thereof recorded under Auditor's File No. __# in Volume __# of Plats, Page(s) __#, records of Island County, State of Washington.

(Ord. C-85-98 [PLG-020-98], September 29, 1998, vol. 43, p. 11; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

16.06.140 Dedications and Reservations

Provision for open space, drainage ways, streets or roads may be made by dedicating land for public use, by reserving land for future public acquisition and development, or by conveying land or easements therein to nonprofit corporations for use by all or a limited segment of the public. All Dedications and reservations shall be recited on the face of the Short Plat or Final Plat, as well as incorporated in such documents as may be needed to reflect the assignment of interest. Dedications shall be required by the County only when the need for such Dedication is supported by the site specific impacts of the proposed Land Division and/or uses allowed on the Lots created through the Land Division by Chapter 17.03 ICC.

(Ord. C-85-98 [PLG-020-98], September 29, 1998, vol. 43, p. 11; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38; amended by Ord. C-136-98 [PLG-042-98], November 9, 1998, vol. 43, p. 65)

16.06.150 Forms of Public Dedication

Lands or easements shall be deeded to the public by quit claim deed. Refusal of the Approving Authority to accept a Dedication shall not be grounds for disapproval of the Land Division.

(Ord. C-85-98 [PLG-020-98], September 29, 1998, vol. 43, p. 11; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38; amended by C-136-98 [PLG-042-98], November 9, 1998, vol. 43, p. 65)

16.06.160 Development in Conformity with Land Division

Where the approving authority approves a Land Division, any and all development and use of the land to which the Land Division pertains shall be in conformity with the Land Division as finally approved.

(Ord. C-85-98 [PLG-020-98], September 29, 1998, vol. 43, p. 11; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

16.06.170 Alterations, Withdrawals and Vacations

A. Alterations. Land Divisions may be altered in accordance with the following requirements, unless they are Boundary Line Adjustments, Lot Combinations or boundary line corrections and can more readily and expeditiously be accomplished through the Boundary Line Adjustment or Correction process of this Chapter:

1. A majority of all affected Ownership interests within the originally recorded Land Division must be a party to the Alteration Application, or must express written agreement to the proposed Alteration, including written agreement to accept Ownership of any property, or to transfer or convey Ownership of any property, which may be necessary as a result of the Alteration. If the original Land Division was subject to restrictive covenants and the Alteration would result in a violation of or require changes to those covenants, all affected Ownership interests must agree in writing to terminate or alter the relevant covenants.

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2. Any conditions of approval contained in the original Land Division that are applicable to the Alteration which have been relied upon in subsequent land development or land use planning decisions and which are still applicable at the time of Application shall be incorporated in the Alteration, unless such conditions are provided by other legal means at the time of approval of the Alteration.
 3. Procedures and requirements established by this Chapter for Land Divisions shall be applicable to Alteration requests, unless such Alteration can otherwise be approved as a Boundary Line Adjustment, Lot Combination, or Boundary Line Correction. Alterations shall comply with applicable conditions of the original Land Division.
 4. Approval of any Alteration which cannot otherwise be approved as a Boundary Line Adjustment, Lot Combination or Boundary Line Correction shall be approved as a Type II decision for Short Subdivisions and a Type III decision for Subdivisions.
- B. Withdrawals. Where there have been no sales, gifts, leases, conveyances, or other transfer of Ownership or interest of any Lots in a Land Division, nothing contained in this Chapter shall prohibit an Applicant from completely withdrawing the entire Land Division and thereafter presenting a new Application. Such Withdrawal shall be approved by the Planning Director as a Type I decision and filed for record with the County Auditor, and notation thereof made in the appropriate book of plats, except in those involving a public Dedication which shall require conformance with the procedures of RCW 58.17.212 as now exists or is hereinafter amended and approved as a Type II decision for Short Subdivisions and approved as a Type III decision for Subdivisions.
- C. Vacations. Vacations of all or a portion of an approved Land Division not involving public Dedication and not in violation of the conditions of approval, may be accomplished by the Withdrawal procedure in Section B. In those circumstances where the Vacation involves a public Dedication, conformance shall be required with the procedures of RCW 58.17.212 as now exists or is hereinafter amended and approved as a Type II decision for Short Subdivisions and approved as a Type III decision for Subdivisions.

(Ord. C-85-98 [PLG-020-98], September 29, 1998, vol. 43, p. 11; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38; amended by Ord. C-136-98 [PLG-042-98], November 9, 1998, vol. 43, p. 65)

16.06.180 Fees

The required fees shall be received by the County Planning Department and distributed to other appropriate departments in accordance with their adopted fee schedules.

(Ord. C-85-98 [PLG-020-98], September 29, 1998, vol. 43, p. 11; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

16.06.190 Penalties and Enforcement

- A. Segregation. When it comes to the attention of the Island County Assessor that a division of land has been made, not contained within a Boundary Line Adjustment, Short Subdivision,

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Subdivision or large Lot segregation, which may be in violation of Chapter 58.17 RCW, he/she shall promptly notify the Planning Director of such segregation. The Planning Director shall investigate the alleged violation and shall take such steps necessary to ensure compliance with the County Code and Chapter 58.17 RCW.

B. Injunctive Remedy.

1. Whenever any Parcel of land is divided in violation of this Chapter, or other Chapters of the Island County Code, or any Person, firm, or corporation, or any agent of any of them, sells or transfers any such Lot, Tract, or Parcel without having a Land Division filed as required herein, the prosecuting attorney shall commence action to restrain and enjoin other Land Division sales, transfers, or offers of sale or transfer of the subject property, and compel compliance with all provisions of this Chapter. The costs of such action shall be taxed against that Person, firm, corporation, or agent developing, selling, leasing, transferring, or conveying the property.
2. In the enforcement of this Chapter, the prosecuting attorney may accept an assurance of discontinuance of any act or practice deemed in violation of this Chapter from any Person engaging in or who has engaged in such act or practice. Any such assurance shall be in writing and shall be filed with and subject to approval of the County Superior Court. The violation of such assurance shall constitute prima facie proof of a violation of this Chapter.
3. Any Person, firm, corporation, or association who violates any provision of this Chapter relating to the sale, offer for sale, lease, or transfer of any Lot, Tract, or Parcel of land shall be guilty of a gross misdemeanor, and each sale, offer for sale, lease, or transfer of each separate Lot, Tract, or Parcel of land in violation of any provisions of this Chapter shall be deemed a separate and distinct offense.

(Ord. C-85-98 [PLG-020-98], September 29, 1998, vol. 43, p. 11; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38; amended by Ord. C-136-98 [PLG-042-98], November 9, 1998, vol. 43, p. 65)

16.06.200 Severability

If any provision or provisions of this Chapter or its/their application to any Person or circumstance is held invalid, the remainder of this Chapter and the application of such provision or provisions to other Persons or circumstances shall not be affected.

(Ord. C-85-98 [PLG-020-98], September 29, 1998, vol. 43, p. 11; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

16.06.210 Effective Date

This Chapter shall take effect on December 1, 1998 and shall apply to new Applications submitted on or after that date and to incomplete Applications filed prior to that date.

(Ord. C-85-98 [PLG-020-98], September 29, 1998, vol. 43, p. 11; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38; amended by Ord. C-136-98 [PLG-042-98], November 9, 1998, vol. 43, p. 65)

Chapter 16.08

Planning Commission¹

Sections:

- 16.08.010 Creation of Commission
- 16.08.020 Terms of Office
- 16.08.030 Removal--Selection Criteria--Compensation
- 16.08.040 Powers
- 16.08.050 Professional Assistance (Repealed)
- 16.08.060 Referral to Commission
- 16.08.070 Quorum
- 16.08.080 Effective Date

16.08.010 Creation of Commission

The Planning Commission created by the Island County Board of Commissioners pursuant to Resolution 158, October 1, 1962, is hereby increased from seven (7) members to nine (9) members. The members of the Planning Commission shall be selected and appointed by the Board of County Commissioners as set forth herein under the provisions of ICC 16.09 and under state law.

(Res. 158, October 1, 1962, vol. 12, p. 156; amended by Ord. C-01-87, January 26, 1987, vol. 26, p. 298)

16.08.020 Terms of Office

The term of office of the first and second members of the Commission shall be four (4) years; the term of office of the third and fourth members shall be three (3) years; the term of office of the fifth and sixth members shall be two (2) years; and the term of office of the seventh member shall be one (1) year. The initial term of office of the eighth member shall expire on the 2nd day of January, 1988. The initial term of the ninth member shall expire on the 2nd day of January, 1991. The terms of office of each of the nine (9) appointees shall expire on the 2nd day of January following their respective terms of service. Succeeding appointments shall be four-year (4-year) terms, and vacancies occurring other than by expiration of terms shall be filled for unexpired terms.

(Res. 158, October 1, 1962, vol. 12, p. 156; amended by Ord. C-01-87, January 26, 1987, vol. 26, p. 298)

¹ Reviser's Note: For statutory provisions, see RCW 36.70.

16.08.030 Removal--Selection Criteria--Compensation

Members may be removed, after public hearing by the Board of County Commissioners, for inefficiency, neglect of duty, malfeasance in office, or other cause. Members shall be selected without respect to political affiliations and they shall serve without compensation.

(Res. 158, October 1, 1962, vol. 12, p.156)

16.08.040 Powers

The Planning Commission shall have all the powers and shall perform all the duties specified by Chapter 201, Laws of 1959, together with any other duties and authority which may hereafter be conferred upon them by the laws of the State of Washington, the performance of such duties, and the exercise of such authority to be subject to each and all the limitations expressed in such legislative enactments.

(Res. 158, October 1, 1962, vol. 12, p. 156)

16.08.050 Professional Assistance

(Res. 158, October 1, 1962, vol. 12, p. 156; repealed by Ord. C-11-89, May 15, 1989, vol. 29, p. 421)

16.08.060 Referral to Commission

The Board of County Commissioners may refer to the Planning Commission for its recommendations and report any ordinance, resolution, or other proposal relating to any of the matters and subjects referred to in said RCW 36.70, and the Commission shall promptly report to the Board of County Commissioners, making such recommendations and giving such counsel as may be deemed proper in the circumstances.

(Res. 158, October 1, 1962, vol. 12, p. 156; amended by Ord. C-37-11, April 18, 2011, vol. 2011, p. 70; former Section B established by Ord. 716, October 6, 1969, vol. 13, p. 219, repealed by Ord. C-37-11, April 18, 2011, vol. 2011, p. 70)

16.08.070 Quorum

A majority of the membership of the Planning Commission shall constitute a quorum for the transaction of business. Any action taken by a majority of those present when those present constitute a quorum, at any regular or special meeting of the Planning Commission, shall be deemed and taken as the official action of the Commission.

(Res. 158, October 1, 1962, vol. 12, p. 156)

16.08.080 Effective Date

This Chapter shall take effect and be in force ten (10) days after its passage.

(Res. 158, October 1, 1962, vol. 12, p. 156)

Chapter 16.09
Island County Planning Agency

Sections:

- 16.09.010 Planning Department Established Under Chapter 201, Laws of 1959 (RCW 36.70)**
- 16.09.020 Planning Commission Created**
- 16.09.030 Planning Commission Conducts Hearings**
- 16.09.040 Powers and Duties**
- 16.09.050 Appointment of Planning Director and Administrative Responsibility**
- 16.09.060 Dismissal of Planning Director**
- 16.09.070 Financing--Planning**
- 16.09.080 Rules**
- 16.09.090 Appointments**
- 16.09.100 Terms of Office (Repealed)**
- 16.09.110 Vacancies**
- 16.09.120 Organization**
- 16.09.130 Meetings**
- 16.09.140 Repeal of Conflicting Resolutions**
- 16.09.150 Removal of Posted Notice - Civil Infraction - Enforcement Authority**
- 16.09.160 Severability**

16.09.010 Planning Department Established Under Chapter 201, Laws of 1959 (RCW 36.70)

The Board of Island County Commissioners does hereby elect to operate under the provisions of Chapter 201, Laws of 1959 (RCW 36.70). In addition, the Board of Island County Commissioners selects the provisions of section 4, Chapter 201, Laws of 1959 (RCW 36.70.040), and does hereby create a planning agency consisting of a planning department, which shall be organized and function as any other department of the county, and an advisory Planning Commission.

(Ord. P-73-49, December 3, 1973, vol. 14, p. 460)

16.09.020 Planning Commission Created

The Board of County Commissioners, pursuant to provisions of Chapter 201, Laws of 1959 (RCW 36.70), created a Planning Commission which shall assist the planning department in carrying out its duties, including assistance in the preparation and execution of the Comprehensive Plan and recommendation to the Board of County Commissioners and the planning department for the adoption of official controls and/or amendments thereto.

(Ord. P-73-49, December 3, 1973, vol. 14, p. 460; amended by Ord. C-01-87, January 26, 1987, vol. 26, p. 298)

16.09.030 Planning Commission Conducts Hearings

The Planning Commission shall conduct hearings as are required by Chapter 201, Laws of 1959 (RCW 36.70), and shall make findings of fact and conclusions therefrom, which shall be transmitted in their entirety by the department to the board. The department may make such comments and recommendations on any matter so transmitted as it deems necessary.

(Ord. P-73-49, December 3, 1973, vol. 14, p. 460)

16.09.040 Powers and Duties

The powers and duties of the planning department and of the Planning Commission shall be such as are now described by Chapter 201, Laws of 1959 (RCW 36.70), and other applicable laws of the State of Washington. When directed to do so by the Board of Island County Commissioners, the Island County Planning Department shall also perform such other duties as are not inconsistent with state laws.

(Ord. P-73-49, December 3, 1973, vol. 14, p. 460)

16.09.050 Appointment of Planning Director and Administrative Responsibility

The Board of County Commissioners shall appoint a planning director, who shall be responsible for the proper operation of the planning department. The planning director shall be directly responsible to the Board of County Commissioners, shall have the responsibility of employing, supervising, and dismissing the personnel of the planning staff, and shall be responsible for providing secretarial assistance and such data and information as may be requested by the Planning Commission necessary to the performance of its duties and responsibilities.

(Ord. P-73-49, December 3, 1973, vol. 14, p. 460; amended by Ord. PD-86-13, March 24, 1986, vol. 25, p. 247; amended by Ord. C-11-89, May 15, 1989, vol. 29, p. 421)

16.09.060 Dismissal of the Planning Director

The dismissal, suspension, or removal of the planning director shall be at the discretion of the Board of County Commissioners.

(Ord. P-73-49, December 3, 1973, vol. 14, p. 460; amended by Ord. PD-86-13, March 24, 1986, vol. 25, p. 247; amended by Ord. C-11-89, May 15, 1989, vol. 29, p. 421)

16.09.070 Financing--Planning

The County Planning Agency shall incur no financial obligations or authorize any financial expenditures except for such purposes as are expressly authorized in advance by the Board of County Commissioners in such manner as the law provides. Appropriations for the operation of both the planning department and the Planning Commission need not be separately identified, and the office accounting or other office records of finances shall be kept by the planning department.

(Ord. P-73-49, December 3, 1973, vol. 14, p. 460)

16.09.080 Rules

The planning director shall establish such rules and procedures as are necessary to assure thorough and expeditious dealing with matters properly the concern of the planning department, except that such procedure shall not be in contravention of state or county law. The Planning Commission shall adopt its own rules and regulations governing the conducting of its internal affairs, provided that such rules and regulations shall not be in conflict with state or county law.

(Ord. P-73-49, December 3, 1973, vol. 14, p. 460)

16.09.090 Appointments

Members of the Planning Commission shall be appointed by the chairman of the Board of County Commissioners with the approval of a majority of the board, provided that each member of the board shall submit to the chairman a list of nominees residing in his commissioner district, and the chairman shall make his appointments from such list so that each commissioner district shall be equally represented with three (3) members on the Planning Commission.

(Ord. P-73-49, December 3, 1973, vol. 14, p. 460; amended by Ord. C-11-89, May 15, 1989, vol. 29, p. 421)

16.09.100 Terms of Office²

(Repealed by Ord. C-01-87, January 26, 1987, vol. 26, p. 298)

16.09.110 Vacancies

Vacancies resulting from the expiration of terms of office shall be filled by appointment for a term of four (4) years. Vacancies occurring for any reason other than the expiration of a term of office shall be filled by appointment for the unexpired term of the office being filled.

(Ord. P-73-49, December 3, 1973, vol. 14, p. 460)

16.09.120 Organization

At the first meeting of February of each year, the Planning Commission shall elect a chairman and a vice-chairman to serve for a period of one (1) year. The Planning Commission may appoint standing or special committees to each of which it may assign specific responsibilities and authority, provided only that such committee shall make no recommendations except to the Planning Commission.

(Ord. P-73-49, December 3, 1973, vol. 14, p. 460)

16.09.130 Meetings

The Planning Commission shall hold not less than one (1) regular meeting in each month, provided that if no matters over which the Commission has jurisdiction are pending upon its calendar, a meeting may be canceled.

(Ord. P-73-49, December 3, 1973, vol. 14, P. 460)

16.09.140 Repeal of Conflicting Resolutions

Insofar as inconsistent with this Chapter, that certain resolution creating the Island County Planning Commission and prescribing its authority, duties, and procedures, adopted June 4, 1956, is hereby repealed.

(Ord. P-73-49, December 3, 1973, vol. 14, p. 460)

² **Reviser's Note:** See ICC 16.08.020.

16.09.150 Removal of Posted Notice - Civil Infraction - Enforcement Authority

- A. **Penalty.** It shall be unlawful and punishable as a Class 1 civil infraction under Chapter 7.80 RCW for any person or corporation to remove, relocate, mutilate, destroy or conceal any notice or order posted on property pursuant to law by a representative of the Island County Planning and Community Development Department.
- B. **Enforcement Authority.** The Director of the Island County Planning and Community Development Department and his designees, the Island County Sheriff and his deputies, and any other law enforcement officer are enforcement officers within the meaning of Chapter 7.80 RCW. This provision shall not limit any other authority of these persons.

(Ord. C-40-97, PLG-013-97, August 18, 1997, vol. 41, p. 66)

16.09.160 Severability

Should any portion, section, or provision of this Chapter be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Chapter as a whole or any part thereof, other than the part so declared to be unconstitutional or invalid.

(Ord. P-73-49, December 3, 1973, vol. 14, P. 460; amended by Ord. C-40-97, PLG-013-97, August 18, 1997, vol. 41, p. 66)

Chapter 16.10
Comprehensive Plan

Section:**16.10.010 Elements Adopted****Code Reviser's Note:**

- A. **Procedure.** The procedure for approval of and use of elements of a Comprehensive Plan is set forth in RCW 36.70 – Planning Enabling Act and RCW 36.70A – Growth Management Act.
- B. **Required Elements.** The required elements of a Growth Management Act Comprehensive Plan are a land use element, housing element, capital facilities element, utilities element, rural element, and transportation element.³
- C. **Optional Elements.**⁴ Optional elements of a Growth Management Act Comprehensive Plan may include but are not limited to:
1. Conservation element;

³ **Reviser's Note:** See RCW 36.70A.070

⁴ **Reviser's Note:** See RCW 36.70A.080

2. Recreation element;
3. Solar element; and
4. Sub-area plans consistent with the other elements of the comprehensive plan.

16.10.010 Elements Adopted

The following elements of the Island County Comprehensive Plan have been approved and certified by the Board of County Commissioners pursuant to Chapter 36.70 RCW and Chapter 36.70A RCW. The original documents are on file with the Island County Auditor, and copies may be obtained from the Island County Planning Department. The documents are too large to be reprinted verbatim in the Island County Code.

A. Policy Plan and Land Use Element – Island County Policy Plan/Land Use Element⁵

(Ord. C-123-98 [PLG-037-98], September 29, 1998, vol. 43, p. 6; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38; amended by Ord. C-63-99 [CD-01-99], June 21, 1999, vol. 43, p. 338; amended by Ord. C-78-99 [PW-037-99], July 12, 1999, vol. 43, p. 377; amended by Ord. C-93-99 [PLG-022-99], August 23, 1999, vol. 43, p. 427; amended by Ord. C-105-99 [PLG-034-99], September 27, 1999, vol. 44, p. 12; amended by Ord. C-122-99 [PLG-044-99], November 1, 1999, vol. 44, p. 79; amended by Ord. C-133-99 [PLG-040-99], November 23, 1999, vol. 44, p. 183; amended by Ord. C-134-99 [PLG-041-99], November 23, 1999, vol. 44, p. 185; amended by Ord. C-125-99 [PLG-031-99], December 6, 1999, vol. 44, p. 207; amended by Ord. C-135-99 [PLG-042-99], April 10, 2000, vol. 44, p. 389; amended by Ord. C-50-00 [PLG-013-00], June 5, 2000, vol. 44, p. 435; amended by Ord. C-166-01 [PLG-027-01], January 7, 2002, vol. 46, p. 80; amended by Ord. C-02-02 [PLG-029-01], January 28, 2002, vol. 46, p. 110; amended by Ord. C-91-02 [PLG-014-02], December 16, 2002, vol. 46, p. 408; amended by Ord. C-92-02 [PLG-015-02], December 16, 2002, vol. 46, p. 424, repealed by Ord. C-08-04, February 23, 2004, vol. 2004, p. 53; amended by Ord. C-44-04 [PLG-033-03], April 12, 2004, vol. 2004, p. 111; amended by Ord. C-45-04 [PLG-034-03], May 10, 2004, vol. 2004, p. 153; amended by Ord. C-46-04 [PLG-035-03], April 12, 2004, vol. 2004, p.110; amended by Ord. C-47-04 [PLG-036-03], April 12, 2004, vol. 2004, p. 110; amended by Ord. C-49-04 [PLG-038-03], April 12, 2004, vol. 2004, p. 111; amended by Ord. C-83-05 [PLG-011-05], July 25, 2005, vol. 2005, p. 235; amended by Ord. C-41-06 [PLG-024-05], April 24, 2006, vol. 2006, p. 148; amended by Ord. C-97-06 [PLG-010-06], August 21, 2006, vol. 2006, p. 247)

B. Water Resources Element – Island County Water Resources Element – Island County Ground Water Management Program – Ground Water Management Program

(Res. PLG-061-91, October 7, 1991, vol. 33, p. 164; amended by Ord. C-123-98 [PLG-037-98], September 29, 1998, vol. 43, p. 6; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38; amended by Ord. C-83-05 [PLG-011-05], July 25, 2005, vol. 2005, p. 235)

C. Shoreline Management Element - Island County Shoreline Management Master Program, 1975, approved and adopted by the Board of County Commissioners pursuant to the Shoreline Management Act of 1971 (SMA) on March 2,1976, and approved by the Department of Ecology pursuant to the SMA as part of the state master program on June 25, 1976.

(Res., August 1, 1977, vol. 17, p. 34; re-approved and re-certified by Res., May 7, 1979, vol. 18, p. 105; amended by Ord. PD-84-02, March 5, 1984, vol. 22, p. 36; amended by Ord. C-19-91, January 14, 1991, vol. 32, p. 168; amended by Ord. PLG-005-92, January 27, 1992, vol. 33, p. 338; amended by Ord. PLG-053-92, September 28, 1992, vol. 34, p. 367; amended by Ord. C-19-01 [PLG-001-01], June 18, 2001, effective June 21, 2001 when Department of Ecology approved, vol. 45, p. 358)

⁵ **Reviser’s Note:** The Policy Plan and Land Use Element and Natural Lands Element include the rural element required for the Growth Management Comprehensive Plan by RCW 36.70A.070.

- D. **Housing Element – Island County Housing Element**
(Ord. C-123-98 [PLG-037-98], September 29, 1998, vol. 43, p. 6; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)
- E. **Historic Preservation Element – Ebey’s Landing National Historic Reserve Comprehensive Plan - Ebey’s Landing National Historical Reserve Comprehensive Plan, October 15, 1979**
(Res., May 29, 1984, vol. 22, p. 268; amended by Ord. C-123-98 [PLG-037-98], September 29, 1998, vol. 43, p. 6; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)
- F. **Natural Lands Element – Island County Natural Lands Plan**
(Ord. C-123-98 [PLG-037-98], September 29, 1998, vol. 43, p. 6; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)
- G. **Parks and Recreation Element – Island County Parks and Recreation Plan Update**
(Ord. C-123-98 [PLG-037-98], September 29, 1998, vol. 43, p. 6; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)
- H. **Transportation Element – Island County Transportation Plan Update – Island County Non-Motorized Trail Plan – Six Year Road Program⁶**
(Non-motorized Trail Plan, a component of the Transportation Plan, adopted by Res. PLG-014-95, April 24, 1995, vol. 38, p. 280; Transportation Element – Island County Transportation Plan Update amended by Ord. C-123-98 [PLG-037-98], September 29, 1998, vol. 43, p. 6; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38; amended by Ord. C-115-00 [R-50-00], December 18, 2000, vol. 45, p. 134; amended by Ord. C-42-04 [PLG-031-03], April 12, 2004, vol. 2004, p. 106)
- I. **Utilities Element – Island County Utilities Plan**
(Ord. C-123-98 [PLG-037-98], September 29, 1998, vol. 43, p. 6; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)
- J. **Capital Facilities Element – Island County Capital Facilities Plan – Six Year Capital Facilities Improvement Program⁷**
(Ord. C-123-98 [PLG-037-98], September 29, 1998, vol. 43, p. 6; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38; amended by Ord. C-78-99 [PW-37-99], July 12, 1999, vol. 43, p. 377; amended by Ord. C-115-00 [R-50-00], December 18, 2000, vol. 45, p. 134)

⁶ **Reviser’s Note:** The Six Year Road Program is updated annually. For a copy of the Program, contact the Island County Public Works Department.

⁷ **Reviser’s Note:** The Six Year Capital Facilities Improvement Program is updated annually. For a copy of the Program, contact the Island County Public Works Department.

Chapter 16.12

Regional Planning Commission⁸

Sections:

- 16.12.010 Power to Negotiate
- 16.12.020 Appointment of Negotiator
- 16.12.030 Contents of Agreement
- 16.12.040 Powers of Commission
- 16.12.050 Procedure to Ratify
- 16.12.060 Effective Date

16.12.010 Power to Negotiate

A designated member of the board is empowered to negotiate an agreement forming a regional Planning Commission with any city in Island County. The boundaries of planning districts are to be set forth in the agreement.

(Ord., September 8, 1969, vol. 13, p. 213)

16.12.020 Appointment of Negotiator

The designated member of the board shall be appointed by resolution.

(Ord., September 8, 1969, vol. 13, p. 213)

16.12.030 Contents of Agreement

The agreement will provide for the number of members on the Commission, their term of office, and the method of appointment.

(Ord., September 8, 1969, vol. 13, p. 213)

16.12.040 Powers of Commission

The powers of the commission will be those outlined in RCW 35.63.070.

(Ord., September 8, 1969, vol. 13, p. 213)

⁸ **Reviser's Note:** For statutory provisions, see RCW 35.63.070.

16.12.050

PLANNING AND SUBDIVISIONS

16.12.050 Procedure to Ratify

The agreement will be effective and the Commission established when the agreement is ratified by resolution of the Board of Commissioners of Island County and the Council of the City of Oak Harbor.

(Ord., September 8, 1969, vol. 13, p. 213)

16.12.060 Effective Date

This Chapter shall be in full force and effect from and after its passage pursuant to law.

(Ord., September 8, 1969, vol. 13, p. 213)

**Chapter 16.13
Hearing Examiner**

Sections:

- 16.13.010 Purpose**
- 16.13.020 Creation of Land Use Hearing Examiner**
- 16.13.030 Appointment and Terms**
- 16.13.040 Qualifications**
- 16.13.050 Removal**
- 16.13.060 Freedom from Improper Influence**
- 16.13.070 Conflict of Interest**
- 16.13.080 Organization**
- 16.13.090 Rules**
- 16.13.100 Powers**
- 16.13.110 Limited Jurisdiction**
- 16.13.120 Administrative Review**
- 16.13.125 Examiner's Quarterly Report**
- 16.13.130 Repealer**
- 16.13.140 Effective Date**
- 16.13.150 Transition**

16.13.010 Purpose

The purpose of this Chapter is to establish a system of applying land use regulatory controls which will best satisfy the following basic needs:

- A. To separate the land use regulatory function from the land use planning process;
- B. To ensure procedural due process and adherence to the appearance of fairness doctrine in land use regulatory hearings; and
- C. To provide an efficient and effective land use regulatory system which integrates the public hearing and decision-making processes for land use matters.

(Ord. PD-83-03, August 22, 1983, effective January 1, 1984, vol. 21, p. 142; amended by Ord. C-170-90 [PLG-028-90], October 1, 1990, vol. 31, p. 449)

16.13.020 Creation of Land Use Hearing Examiner

Pursuant to Chapter 2B, Laws of 1977, 1st Ex. Sess., the office of Land Use Hearing Examiner, hereinafter referred to as "Examiner," is hereby created. The Examiner shall interpret, analyze, review, and implement land use regulations as provided in this Chapter or by other ordinance. Unless the context requires otherwise, the term Examiner as used herein shall include Examiners pro tem.

(Ord. PD-83-03, August 22, 1983, effective January 1, 1984, vol. 21, p. 142)

16.13.030 Appointment and Terms

The Board shall appoint the Examiner for terms which shall initially expire one (1) year following the date of original appointment, and thereafter expire two (2) years following the date of each reappointment. The Board may also, by professional service contract, appoint for terms and functions deemed appropriate by the board, Examiners pro tem to serve in the event of absence or inability to act of the Examiner or as the Examiner's hearing schedule requires.

(Ord. PD-83-03, August 22, 1983, effective January 1, 1984, vol. 21, p. 142; amended by Ord. C-170-90 [PLG-028-90], October 1, 1990 vol. 31, p. 449)

16.13.040 Qualifications

The Examiner and Examiners pro tem shall be appointed solely with regard to their qualifications for the duties of such office and shall have such training and experience as will qualify them to conduct administrative or quasi-judicial hearings on regulatory matters and to discharge the other functions conferred upon them. Examiners shall hold no other elective or appointive office or position in County government.

(Ord. PD-83-03, August 22, 1983, effective January 1, 1984, vol. 21, p. 142)

16.13.050

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16.13.050 Removal

An Examiner may be removed from office for cause by majority vote of the Board.

(Ord. PD-83-03, August 22, 1983, effective January 1, 1984, vol. 21, p. 142)

16.13.060 Freedom from Improper Influence

No person, including County officials, elective or appointive, shall attempt to influence an Examiner in any pending matter except at a public hearing duly called for such purpose, or to interfere with an Examiner in the performance of his/her duties in any other way; **provided**, that this section shall not prohibit the county prosecutor from rendering legal services to the Examiner upon request.

(Ord. PD-83-03, August 22, 1983, effective January 1, 1984, vol. 21, p. 142)

16.13.070 Conflict of Interest

No Examiner shall conduct or participate in any hearing, decision, or recommendation in which the Examiner has a direct or indirect personal business/other interest, or concerning which the Examiner has had substantial pre-hearing contacts with proponents or opponents. Nor, on appeal from or review of an Examiner decision, shall any member of the Board who has such an interest or has had such contacts participate in consideration thereof.

(Ord. PD-83-03, August 22, 1983, effective January 1, 1984, vol. 21, p. 142)

16.13.080 Organization

The office of the Examiner shall be under the administrative supervision of the Examiner and shall be separate from and not a part of the Planning Department.

(Ord. PD-83-03, August 22, 1983, effective January 1, 1984, vol. 21, p. 142; amended by Ord. C-170-90 [PLG-028-90], October 1, 1990, vol. 31, p. 449)

16.13.090 Rules

The Examiner shall prescribe rules and regulations for the scheduling and conduct of hearings and other procedural matters related to the duties of his/her office. Such rules shall provide that all testimony shall be under oath and subject to penalties for perjury and may also provide for cross-examination of witnesses.

(Ord. PD-83-03, August 22, 1983, effective January 1, 1984, vol. 21, p. 142; amended by Ord. C-170-90 [PLG-028-90], October 1, 1990, vol. 31, p. 449)

16.13.100 Powers

The Examiner shall receive and examine available information, conduct public hearings and prepare a record thereof, and enter decisions as provided for herein.

- A. **Final Decisions (Type II).** The decision of the Hearing Examiner on the following Type II Decision appeals shall be final unless such decision is appealed to Superior Court or, in the case of an appeal of a SEPA threshold determination issued for a legislative action initiated pursuant to Chapter 36.70A RCW, to the Growth Management Hearings Board as provided in ICC 16.19.205 or RCW 90.58.180 (Shorelines Hearings Board appeals):
1. Appeals from decisions of the short plat administrator; appeals of Planned Residential Development Decisions for projects of four (4) Dwelling Units or less;
 2. Appeals of shoreline substantial development permits, Conditional Use and variance decisions; appeals of rescissions of such permits;
 3. Appeals of administrative decisions based upon recommendations of the Historic Preservation District Advisory Committee;
 4. Flood elevation variances and appeals of administrative decisions/interpretations of the Flood Damage Prevention Ordinance;
 5. Administrative appeals regarding Zoning Code enforcement; Zoning variances; interpretations of the Zoning Code; certificates of Zoning Compliance; and Zoning Setback Reduction;
 6. All State Environmental Policy Act (SEPA) Threshold Determination appeals;
 7. Appeals of enforcement orders issued by the Planning Director, including those orders where the civil penalties for violation are set forth in RCW 90.58.210;
 8. Revocation of Approvals or Permits issued under Title 16 or 17 ICC;
 9. Appeal of Site Plan Review for Conditional Uses classified as a Type II Decision under Chapters 17.03 and 16.19 ICC;
 10. Appeals of charges pursuant to ICC 15.02.130 and 15.02.075.B.4 regarding the Storm and Surface Water Utility, Marshall Drainage Basin, and appeals of rate adjustments and classification changes pursuant to ICC 15.03.130 and 15.03.075.B.4;
 11. Appeals of decisions of the Public Works Director under Chapters 11.02, 11.03 and 11.04 ICC; and
 12. Appeals of decisions of the Island County Building Official under Chapter 14.01A ICC.
- B. **Appealable Decisions (Type III).** The decision of the Examiner on the following matters shall be final unless such decision is appealed as provided in ICC 16.19.170, WAC 173-17-060 (Shoreline Civil Penalties), or Chapter 16.21 ICC (Shoreline Administration); or is appealed in accordance with RCW 90.58.180 (Shorelines Hearings Board appeals):
1. Shoreline substantial development permit, Conditional Use, and variance permits when the underlying permit requires a hearing; rescission of such permits;
 2. Preliminary Plat applications;
 3. Critical Area alterations as provided in Chapter 17.02 ICC;
 4. Site Plan Review for Conditional Uses classified as Type III Decisions in Chapters 17.03 and 16.19 ICC;

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5. Planned Residential Development applications for five (5) or more Dwelling Units;
6. Civil penalties associated with shoreline cease and desist orders;
7. Commercial Agriculture Zoning verifications; and
8. Rezones classified Type III Decisions by Chapters 17.03 and 16.19 ICC.

(Ord. PD-83-03, August 22, 1983, effective January 1, 1984, vol. 21, p. 142; amended by Ord. C-170-90 [PLG-028-90], October 1, 1990, vol. 31, p. 449; amended by Ord. C-80-91, April 15, 1991, vol. 32, p. 322; amended by Ord. PLG-075-91, November 18, 1991, vol. 33, p. 205; amended by Ord. PLG-026-92, August 24, 1992, vol. 34, p. 304; amended by Ord. C-12-98, March 16, 1998, vol. 42, p. 24; amended by Ord. C-82-98 [PLG-017-98], September 29, 1998, vol. 43, p. 8, effective December 1, 1998; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38; amended by Ord. C-136-98 [PLG-042-98], November 9, 1998, vol. 43, p. 65; amended by Ord. C-75-04 [PLG-012-04], July 26, 2004, effective July 1, 2004, vol. 2004, p. 218; amended by Ord. C-96-06 [PLG-006-06], August 21, 2006, vol. 2006, p. 246; amended by Ord. C-39-11 [PLG-001-11], May 2, 2011, vol. 2011, p. 81)

16.13.110 Limited Jurisdiction

The Examiner shall have no jurisdiction over:

- A. Any proposal that requires a legislative action (Type IV Decision) such as, but not limited to, an area-wide rezone, a Comprehensive Plan map change, or a Shoreline Master Program amendment;
- B. The placement of property in deferred tax classification programs such as Open Agriculture, Classified Forest, or Designated Forest;
- C. Final Plat approval;
- D. The placement of liens; or
- E. Type I Decisions.

Such proposals shall be solely within the jurisdiction of the Board, upon recommendation from the Planning Commission; except that Type I Decisions or the placement of liens shall not require action by the Planning Commission.

(Ord. C-170-90 [PLG-028-90], October 1, 1990, vol. 31, p. 449; amended by Ord. C-82-98 [PLG-017-98], September 29, 1998, vol. 43, p. 8, effective December 1, 1998; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38; amended by Ord. C-136-98 [PLG-042-98], November 9, 1998, vol. 43, p. 65)

16.13.120 Administrative Review

The Examiner shall administratively review claim for liens.

- A. The Examiner shall receive and examine available information regarding the imposition of a lien pursuant to Chapter 17.03 ICC and make a determination as to whether the Department followed all procedures required to request a lien. The Examiner shall provide the Department and the Board of Island County Commissioners with a written determination.

(Ord. C-82-98 [PLG-017-98], September 29, 1998, vol. 43, p. 8, effective December 1, 1998; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38; amended by Ord. C-136-98 [PLG-042-98], November 9, 1998, vol. 43, p. 65)

16.13.125 Examiner's Quarterly Report

The Examiner shall report quarterly in writing to the Planning Commission and the Board of County Commissioners. Each quarterly report shall include a summary of the Examiner's decisions since the last quarterly report and any recommendations the Examiner may have for improving the county's land use regulatory framework.

The Examiner shall meet with the Planning Commission and the board at a public meeting at least annually for the purpose of reviewing the administration of the county's land use policies and regulatory ordinances. Such meetings may be held on a quarterly or semi-annual basis if the planning director determines that emergent issues require more timely review.

(Ord. PD-83-03, August 22, 1983, effective January 1, 1984, vol. 21, p. 142; amended by Ord. C-170-90 [PLG-028-90], October 1, 1990, vol. 31, p. 449)

16.13.130 Repealer

Any and all ordinances or parts of ordinances in conflict with the provisions of this Chapter are hereby repealed, effective January 1, 1984.

(Ord. PD-83-03, August 22, 1983, effective January 1, 1984, vol. 21, p. 142; amended by Ord. C-170-90 [PLG-028-90], October 1, 1990, vol. 31, p. 449)

16.13.140 Effective Date

This Chapter shall take effect and be in force on January 1, 1984.

(Ord. PD-83-03, August 22, 1983, effective January 1, 1984, vol. 21, p. 142; amended by Ord. C-170-90 [PLG-028-90], October 1, 1990, vol. 31, p. 449)

16.13.150 Transition

Until new county-wide zoning is enacted to replace the current interim zoning, or December 31, 1984, whichever date is earlier, the Examiner, in his/her decisions and recommendations, shall be guided by the following criteria:

- A. In case of conflict between the use of density designations in the optimal land use map and the text of the Comprehensive Plan, the text shall be controlling;
- B. In case of conflict between the use or density designations in the optimal land use map and existing interim zoning, the optimal land use map shall be controlling;
- C. In case of conflict between the Comprehensive Plan and any other development regulation of the county, the Comprehensive Plan shall be controlling; **provided** that, in all cases where the county seeks to maintain that a conflict exists, the county shall have the burden of demonstrating, to the satisfaction of the Examiner, by clear and convincing evidence, that such conflict does in fact exist.

(Ord. PD-83-03, August 22, 1983, effective January 1, 1984, vol. 21, p. 142; amended by Ord. C-170-90 [PLG-028-90], October 1, 1990, vol. 31, p. 449)

Chapter 16.14
County Environmental Policy

(Chapter 16.14, County Environmental Policy, and Ord. PA-73- 3, June 10, 1974, vol. 15, p. 31, repealed by Ord. PD-78-1, August 7, 1978, vol. 17, p. 385)

Chapter 16.14A
County Environmental Policy

(Chapter 16.14A, County Environmental Policy, Ord. PD-78-1, August 7, 1978, vol. 17, p. 385, and amended by Ord. PD-82-01, January 17, 1983, vol. 20, p. 504; superseded by Ord. PD- 84-17, September 24, 1984, vol. 23, p. 27)

Chapter 16.14B
County Environmental Policy Substantive Effect of SEPA

(Chapter 16.14B, County, Environmental Policy Substantive Effect of SEPA, and Ord. PD-82-07, December 6, 1982, vol. 20, p. 413, repealed by Ord. PLG-027-92, June 8, 1992, vol. 34, p. 129)

Chapter 16.14C
County Environmental Policy

Sections:

Part One--Authority

16.14C.010 Authority

Part Two--General Requirements

16.14C.020 Purpose of This Part and Adoption by Reference

16.14C.030 Additional Definitions

16.14C.040 Designation of Responsible Official

16.14C.050 Lead Agency Determination and Responsibilities

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16.14C.053 Transfer of Lead Agency Status to a State Agency

16.14C.058 Additional Timing Considerations

16.14C.060 Denial of Proposal Without EIS

Part Three--SEPA and Growth Management Integration

16.14C.065 Purpose of This Part and Adoption by Reference

Part Four—Categorical Exemptions and Threshold Determinations

16.14C.070 Purpose of this Part and Adoption by Reference

16.14C.080 Use of Exemptions

16.14C.090 Environmental Checklist

16.14C.095 Threshold Determination Time Limits

16.14C.100 Mitigated DNS

Part Five--Environmental Impact Statements

16.14C.110 Purpose of This Part and Adoption by Reference

16.14C.120 EIS Preparation

Part Six--Commenting

16.14C.125 Adoption by Reference

16.14C.130 Public Notice

16.14C.140 Designation of Official to Perform Consulted Agency Responsibilities for the County

Part Seven--Using Existing Environmental Documents

16.14C.150 Purpose of This Part and Adoption by Reference

Part Eight--SEPA and Agency Decisions

16.14C.155 Purpose of This Part and Adoption by Reference

16.14C.160 Substantive Authority

16.14C.170 Appeals

16.14C.173 Notice/Statute of Limitations

Part Nine--Definitions

16.14C.175 Purpose of This Part and Adoption by Reference

Part Ten--Categorical Exemptions

16.14C.180 Categorical Exemptions

Part Eleven--Agency Compliance**16.14C.185 Purpose of This Part and Adoption by Reference****16.14C.190 Environmentally Sensitive Areas****16.14C.200 Fees****16.14C.210 Severability****Part Twelve—Forms and Effective Date****16.14C.220 Adoption by Reference****16.14C.230 Effective Date****Part One--Authority****16.14C.010 Authority**

The County of Island adopts this Chapter under the State Environmental Policy Act (SEPA), RCW 43.21C.120, and the SEPA rules, WAC 197-11-904. This Chapter contains the County's SEPA procedures and policies. The SEPA rules, Chapter 197-11 WAC, must be used in conjunction with this Chapter.

(Ord. PD-84-17, September 24, 1984, effective October 1, 1984, vol. 23, p. 27; amended by Ord. C-81-98 [PLG-016-98], September 29, 1998, vol. 43, p. 10; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

Part Two--General Requirements**16.14C.020 Purpose of This Part and Adoption by Reference**

This part contains the basic requirements that apply to the SEPA process. The County adopts by reference the following sections of Chapter 197-11 of the Washington Administrative Code:

WAC 197-11-040	Definitions
197-11-050	Lead Agency
197-11-055	Timing of the SEPA Process as amended on 11/10/97
197-11-060	Content of Environmental Review as amended on 11/10/97
197-11-070	Limitations on Actions During SEPA Process as amended on 11/10/97
197-11-080	Incomplete or Unavailable Information

197-11-090 Supporting Documents

197-11-100 Information Required of Applicants

(Ord. PD-84-17, September 24, 1984, effective October 1, 1984, vol. 23, p. 27; amended by Ord. C-81-98 [PLG-016-98], September 29, 1998, vol. 43, p. 10; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

16.14C.030 Additional Definitions

In addition to those definitions contained within WAC 197-11-700 through 197-11-799, when used in this Chapter, the following terms shall have the following meanings, unless the context indicates otherwise:

- A. **Department** means any division, subdivision or organizational unit of the County established by ordinance, rule, or order.
- B. **SEPA rules** means Chapter 197-11 WAC adopted by the Department of Ecology.
- C. **Ordinance** means the ordinance, resolution, or other procedure used by the County to adopt regulatory requirements.
- D. **Early notice** means the County’s response to an applicant stating whether it considers issuance of a determination of significance likely for the applicant’s proposal (mitigated determination of nonsignificance [DNS] procedures).
- E. **Lands Covered by Water:** As used in Chapter 197-11 WAC, lands covered by water refers to wetlands, streams and deep water habitat regulated by Chapter 17.02 ICC and to lands below the ordinary high water mark of shorelines regulated by the Shoreline Master Program.

(Ord. PD-84-17, September 24, 1984, effective October 1, 1984, vol. 23, p. 27; amended by Ord. PLG-012-93, March 8, 1993, vol. 35, p. 235; amended by Ord. C-81-98 [PLG-016-98], September 29, 1998, vol. 43, p. 10; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

16.14C.040 Designation of Responsible Official

- A. For those proposals for which the County is the lead agency, the responsible official shall be the Island County Planning Director.
- B. For all proposals for which the County is the lead agency, the responsible official shall make the threshold determination, supervise scoping and preparation of any required environmental impact statement (EIS), and perform any other functions assigned to the lead agency or responsible official by those sections of the SEPA rules that were adopted by reference in WAC 173-806-020.
- C. The County shall retain all documents required by the SEPA rules (Chapter 197-11 WAC) and make them available in accordance with Chapter 42.14 RCW.

(Ord. PD-84-17, September 24, 1984, effective October 1, 1984, vol. 23, p. 27; amended by Ord. C-37-94, June 13, 1994, vol. 37, p. 189; amended by Ord. C-86-94, December 5, 1994, vol. 37, p. 500; amended by Ord. C-81-98 [PLG-016-98], September 29, 1998, vol. 43, p. 10; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

16.14C.050 Lead Agency Determination and Responsibilities

- A. The Department within the County receiving an application for or initiating a proposal that involves a nonexempt action shall determine the lead agency for that proposal under WAC 197-11-050 and 197-11-922 through 197-11-940, unless the lead agency has been previously determined or the Department is aware that another Department or agency is in the process of determining the lead agency.
- B. When the County is not the lead agency for a proposal, all Departments of the County shall use and consider, as appropriate, either the DNS or the final EIS of the lead agency in making decisions on the proposal. No County Department shall prepare or require preparation of a DNS or EIS in addition to that prepared by the lead agency, unless required under WAC 197-11-600. In some cases, the County may conduct supplemental environmental review under WAC 197-11-600.
- C. If the County or any of its Departments receives a lead agency determination made by another agency that appears inconsistent with the criteria of WAC 197-11-922 through 197-11-940, it may object to the determination. Any objection must be made to the agency originally making the determination. The County may petition the Department of Ecology for a lead agency determination under WAC 197-11-946.
- D. Departments of the County are authorized to make agreements as to lead agency status or shared lead agency duties for a proposal under WAC 197-11-942 and 197-11-944; provided, that the responsible official and any Department that will incur responsibilities as a result of such agreement approve the agreement.
- E. Any Department making a lead agency determination for a private project shall require sufficient information from the applicant to identify which other agencies have jurisdiction over the proposal (i.e., which agencies require nonexempt licenses).

(Ord. PD-84-17, September 24, 1984, effective October 1, 1984, vol. 23, p. 27; amended by Ord. C-81-98 [PLG-016-98], September 29, 1998, vol. 43, p. 10; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

16.14C.053 Transfer of Lead Agency Status to a State Agency

For any proposal for a private project where the County would be the lead agency and for which one (1) or more state agencies have jurisdiction, the County's responsible official may elect to transfer the lead agency duties to a state agency. The state agency with jurisdiction appearing first on the priority listing in WAC 197-11-936 shall be the lead agency, and the County shall be an agency with jurisdiction. To transfer lead agency duties, the County's responsible official must transmit a notice of the transfer, together with any relevant information available on the proposal, to the appropriate state agency with jurisdiction. The responsible official of the County shall also

give notice of the transfer to the private applicant, other parties of record, and any other agencies with jurisdiction over the proposal.

(Ord. PD-84-17, September 24, 1984, effective October 1, 1984, vol. 23, p. 27; amended by Ord. C-81-98 [PLG-016-98], September 29, 1998, vol. 43, p. 10; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

16.14C.058 Additional Timing Considerations

- A. For nonexempt proposals, the DNS or draft EIS for the proposal shall accompany the County’s staff recommendation to any appropriate advisory body, such as the Planning Commission.
- B. If the County’s only action on a proposal is a decision on a building permit or other license that requires detailed project plans and specifications, the applicant may request in writing that the County conduct environmental review prior to submission of the detailed plans and specifications.

(Ord. PD-84-17, September 24, 1984, effective October 1, 1984, vol. 23, p. 27; amended by Ord. C-81-98 [PLG-016-98], September 29, 1998, vol. 43, p. 10; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

16.14C.060 Denial of Proposal Without EIS

When denial of a non-County proposal for which a DS has been issued can be based on grounds which are ascertainable without preparation of an EIS, the responsible official may deny the application and/or recommend denial thereof by other officials, Departments, or agencies with jurisdiction without preparing an EIS in order to avoid incurring needless County and applicant expense, subject to the following:

- A. Any such denial or recommendation of denial shall be supported by express written findings or conclusions of irreconcilable conflict with adopted codes, plans, ordinances, regulations, resolutions, or laws.
- B. When considering a recommendation of denial made pursuant to this section, the decision-making official or body may take one (1) of the following actions:
 - 1. Deny the application; or
 - 2. Find that there is reasonable doubt that the recommended grounds for denial are sufficient and remand the application to the responsible official for reconsideration following preparation of an EIS.

(Ord. PD-84-17, September 24, 1984, effective October 1, 1984, vol. 23, p. 27; amended by Ord. C-81-98 [PLG-016-98], September 29, 1998, vol. 43, p. 10; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

Part Three--SEPA and Growth Management Integration**16.14C.065 Purpose of This Part and Adoption by Reference**

This part contains the rules integrating SEPA and the Growth Management Act. The County adopts the following sections by reference:

WAC 197-11-158	GMA Project Review
197-11-164	Planned Actions
197-11-168	Planned Actions
197-11-172	Planned Actions
197-11-210	SEPA/GMA Integration

(Ord. C-81-98 [PLG-016-98], September 29, 1998, vol. 43, p. 10; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

Part Four--Categorical Exemptions and Threshold Determinations**16.14C.070 Purpose of This Part and Adoption by Reference**

This part contains the rules for deciding whether a proposal has a “probable significant, adverse environmental impact” requiring an environmental impact statement (EIS) to be prepared. This part also contains rules for evaluating the impacts of proposals not requiring an EIS. The County adopts the following sections by reference, as supplemented in this part:

WAC 197-11-300	Purpose of This Part as amended on 11/10/97
197-11-305	Categorical Exemptions
197-11-310	Threshold Determination Required as amended on 11/10/97
197-11-315	Environmental Checklist as amended on 11/10/97
197-11-330	Threshold Determination Process as amended on 11/10/97
197-11-335	Additional Information
197-11-350	Mitigated DNS
197-11-355	Optional DNS Process except for WAC 197-11-355(4)(b)

197-11-360 Determination of Significance (DS)/Initiation of Scoping

197-11-390 Effect of Threshold Determination as amended on 11/10/97

(Ord. PD-84-17, September 24, 1984, effective October 1, 1984, vol. 23, p. 27; amended by Ord. C-81-98 [PLG-016-98], September 29, 1998, vol. 43, p. 10; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

16.14C.080 Use of Exemptions

- A. Each Department within the County that receives an application for a license (or, in the case of governmental proposals, the Department initiating the proposal) shall determine whether the license and/or the proposal is exempt. The Department’s determination that a proposal is exempt shall be final and not subject to administrative review. If a proposal is exempt, none of the procedural requirements of this Chapter apply to the proposal. The County shall not require completion of an environmental checklist for an exempt proposal.
- B. In determining whether a proposal is exempt, the Department shall make certain the proposal is properly defined and shall identify the governmental licenses required (WAC 197-11-060). If a proposal includes exempt and nonexempt actions, the Department shall determine the lead agency, even if the license application that triggers the Department’s consideration is exempt.
- C. If a proposal includes both exempt and nonexempt actions, the County may authorize exempt actions prior to compliance with the procedural requirements of this Chapter, except that:
 - 1. The County shall not give authorization for:
 - a) any nonexempt action,
 - b) any action that would have an adverse environmental impact, or
 - c) any action that would limit the choice of alternatives;
 - 2. A Department may withhold approval of an exempt action that would lead to modification of the physical environment, when such modification would serve no purpose if nonexempt action(s) were not approved; and
 - 3. A Department may withhold approval of exempt actions that would lead to substantial financial expenditures by a private applicant when the expenditures would serve no purpose if nonexempt action(s) were not approved.

(Ord. PD-84-17, September 24, 1984, effective October 1, 1984, vol. 23, p. 27; amended by Ord. C-81-98 [PLG-016-98], September 29, 1998, vol. 43, p. 10; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

16.14C.090 Environmental Checklist

- A. A completed environmental checklist (or a copy), in the form provided in WAC 197-11-960, shall be filed at the same time as an application for a permit, license, certificate, or

other approval not specifically exempted in this Chapter; except, a checklist is not needed if the County and applicant agree an EIS is required, SEPA compliance has been completed, or SEPA compliance has been initiated by another agency. The County shall use the environmental checklist to determine the lead agency and, if the County is the lead agency, for making the threshold determination.

- B. For private proposals, the County will require the applicant to complete the environmental checklist, providing assistance as necessary. For County proposals, the Department initiating the proposal shall complete the environmental checklist for that proposal.
- C. The County may complete all or part of the environmental checklist for a private proposal if either of the following occurs:
 - 1. The County has technical information on a question or questions that is unavailable to the private applicant; or
 - 2. The applicant has provided inaccurate information on previous proposals or on proposals currently under consideration.

(Ord. PD-84-17, September 24, 1984, effective October 1, 1984, vol. 23, p. 27; amended by Ord. C-81-98 [PLG-016-98], September 29, 1998, vol. 43, p. 10; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

16.14C.095 Threshold Determination Time Limits

The responsible official shall make a threshold determination on a completed application using the optional DNS process provided for by WAC 197-11-355. Threshold determinations shall be made within the time limits established in section 16.19.140 ICC.

(Ord. PLG-012-93, March 8, 1993, vol. 35, p. 235; amended by Ord. C-81-98 [PLG-016-98], September 29, 1998, vol. 43, p. 10; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38; amended by Ord. C-63-99 [CD-01-99], June 21, 1999, vol. 43, p. 338)

16.14C.100 Mitigated DNS

- A. As provided in this section and in WAC 197-11-350, the responsible official may issue a DNS based on conditions attached to the proposal by the responsible official or on changes to, or clarifications of, the proposal made by the applicant.
- B. An applicant may request in writing early notice of whether a DS is likely under WAC 197-11-350. The request must:
 - 1. follow submission of a permit application and environmental checklist for a nonexempt proposal for which the Department is lead agency; and
 - 2. precede the County's actual threshold determination for the proposal.
- C. The responsible official should respond to the request for early notice within fourteen (14) working days. The response shall:

1. be written;
 2. state whether the County currently considers issuance of a DS likely and, if so, indicate the general or specific area(s) of concern that is/are leading the County to consider a DS; and
 3. state that the applicant may change or clarify the proposal to mitigate the indicated impacts, revising the environmental checklist and/or permit application as necessary to reflect the changes or clarifications.
- D. As much as possible, the County should assist the applicant with identification of impacts to the extent necessary to formulate mitigation measures.
- E. When an applicant submits a changed or clarified proposal, along with a revised or amended environmental checklist, the County shall base its threshold determination on the changed or clarified proposal and should make the determination within fourteen (14) days of receiving the changed or clarified proposal:
1. If the County indicated specific mitigation measures in its response to the request for early notice, and the applicant changed or clarified the proposal to include those specific mitigation measures, the County shall issue and circulate a DNS under WAC 197-11-340(2).
 2. If the County indicated areas of concern, but did not indicate specific mitigation measures that would allow it to issue a DNS, the County shall make the threshold determination, issuing a DNS or DS as appropriate.
 3. The applicant's proposed mitigation measures (clarifications, changes, or conditions) must be in writing and must be specific. For example, proposals to "control noise" or "prevent stormwater runoff" are inadequate, whereas proposals to "muffle machinery to X decibel," or "construct 200-foot stormwater retention pond at Y location" are adequate.
 4. Mitigation measures which justify issuance of a mitigated DNS may be incorporated in the DNS by reference to agency staff reports, studies, or other documents.
- F. Mitigation measures incorporated in the mitigated DNS shall be deemed conditions of approval of the permit decision and may be enforced in the same manner as any term or condition of the permit, or enforced in any other appropriate manner by the County.
- G. If at any time the proposed mitigation measures are withdrawn or substantially changed, the responsible official shall make a new threshold determination and, if necessary, may withdraw the mitigated DNS and issue a DS.

- H. The County's written response under subsection C.1 of this section shall not be construed as a determination of significance. In addition, preliminary discussion of clarifications or changes to a proposal, as opposed to a written request for early notice, shall not bind the County to consider the clarifications or changes in its threshold determination or to issue a mitigated DNS.
- I. A mitigated DNS is appropriate only in those cases where a proposal cannot or would not otherwise be conditioned through the application of existing ordinances or development regulations governing the type of proposal being made.

(Ord. PD-84-17, September 24, 1984, effective October 1, 1984, vol. 23, p. 27; amended by Ord. C-81-98 [PLG-016-98], September 29, 1998, vol. 43, p. 10; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

Part Five – Environmental Impact Statements

16.14C.110 Purpose of This Part and Adoption by Reference

This part contains the rules for preparing environmental impact statements. The County adopts the following sections by reference, as supplemented by this part:

WAC 197-11-400	Purpose of EIS
197-11-402	General Requirements
197-11-405	EIS Types
197-11-406	EIS Timing
197-11-408	Scoping as amended on 11/10/97
197-11-410	Expanded Scoping (Optional)
197-11-420	EIS Preparation
197-11-425	Style and Size
197-11-430	Format
197-11-435	Cover Letter or Memo
197-11-440	EIS Contents
197-11-442	Contents of EIS on Nonproject Proposals
197-11-443	EIS Contents when Prior Nonproject EIS
197-11-444	Elements of the Environment
197-11-448	Relationship of EIS to Other Considerations

197-11-450 Cost-Benefit Analysis

197-11-455 Issuance of DEIS

197-11-460 Issuance of FEIS

(Ord. PD-84-17, September 24, 1984, effective October 1, 1984, vol. 23, p. 27; amended by Ord. C-81-98 [PLG-016-98], September 29, 1998, vol. 43, p. 10; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

16.14C.120 EIS Preparation

The draft and final EIS for a proposed private project shall be prepared by either the County or an approved consultant, as determined by and under the supervision of the responsible official.

- A. If the responsible official determines that someone other than the County will prepare the EIS, the responsible official shall notify the applicant upon completion of the threshold determination. The responsible official shall also notify the applicant of the County's procedure for EIS preparation, including approval of the draft and final EIS prior to distribution.
- B. In the event that the EIS is to be prepared by a consultant, the consultant shall be selected or approved by the responsible official but retained directly by the applicant. The responsible official may maintain a list of approved consultants developed following a call for and submittal of qualifications. The responsible official shall advise the consultant regarding areas of research as well as the organization of the resultant document, and shall assure that the EIS is prepared in a responsible manner with appropriate methodology.
- C. In the event that the EIS is to be prepared by the County, the County may retain experts as needed. In addition, the responsible official may request the applicant to provide data and information relevant to any or all areas covered by the EIS, subject to the limitations contained in this Chapter. If the applicant fails or refuses to provide data or information required for preparation of an adequate draft EIS or for adequate response to critical comments received on a draft EIS, the responsible official may refuse to further process or consider the private application.
- D. The applicant shall bear and secure the payment of County costs in accordance with section 16.14C.200.
- E. No matter who participates in the preparation of an EIS, the responsible official shall be satisfied that it complies with this Chapter prior to its issuance and distribution.

(Ord. PD-84-17, September 24, 1984, effective October 1, 1984, vol. 23, p. 27; amended by Ord. C-81-98 [PLG-016-98], September 29, 1998, vol. 43, p. 10; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

Part Six--Commenting**16.14C.125 Adoption by Reference**

This part contains rules for consulting, commenting, and responding on all environmental documents under SEPA, including rules for public notice and hearings. The County adopts the following sections by reference, as supplemented in this part:

WAC 197-11-500	Purpose of This Part
197-11-502	Inviting Comment as amended on 11/10/97
197-11-504	Availability and Cost of Environmental Documents
197-11-508	SEPA Register as amended on 11/10/97
197-11-535	Public Hearings and Meetings as amended on 11/10/97
197-11-545	Effect of No Comment
197-11-550	Specificity of Comments
197-11-560	FEIS Response to Comments
197-11-570	Consulted Agency Costs to Assist Lead Agency

(Ord. PD-84-17, September 24, 1984, effective October 1, 1984, vol. 23, p. 27; amended by Ord. C-81-98 [PLG-016-98], September 29, 1998, vol. 43, p. 10; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

16.14C.130 Public Notice

- A. Whenever the County issues a DEIS under WAC 197-11-455(5) or a SEIS under WAC 197-11-620, notice of the availability of those documents shall be given by indicating the availability of the DEIS in any public notice required for a nonexempt license and, in addition, employing at least one (1) of the following methods of notice:
1. Posting the property for site-specific proposals;
 2. Publishing notice in a newspaper of general circulation in the County, city, or general area where the proposal is located;
 3. Notifying public or private groups which have expressed interest in a certain proposal or in the type of proposal being considered;
 4. Notifying the news media;
 5. Placing notices in appropriate regional, neighborhood, ethnic, or trade journals; or
 6. Publishing notice in agency newsletters and/or sending notice to agency mailing lists (general lists or specific lists for proposals or subject areas).

- B. The County shall integrate the public notice required under this section with existing notice procedures for the County’s nonexempt permit(s) or approval(s) required for the proposal as provided in Chapter 16.19 ICC.
- C. The County may require an applicant to complete the public notice requirements for the applicant’s proposal at his or her expense.

(Ord. PD-84-17, September 24, 1984, effective October 1, 1984, vol. 23, p. 27; amended by Ord. C-81-98 [PLG-016-98], September 29, 1998, vol. 43, p. 10; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

16.14C.140 Designation of Official to Perform Consulted Agency Responsibilities for the County

- A. The Island County Planning Department shall be responsible for preparation of written comments for the County in response to a consultation request prior to a threshold determination, participation in scoping, and reviewing a DEIS.
- B. This Department shall be responsible for the County’s compliance with WAC 197-11-550 whenever the County is a consulted agency and is authorized to develop operating procedures that will ensure that responses to consultation requests are prepared in a timely fashion and include data from all appropriate Departments of the County.

(Ord. PD-84-17, September 24, 1984, effective October 1, 1984, vol. 23, p. 27; amended by Ord. C-81-98 [PLG-016-98], September 29, 1998, vol. 43, p. 10; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

Part Seven--Using Existing Environmental Documents

16.14C.150 Purpose of This Part and Adoption by Reference

This part contains rules for using and supplementing existing environmental documents prepared under SEPA or National Environmental Policy Act (NEPA) for the County’s own environmental compliance. The County adopts the following sections by reference:

WAC 197-11-600	When to Use Existing Environmental Documents as amended on 11/10/97
197-11-610	Use of NEPA Documents
197-11-620	Supplemental Environmental Impact Statement-Procedures
197-11-625	Addenda-Procedures
197-11-630	Adoption-Procedures
197-11-635	Incorporation by Reference-Procedures
197-11-640	Combining Documents

(Ord. PD-84-17, September 24, 1984, effective October 1, 1984, vol. 23, p. 27; amended by Ord. C-81-98 [PLG-016-98], September 29, 1998, vol. 43, p. 10; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

Part Eight--SEPA and Agency Decisions**16.14C.155 Purpose of This Part and Adoption by Reference**

This part contains rules (and policies) for SEPA's substantive authority, such as decisions to mitigate or reject proposals as a result of SEPA. This part also contains procedures for appealing SEPA determinations to agencies or the courts. The County adopts the following sections by reference:

WAC 197-11-650	Purpose of This Part
197-11-655	Implementation
197-11-660	Substantive Authority and Mitigation as amended on 11/10/97
197-11-680	Appeals as amended on 11/10/97

(Ord. PD-84-17, September 24, 1984, effective October 1, 1984, vol. 23, p. 27; amended by Ord. C-81-98 [PLG-016-98], September 29, 1998, vol. 43, p. 10; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

16.14C.160 Substantive Authority

- A. The policies and goals set forth in this Chapter are supplementary to those in the existing authorization of Island County.
- B. The County may attach conditions to a permit or approval for a proposal only as provided in WAC 197-11-158 and so long as:
 - 1. such conditions are necessary to mitigate specific probable adverse environmental impacts identified in environmental documents prepared pursuant to this Chapter;
 - 2. such conditions are in writing;
 - 3. the mitigation measures included in such conditions are reasonable and capable of being accomplished;
 - 4. the County has considered whether other local, state, or federal mitigation measures applied to the proposal are sufficient to mitigate the identified impacts; and
 - 5. such conditions are based on one (1) or more policies in subsection D of this section and cited in the license or other decision document.
- C. The County may deny a permit or approval for a proposal on the basis of SEPA so long as:
 - 1. a finding is made that approving the proposal would result in probable significant adverse environmental impacts that are identified in a FEIS or final SEIS prepared pursuant to this Chapter;

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2. a finding is made that there are no reasonable mitigation measures capable of being accomplished that are sufficient to mitigate the identified impact; and
 3. the denial is based on one (1) or more policies identified in subsection D of this section and identified in writing in the decision document.
- D. The County designates and adopts by reference the following policies as the basis for the County's exercise of authority pursuant to this section:
1. The State/County Health Department Saltwater Intrusion Policy dated 7/21/89;
 2. Land Development Standards (Chapters 11.01, 11.02, 11.03 and 11.04 (ICC));
 3. On-Site Sewage Systems Ordinance (Chapter 8.07D ICC);
 4. Water System and Fire Flow Standards Ordinance (Chapter 13.03A ICC);
 5. Potable Water Source and Supply (Chapter 8.09 ICC);
 6. Building Code (Chapters 14.01 and 14.01A ICC);
 7. Flood Damage Prevention Ordinance (Chapter 14.02A ICC);
 8. PRD Ordinance (Chapter 16.17 ICC);
 9. Land Divisions and Dedications Ordinance (Chapter 16.06 ICC);
 10. Site Plan Review Ordinance (Chapter 16.15 ICC);
 11. Historic Preservation Districts Ordinance (Chapter 16.18A ICC);^{8B}
 12. Shoreline Management Ordinance and Shoreline Management Master Program and Master Program Use Requirements (Chapters 16.21 and 17.05 ICC);
 13. Zoning Ordinance (Chapter 17.03 ICC);
 14. Comprehensive Plan (Chapter 16.10 ICC);
 15. Storm and Surface Water Utility Ordinance (Chapters 15.01 and 15.02 ICC);
 16. Memorandum of Understanding between DOE and Island County re Water Source Coordination dated 12/10/90;

^{8B} **Reviser's Note:** Historic Preservation Districts Ordinance (Chapter 16.18A ICC) repealed by Ord. C-84-05 [PLG-017-04], July 25, 2005. See Chapter 17.04 ICC for development standards as they pertain to Ebey's Landing National Historical Reserve.

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PLANNING AND SUBDIVISIONS

17. Island County Protocol for Review of Applications within Areas of Archaeological Significance;
 18. Gravel Mining Operation Policy; and
 19. Critical Area Regulations (Chapter 17.02 ICC).
- E. Except for permits and variances issued pursuant to Chapters 16.21 and 17.05 of the Island County Code, when any proposal or action is conditioned or denied on the basis of SEPA by a nonelected official, the decision may be appealed as provided in Chapter 16.19 ICC.
- F. Any decision to approve, deny, or approve with conditions pursuant to RCW 43.21C.060 shall be contained in the approving authorities' decision document. The written decision will contain facts and conclusions based on the proposal's specific adverse environmental impacts (or lack thereof) as identified in an environmental checklist, EIS, threshold determination, other environmental document including a County staff report and recommendation to a decision maker, or findings made pursuant to a public hearing authorized or required by law or ordinance. The decision document will state the specific plan, policy or regulation which supports the SEPA decision and, if mitigation beyond existing development regulations is required, the specific adverse environmental impacts and the reasons why additional mitigation is needed to comply with SEPA.

(Ord. PD-84-17, September 24, 1984, effective October 1, 1984, vol. 23, p. 27; amended by Ord. PLG-027-92, June 8, 1992, vol. 34, p. 129; amended by Ord. C-106-95/R-55-95, December 18, 1995, vol. 39, p. 247; amended by Ord. C-81-98 [PLG-016-98], September 29, 1998, vol. 43, p. 10; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38; amended by Ord. C-136-98 [PLG-042-98], November 9, 1998, vol. 43, p. 65; amended by Ord. C-44-00 [PLG-011-00], June 5, 2000, vol. 44, p. 429, readopted June 19, 2000, vol. 44, p. 446)

16.14C.170 Appeals

Administrative and judicial appeals of procedural and substantive determinations under SEPA shall be as set forth in Chapter 16.19 ICC.

(Ord. PD-84-17, September 24, 1984, effective October 1, 1984, vol. 23, p. 27; amended by Ord. C-81-98 [PLG-016-98], September 29, 1998, vol. 43, p. 10; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

16.14C.173 Notice/Statute of Limitations

- A. The County, applicant for, or proponent of an action may publish a notice of action pursuant to RCW 43.21C.080 for any action.
- B. The form of the notice shall be substantially in the form provided in WAC 197-11-990. The notice shall be published by the County Auditor, applicant, or proponent pursuant to RCW 43.21C.080.

(Ord. PD-84-17, September 24, 1984, effective October 1, 1984, vol. 23, p. 27; amended by Ord. C-81-98 [PLG-016-98], September 29, 1998, vol. 43, p. 10; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

Part Nine - Definitions

16.14C.175 Purpose of This Part and Adoption by Reference

This part contains uniform usage and definitions of terms under SEPA. The County adopts the following sections by reference, as supplemented by WAC 173-806-040:

WAC 197-11-700	Definitions
197-11-702	Act as amended on 11/10/97
197-11-704	Action
197-11-706	Addendum
197-11-708	Adoption
197-11-710	Affected Tribe
197-11-712	Affecting
197-11-714	Agency
197-11-716	Applicant
197-11-718	Built Environment
197-11-720	Categorical Exemption
197-11-721	Closed Record Appeal
197-11-722	Consolidated Appeal
197-11-724	Consulted Agency
197-11-726	Cost-Benefit Analysis
197-11-728	County/City as amended on 11/10/97
197-11-730	Decision Maker
197-11-732	Department
197-11-734	Determination of Nonsignificance (DNS)
197-11-736	Determination of Significance (DS)
197-11-738	EIS
197-11-740	Environment
197-11-742	Environmental Checklist

197-11-744	Environmental Document
197-11-746	Environmental Review
197-11-748	Environmentally Sensitive Area
197-11-750	Expanded Scoping
197-11-752	Impacts
197-11-754	Incorporation by Reference
197-11-756	Lands Covered by Water
197-11-758	Lead Agency
197-11-760	License
197-11-762	Local Agency
197-11-764	Major Action
197-11-766	Mitigated DNS
197-11-768	Mitigation
197-11-770	Natural Environment
197-11-772	NEPA
197-11-774	Nonproject
197-11-775	Open Record Hearing
197-11-776	Phased Review
197-11-778	Preparation
197-11-780	Private Project
197-11-782	Probable
197-11-784	Proposal
197-11-786	Reasonable Alternative
197-11-788	Responsible Official
197-11-790	SEPA as amended on 11/10/97
197-11-792	Scope
197-11-793	Scoping

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197-11-794	Significant
197-11-796	State Agency
197-11-797	Threshold Determination
197-11-799	Underlying Governmental Action

(Ord. PD-84-17, September 24, 1984, effective October 1, 1984, vol. 23, p. 27; amended by Ord. C-81-98 [PLG-016-98], September 29, 1998, vol. 43, p. 10; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

Part Ten – Categorical Exemptions

16.14C.180 Categorical Exemptions

The County adopts by reference the following rules for categorical exemptions, as supplemented in this Chapter, including WAC 173-806-070 (Flexible Thresholds), WAC 173-806-080 (Use of Exemptions), and WAC 173-806-190 (Environmentally Sensitive Areas):

WAC 197-11-800	Categorical Exemptions as amended on 11/10/97
197-11-880	Emergencies
197-11-890	Petitioning DOE to Change Exemptions

Island County adopts the standards and procedures specified in WAC 197-11-300 through 197-11-390 and 197-11-800 through 197-11-890 for determining categorical exemptions and making threshold determinations, except the following exempt threshold levels are hereby established pursuant to WAC 197-11-800(1)(c) for the exemptions in WAC 197-11-800(1)(b):

- A. The construction of a barn, loafing shed, farm equipment storage building, produce storage or packing structure, or similar agricultural structure, covering up to 30,000 square feet on land zoned Rural Agriculture or Commercial Agriculture, or up to 15,000 square feet in the Rural zone, and to be used only by the property owner or his or her agent in the conduct of farming the property;
- B. Any landfill or excavation at five-hundred (500) cubic yards throughout the total lifetime of the fill or excavation.

(Ord. PD-84-17, September 24, 1984, effective October 1, 1984, vol. 23, p. 27; amended by Ord. C-81-98 [PLG-016-98], September 29, 1998, vol. 43, p. 10; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38; amended by Ord. C-136-98 [PLG-042-98], November 9, 1998, vol. 43, p. 65)

Part Eleven--Agency Compliance

16.14C.185 Purpose of This Part and Adoption by Reference

This part contains rules for agency compliance with SEPA, including rules for charging fees under the SEPA process, designating environmentally sensitive areas, listing agencies with environmental expertise, selecting the lead agency, and applying these rules to current agency

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activities. The County adopts the following sections by reference, as supplemented by WAC 173-806-045 through 173-806-043 and this part:

WAC 197-11-900	Purpose of This Part
197-11-902	Agency SEPA Policies
197-11-916	Application to Ongoing Actions
197-11-920	Agencies with Environmental Expertise
197-11-922	Lead Agency Rules
197-11-924	Determining the Lead Agency
197-11-926	Lead Agency for Governmental Proposals
197-11-928	Lead Agency for Public and Private Proposals
197-11-930	Lead Agency for Private Projects with One Agency with Jurisdiction
197-11-932	Lead Agency for Private Projects Requiring Licenses From More Than One Agency, When One of the Agencies is a County/City
197-11-934	Lead Agency for Private Projects Requiring Licenses From a Local Agency, Not a County/City, and One or More State Agencies
197-11-936	Lead Agency for Private Projects Requiring Licenses From More Than One State Agency
197-11-938	Lead Agencies for Specific Proposals as amended on 11/10/97
197-11-940	Transfer of Lead Agency Status to a State Agency
197-11-942	Agreements on Lead Agency Status
197-11-944	Agreements on Division of Lead Agency Duties
197-11-946	DOE Resolution of Lead Agency Disputes
197-11-948	Assumption of Lead Agency Status as amended on 11/10/97

(Ord. PD-84-17, September 24, 1984, effective October 1, 1984, vol. 23, p. 27; amended by Ord. C-81-98 [PLG-016-98], September 29, 1998, vol. 43, p. 10; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

16.14C.190 Environmentally Sensitive Areas

- A. Island County may designate environmentally sensitive areas under the standards of WAC 197-11-908 and shall file maps designating such areas, together with the exemptions from the list in WAC 197-11-908 that are inapplicable in such areas, with the Island County

Auditor and the Department of Ecology, Headquarters Office, Olympia, Washington. The environmentally sensitive area designations shall have full force and effect of law as of the date of filing.

- B. The County shall treat proposals located wholly or partially within an environmentally sensitive area no differently than other proposals under this Chapter, making a threshold determination for all such proposals. The County shall not automatically require an EIS for a proposal merely because it is proposed for location in an environmentally sensitive area.
- C. Certain exemptions do not apply on lands covered by water, and this remains true regardless of whether lands covered by water are mapped.

(Ord. PD-84-17, September 24, 1984, effective October 1, 1984, vol. 23, p. 27; amended by Ord. C-81-98 [PLG-016-98], September 29, 1998, vol. 43, p. 10; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

16.14C.200 Fees

The County shall require the following fees for its activities in accordance with the provisions of this Chapter:

- A. **Threshold determination.** For every environmental checklist the County will review when it is lead agency, the County shall collect a fee pursuant to the fee schedule adopted by the Board of County Commissioners from the proponent of the proposal prior to undertaking the threshold determination. The time periods provided by this Chapter for making a threshold determination shall not begin to run until payment of the fee. When the County completes the environmental checklist at the applicant's request or under ICC 16.14C.090.C of this Chapter, an additional fee pursuant to the above-referenced fee schedule shall be collected.
- B. **Environmental impact statement.**
 - 1. When the County is the lead agency for a proposal requiring an EIS and the responsible official determines that the EIS shall be prepared by employees of the County, the County shall charge and collect a reasonable fee from any applicant to cover costs incurred by the County in preparing the EIS. The responsible official shall advise the applicant(s) of the projected costs for the EIS prior to actual preparation; the applicant shall post bond or otherwise ensure payment of such costs.
 - 2. The responsible official may determine that the County will contract directly with a consultant for preparation of an EIS, or a portion of the EIS, for activities initiated by some persons or entity other than the County and may bill such costs and expenses directly to the applicant. The County may require the applicant to post bond or otherwise ensure payment of such costs. Such consultants shall be selected by mutual agreement of the County and applicant after a call for proposals.

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3. If a proposal is modified so that an EIS is not longer required, the responsible official shall refund any fees collected under 1 or 2 of this subsection which remain after incurred costs are paid.
- C. The County may collect a reasonable fee from an applicant to cover the cost of meeting the public notice requirements of this Chapter relating to the applicant's proposal.
- D. The County shall not collect a fee for performing its duties as a consulted agency.
- E. The County may charge any person for copies of any document prepared under this Chapter, and for mailing the document, in a manner provided by Chapter 42.17 RCW.

(Ord. PD-84-17, September 24, 1984, effective October 1, 1984, vol. 23, p. 27; amended by Ord. C-81-98 [PLG-016-98], September 29, 1998, vol. 43, p. 10; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

16.14C.210 Severability

If any provision of this Chapter or its application to any person or circumstance is held invalid, the remainder of this Chapter, or the application of the provision to other persons or circumstances, shall not be affected.

(Ord. PD-84-17, September 24, 1984, effective October 1, 1984, vol. 23, p. 27)

Part Twelve--Forms and Effective Date

16.14C.220 Adoption by Reference

The County adopts the following forms and sections by reference:

WAC 197-11-960	Environmental Checklist
197-11-965	Adoption Notice
197-11-970	Determination of Nonsignificance (DNS)
197-11-980	Determination of Significance and Scoping Notice (DS)
197-11-985	Notice of Assumption of Lead Agency Status
197-11-990	Notice of Action

(Ord. PD-84-17, September 24, 1984, effective October 1, 1984, vol. 23, p. 27; amended by Ord. C-81-98 [PLG-016-98], September 29, 1998, vol. 43, p. 10; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

16.14C.230 Effective Date

The amendments to this Chapter shall take effect on December 1, 1998 and shall apply to new applications submitted on or after that date and to incomplete applications filed prior to that date.

(Ord. C-81-98 [PLG-016-98], September 29, 1998, vol. 43, p. 10; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38; amended by Ord. C-136-98 [PLG-042-98], November 9, 1998, vol. 43, p. 65)

Chapter 16.15
Site Plan Review

Sections:

- 16.15.010 Purpose**
- 16.15.020 Applicability**
- 16.15.030 Definitions**
- 16.15.040 Application Requirements**
- 16.15.050 Modification of Application Requirements**
- 16.15.060 Conditions of Approval for NR Uses in the R, RR, RA, RF, and CA Zones**
- 16.15.070 Decision Making Authority**
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- 16.15.150 Site Plan Amendments**
- 16.15.160 Expiration of Site Plan Approval**
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16.15.010 Purpose

The purpose of this Chapter is to establish a Site Plan Review procedure for Commercial and certain residential and nonresidential land development proposals. The Site Plan Review will serve as an official control pursuant to Chapter 36.70 RCW; a development regulation pursuant to Chapter 36.70A RCW is designed for the following specific purposes:

- A. To combine various formal and informal review procedures for Commercial and nonresidential development proposals into one (1) standardized set of procedural requirements;
- B. To provide a predictable and clear review process for such development proposals; and

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C. To protect Rural Character by:

1. containing or otherwise controlling rural Non-Residential development; and
2. assuring visual compatibility of Non-Residential development with the surrounding rural area.

D. To implement the County Comprehensive Plan goals and policies through a formal Site Plan Review procedure.

(Ord. PD-84-08, May 14, 1984, vol. 22, p. 221; amended by Ord. C-86-98 [PLG-021-98], September 29, 1998, vol. 43, p. 12; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

16.15.020 Applicability

Site Plan Review and approval pursuant to this Chapter shall be required prior to the undertaking of any of the following actions;

A. Type II and III Decisions, as specified in Chapter 17.03 ICC.

B. Land Division under Chapter 16.06 ICC may be processed separately or simultaneously with an application for Site Plan Review. Provided that, when applications are processed simultaneously, a single fee shall be charged.

(Ord. PD-84-08, May 14, 1984, vol. 22, p. 222; amended by Ord. PD-84-15, November 26, 1984, effective December 31, 1984, vol. 23, p. 204; amended by Ord. PD-86-14, June 16, 1986, vol. 25, p. 383; amended by Ord. C-45-88, June 20, 1988, vol. 28, p. 290; amended by Ord. C-99-89, September 18, 1989, vol. 30, p. 112; amended by Ord. C-101-90 [PLG-016-90], June 18, 1990, vol. 31, p. 213; amended by Ord. C-170-90 [PLG-028-90], October 1, 1990, vol. 31, p. 449; amended by Ord. C-79-95, November 6, 1995, vol. 39, p. 121; amended by Ord. C-86-98 [PLG-021-98], September 29, 1998, vol. 43, p. 12; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38; amended by Ord. C-136-98 [PLG-042-98], November 9, 1998, vol. 43, p. 65; amended by Ord. C-63-99 [CD-01-99], June 21, 1999, vol. 43, p. 338)

16.15.030 Definitions

Unless expressly noted otherwise, words and phrases that appear in this Chapter shall be given the meaning attributed to them by Titles 16 or 17 ICC. When not inconsistent with the context, words used in the present tense shall include the future; the singular shall include the plural and the plural the singular; the word “shall” is always mandatory and the words “may” and “should” indicate a Use of discretion in making a decision. Capitalized words and phrases identify a defined term.

(Ord. C-86-98 [PLG-021-98], September 29, 1998, vol. 43, p. 12; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

16.15.040 Application Requirements

Except as provided in section 16.15.050, each application for Site Plan Review shall include the following information:

A. A completed application in a format as established by the County shall contain the following:

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1. Name, mailing address, and telephone number of the applicant and if applicable, duly authorized representative;
2. Assessor's tax account numbers of every Parcel included within the proposal;
3. Section, Township, Range, and Quarter Section;
4. Signature(s) of the Applicant(s);
5. Legal description of the real property;
6. Zoning classification;
7. Approximate size (acreage or square feet) of the total property;
8. If known by the Applicant, date the Parcel(s) were created as legal Lot;
9. If applicable, number of Lots to be created;
10. Proposed source of water supply, including the name of the provider if to be served by a public system;
11. Proposed method of sewage disposal, including the name of the district with jurisdiction, if to be served by sanitary sewer;
12. Such fees as set by the Board;
13. If applicable, Certificate of Transportation Concurrency;
14. If applicable, fulfillment of the Community Meeting and/or as applicable, the Essential Public Facility requirements of Chapter 16.19 ICC;
15. Assessor's Quarter Section Maps including the following information:
 - a) Subject property;
 - b) Contiguous properties in the same ownership;
 - c) All Parcels within a three hundred (300) foot radius of the subject property; and
 - d) Names and mailing addresses of property Owners of Parcels referenced above.
16. Copies of soil logs registered with the County Health Department as required by Chapter 8.07 ICC;
17. If available, as-built drawings for Existing septic systems;
18. Documents that show means of legal access if the property does not abut a public road;
19. Environmental Checklist if required by Chapter 16.14C and Chapter 197-11 WAC; and

20. Reports and determinations that are required by the County Critical Areas Ordinance, Chapter 17.02 ICC.
- B. A legible map that shall include or show the requirements listed below. Where location of a feature or Structure is required, a site specific survey by a registered land surveyor is encouraged but not required:
1. Location and approximate dimensions of boundaries of land proposed to be developed, showing the full extent of the Parcel(s) upon which the proposed Site Plan is located;
 2. All contiguous property in ownership of Applicant;
 3. If applicable, location of proposed Open Space;
 4. Approximate location and dimensions of Existing and proposed Structures and other improvements, such as drainfields, wells, driveways, and fences;
 5. Approximate location of Existing and any accesses proposed to all Lots. Include, if available, Existing access permit numbers;
 6. Approximate location, width, and name of every recorded easement, right-of-way for public service or utilities, serving or affecting the subject property and Existing and proposed Public and Private Roads within or adjacent to the proposal;
 7. Approximate location of Existing drainage patterns and systems;
 8. If applicable, nature and location of proposed temporary and permanent stormwater systems;
 9. Approximate location of Existing and proposed utilities, including well sites;
 10. Approximate location of soil test holes;
 11. Approximate location, to scale appropriate map, of the natural features of the site, including but not limited to:
 - a) Ravines and slopes greater than thirty-five percent (35%) with tops and toe of slope identified;
 - b) Critical areas and their buffers on site or off-site when they may affect the proposal; and
 - c) Shorelines and approximate line of ordinary high water mark;
 12. Title block on the lower right corner of the Site Plan map to include:
 - a) Name, address, and telephone number of the Applicant(s); and
 - b) Date of drawing;

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13. Legal description of the property proposed for the site plan;
 14. Legend that includes:
 - a) Site address if assigned and tax assessor Parcel number of the property proposed for the PRD; and
 - b) Total approximate area of the site and approximate area of each proposed and Existing Parcel or Lot;
 15. North arrow; and
 16. Engineering scale and bar scale (not larger than 1" = 20' or smaller than 1" = 200').
- C. A Site Plan application shall also contain the following:
1. The location, size, height, number of stories, and gross floor area for all Structures or other improvements Existing and proposed;
 2. The layout of all Existing and proposed driveways, pedestrian walks, landscaped areas, curbs, gutters, the extent of street pavings, and the location of Existing and proposed fire hydrants, on-site water sources, and sewage disposal systems;
 3. The location of proposed entrances and exits, the direction of traffic flow into and out of off-street parking and loading areas, the location of each parking space and each loading berth, the areas of turning and maneuvering vehicles, and the relationship of circulation with adjacent properties;
 4. The approximate number of square feet proposed in paved or other impervious surfaces, Open Space, wetlands, steep-unstable slopes, and the total area of the site;
 5. A description of and schedule for phases of the project, should all proposed Structures and/or Lots not be built at the same time;
- D. A written statement of the general purposes of the project or an explanation of all features pertaining to Uses and other pertinent matters not readily identifiable in map form. Such explanatory text may specify Uses permitted on the site, if any, or other necessary restrictions. Such text, as approved by the approving authority, shall constitute a contractual limitation to those Uses and standards otherwise provided for in the Island County Code.
- E. Except for an application for a home industry, a written statement must accompany the application that explains the criteria and standards considered relevant to the application, states the facts relied upon in determining that the application meets the applicable criteria, standards, and explains the justification for approving the application based on the criteria and standards and facts set forth in the application. The findings must be substantive, not just recitations of the criteria and standards, and shall be supported by evidence in the application;

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- F. A general landscape plan, drawn to scale, showing any Open Space and significant landscape features and vegetation on the site, the location and design of landscaped area, the types and sizes of trees and plant materials to be planted on the site, and other pertinent landscape features and irrigation systems required to maintain trees and plant materials;
- G. A visual analysis/representation to identify the effect of the proposed development on surrounding properties and Uses;
- H. An architecture plan showing elevations and specifications as to type, color, and texture of exterior surfaces of proposed Structures;
- I. A Sign plan, drawn to scale, showing the location, size, design, material, color, and method of illumination of all exterior Signs;
- J. Any proposed lighting plan; and
- K. A plan to limit and/or control noise, dust, dirt, heat, glare, vibration, odors, toxic gases, and liquid and solid waste.

(Ord. PD-84-08, May 14, 1984, vol. 22, p. 222; amended by Ord. PD-84-15, November 26, 1984, effective December 31, 1984, vol. 23, p. 204; amended by Ord. C-170-90 [PLG-028-90], October 1, 1990, vol. 31, p. 449; amended by Ord. C-86-98 [PLG-021-98], September 29, 1998, vol. 43, p. 12; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38; amended by Ord. C-136-98 [PLG-042-98], November 9, 1998, vol. 43, p. 65; amended by Ord. C-63-99 [CD-01-99], June 21, 1999, vol. 43, p. 338)

16.15.050 Modification of Application Requirements

The Planning Director may waive or modify any required portion of section 16.15.040 deemed unnecessary or redundant to the purposes of this Chapter, or may establish any subset of ICC 16.15.040 as application requirements to adapt to specific and unique site conditions or to allow adjustment for projects of limited scale and impact; provided, that any interested party may, at the public hearing on the proposal, question whether sufficient information has been provided to address the review criteria of ICC 16.15.080.

(Ord. PD-84-08, May 14, 1984, vol. 22, p. 222; amended by Ord. PD-84-15, November 26, 1984, effective December 31, 1984, vol. 23, p. 204; amended by Ord. C-86-98 [PLG-021-98], September 29, 1998, vol. 43, p. 12; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38; amended by Ord. C-136-98 [PLG-042-98], November 9, 1998, vol. 43, p. 65; amended by Ord. C-63-99 [CD-01-99], June 21, 1999, vol. 43, p. 338; amended by Ord. C-02-08 [PLG-011-07], March 17, 2008, effective July 1, 2008, vol. 2008, p. 113)

16.15.060 Conditions of Approval for NR Uses in the R, RR, RA, RF, and CA Zones

Except for Essential Public Facilities, no application for a NR use in the Rural, Rural Residential, Rural Agriculture, Rural Forest or Commercial Agriculture Zones shall be approved unless a specific finding is made that the proposed conditional use is appropriate in the location for which it is proposed. This finding shall be based on the following criteria:

- A. The proposed use shall not result in a significant adverse environmental impact that cannot be mitigated by reasonable mitigation measures.

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- B. The use will be adequately served by and will not impose an undue burden on any of the improvements, facilities, utilities, or services existing or planned to serve the area.
- C. The proposed development/use is one conditionally permitted within the subject zone and complies with all of the applicable provisions of this Ordinance and all other applicable regulations, including prescribed development/performance standards and all applicable development standards and design guidelines;
- D. The subject site is physically suitable for the type, density and intensity of the use being proposed;
- E. The location, size, design and operating characteristics of the proposed development/use would not be detrimental to the neighborhood, nor be detrimental to the public interest, health, safety, or welfare of the County in conformance with the standards of this Chapter, Chapter 17.02 ICC, and Chapter 17.03 ICC.
- F. The proposed use and its design fulfill the definition of rural character as defined in Chapter 17.03 ICC.
- G. Proposals within the Rural Agriculture or Commercial Agriculture Zones shall not be located on prime agricultural soils or interfere with agricultural use of the land.

(Ord. C-63-99 (CD-01-99), June 21, 1999, vol. 43, p. 338)

16.15.070 Decision Making Authority

In approving an application for a Nonresidential conditional use in the R, RR, RA, RF, or CA Zones, including home industries, the decision-making authority may impose conditions to protect the rural character surrounding the proposed use and to preserve the purpose of the underlying zone. Any such conditions shall be supported by a written finding and have a direct nexus to and be limited to those specific actions necessary to protect the rural character for any specific project. These conditions may include, but are not limited to, the following:

- A. Increasing the required parcel size, buffer width or yard dimensions;
- B. Limiting the height, size, or location of buildings and structures;
- C. Controlling the location and number of vehicle access points;
- D. Limiting the hours and days of operation;
- E. Increasing the number of required off-street parking or loading spaces;
- F. Limiting the number, size, location or lighting of signs;
- G. Requiring fencing, screening, or landscaping to protect adjacent or nearby property;
- H. Prescribing exterior finish for buildings or additions thereto;
- I. Designating areas for open space;

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- J. Prescribing a time limit within which to fulfill any established conditions; and
- K. Such conditions shall be recorded against the title of the property with the Island County Auditor.

(Ord. C-63-99 [CD-01-99], June 21, 1999, vol. 43, p. 338)

16.15.080 Criteria for Approval

- A. No application for Site Plan Review shall be approved unless it meets the requirements of this section. No development pursuant to an approved Site Plan shall be undertaken unless it meets the requirements of Titles 8, 11, 13 and 17 ICC pertaining to such development.
 - 1. Open Space. Provide Open Space in the amount required by Chapter 17.03 ICC. The location, use and design shall meet the following standards:
 - a) Include critical areas designated and regulated by Chapter 17.02 ICC; and
 - b) Include areas of prime soils identified by NRCS.
 - 2. Site Lay-Out. The location of the development, parking, landscape screening and buffers shall meet the requirements of Chapter 17.03 ICC and following standards:
 - a) Locate development to minimize the amount of disturbance to natural features and landscape;
 - b) Development shall be located so as to minimize the amount of agricultural land loss and shall not be located on prime soils.
 - 3. Lighting - Shall comply with the requirements of Chapter 17.03 ICC.
 - 4. Building Design - Shall comply with the applicable non-residential design guidelines set forth in Chapter 17.03 ICC, except that for Essential Public Facilities the Approving Authority may waive design requirements as determined by the Approving Authority to be necessary and appropriate to the type and location of the Essential Public Facility.
 - 5. Surface water drainage - Shall meet the requirements of Chapter 11.03 ICC and special attention shall be given to proper site surface drainage so that site drainage will enhance groundwater recharge and not adversely affect downstream properties and the site.
 - 6. Utility services. Wherever feasible, electric, telephone, and cable utility lines shall be underground.
 - 7. Advertising features. The size, location, design, color, texture, lighting, and materials of all exterior signs and outdoor advertising Structures or features shall be harmonious with the design of proposed and existing Buildings and Structures and surrounding properties and shall comply with the requirements of Chapter 17.03 ICC.

- 8. Traffic and Circulation - Shall comply with the requirements of Chapter 17.03 ICC.
- B. The above criteria shall be in addition to any standards or requirements established by applicable state and County laws or ordinances. They are not intended to be absolute in nature or to discourage creativity and innovation. The approving authority shall have the authority to modify the standards contained within these criteria when found necessary. However, said modifications shall be made only to ensure that the proposal is adapted to any unique or special site features and is Compatible with surrounding land Use; provided, that for proposals which require only administrative Site Plan approval, the Planning Director may waive and/or modify certain of the criteria for approval as appropriate to the limited scale and impact of the project.

(Ord. PD-84-08, May 14, 1984, vol. 22, p. 222; amended by Ord. PD-84-15, November 26, 1984 effective December 31, 1984, vol. 23, p. 204; amended by Ord. C-99-89, September 18, 1989, vol. 30, p. 112; amended by Ord. C-170-90 [PLG-028-90], October 1, 1990, vol. 31, p. 449; amended by Ord. C-58-91, March 11, 1991, vol. 32, p. 262; amended by Ord. C-86-98 [PLG-021-98], September 29, 1998, vol. 43, p. 12; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38; amended by Ord. C-136-98 [PLG-042-98], November 9, 1998, vol. 43, p. 65; amended by Ord. C-63-99 [CD-01-99], June 21, 1999, vol. 43, p. 338)

16.15.090 Review Process and Approving Authority

Applications for Site Plan Review shall be processed pursuant to Chapter 16.19 ICC.

(Ord. PD-84-08, May 14, 1984, vol. 22, p. 222; amended by Ord. PD-84-15, November 26, 1984, effective December 31, 1984, vol. 23, p. 204; amended by Ord. C-86-98 [PLG-021-98], September 29, 1998, vol. 43, p. 12; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

16.15.100 Approval

Upon approval of a Site Plan, the approving authority shall affix his/their signature(s) in an appropriate place on the Site Plan, along with a brief statement that approval of the Site Plan, has been granted referencing any conditions for approval, if any, and the date of approval.

(Ord. PD-84-08, May 14, 1984, vol. 22, p. 222; amended by Ord. PD-84-15, November 26, 1984, effective December 31, 1984, vol. 23, p. 204; amended by Ord. C-170-90 [PLG-028-90], October 1, 1990, vol. 31, p. 449; amended by Ord. C-86-98 [PLG-021-98], September 29, 1998, vol. 43, p. 12; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

16.15.110 Limitations and Conditions

The approving authority shall have the authority to place on any Site Plan granted approval appropriate limitations and conditions to ensure that the development is consistent with applicable ordinances, plans, and policies of Island County, and to carry out the recommendations of the reviewing departments as applicable.

(Ord. PD-84-08, May 14, 1984, vol. 22, p. 222; amended by Ord. PD-84-15, November 26, 1984, effective December 31, 1984, vol. 23, p. 204; amended by Ord. C-170-90 [PLG-028-90], October 1, 1990, vol. 31, p. 449; amended by Ord. C-58-91, March 11, 1991, vol. 32, p. 262; amended by Ord. C-86-98 [PLG-021-98], September 29, 1998, vol. 43, p. 12; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

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16.15.120 Open Space

- A. All land proposed as Open Space must be established and conveyed by Conservation Easement under one (1) of the following options:
1. It may be conveyed to a public agency that will agree to maintain the Open Space and any Buildings, Structures, or improvements which have been placed on it; or
 2. When no maintenance of the Open Space is required, it may be conveyed to all new owners in undivided joint ownership; or
 3. When maintenance of the Open Space is required and the Applicant does not propose to remain responsible for maintenance, then a homeowners' association or similar organization shall be established by covenants for the maintenance of the Open Space. Membership in the association or organization and dues or other assessment for maintenance purposes shall be mandatory.
- B. The Open Space must be subject to covenants approved by the County which restrict the Open Space to the Uses specified in the Site Plan application and which provide for the maintenance of the Open Space in a manner which assures its continuing Use for the intended purpose.
- C. Open Space may not be put to any Use not specified in the application unless the Site Plan has been amended by Island County to permit said Use. However, no change of Use so authorized may be considered as a waiver of any of the covenants limiting the use of Open Space.

(Ord. C-86-98 [PLG-021-98], September 29, 1998, vol. 43, p. 12; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38; amended by Ord. C-63-99 [CD-01-99], June 21, 1999, vol. 43, p. 338)

16.15.130 Dedications and Reservations

Provision for Open Space, drainage ways, streets, or roads may be made by dedicating land for public use, by reserving land for future public acquisition and development, or by conveying land or easements therein to nonprofit corporations for use by all or a limited segment of the public. All dedications and reservations shall be recited on the face of the Site Plan, as well as incorporated in such documents as may be needed to reflect the assignment of interest. Dedications shall be required by the County only when the need for such dedication is supported by the site specific impacts of the proposed Site Plan and/or Uses allowed in the Site Plan by Chapter 17.03 ICC. Refusal of the Approving Authority to accept a Dedication shall not be grounds for disapproval of the Site Plan.

(Ord. PD-84-08, May 14, 1984, vol. 22, p. 222; amended by Ord. PD-84-15, November 26, 1984, effective December 31, 1984, vol. 23, p. 204; amended by Ord. C-86-98 [PLG-021-98], September 29, 1998, vol. 43, p. 12; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38; amended by Ord. C-136-98 [PLG-042-98], November 9, 1998, vol. 43, p. 65)

16.15.140 Development in Conformity with Site Plan

Where the approving authority approves a Site Plan, any and all development and use of the land to which the Site Plan pertains shall be in conformity with the Site Plan as finally approved. Further, no development pursuant to an approved Site Plan shall be undertaken without meeting the requirements of Titles 8, 11, 13 and 17 ICC.

(Ord. PD-84-08, May 14, 1984, vol. 22, p. 222, amended by Ord. PD-84-15, November 26, 1984, effective December 31, 1984, vol. 23, p. 204; amended by Ord. C-86-98 [PLG-021-98], September 29, 1998, vol. 43, p. 12; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

16.15.150 Site Plan Amendments

An approved Site Plan may be amended by the same procedures provided under this Chapter for original Site Plan approval. For purposes of this Chapter, amendment shall include changes in Building layout, type or size, modifications or conditions of approval, and changes in approved Uses; provided, that changes that comply with all previously imposed conditions of approval shall not require a Site Plan amendment, unless alterations in Building layout, Open Space, circulation, project phasing, Building type or size are proposed which may generate environmental impacts not considered in the previous Site Plan approval.

(Ord. PD-84-08, May 14, 1984, vol. 22, p. 222; amended by Ord. PD-84-15, November 26, 1984, effective December 31, 1984, vol. 23, p. 204; amended by Ord. C-86-98 [PLG-021-98], September 29, 1998, vol. 43, p. 12; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38; amended by Ord. C-136-98 [PLG-042-98], November 9, 1998, vol. 43, p. 65)

16.15.160 Expiration of Site Plan Approval

The approval of a Site Plan under this Chapter is conditioned upon compliance with the condition of approval, approved phasing schedule, should one be approved, and any Building permits obtained pursuant thereto being utilized within five (5) years after the effective date of said Site Plan approval. If the permit or permits are not used or construction work is not initiated within said time and carried on diligently in accordance with the conditions imposed by the County pursuant to Site Plan approval, or should the approved phasing schedule not be completed, the Site Plan shall become null and void and any approval, permit, or conditions granted thereby shall be deemed to have lapsed.

(Ord. PD-84-08, May 14, 1984, vol. 22, p. 222, amended by Ord. PD-84-15, November 26, 1984, effective December 31, 1984, vol. 23, p. 204; amended by Res. PLG-036-92, June 15, 1992, vol. 34, p. 148; amended by Ord. PLG-027-93, May 10, 1993, vol. 35, p. 386; amended by Ord. C-86-98 [PLG-021-98], September 29, 1998, vol. 43, p. 12; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38; amended by Ord. C-136-98 [PLG-042-98], November 9, 1998, vol. 43, p. 65)

16.15.170 Penalties and Enforcement

- A. Any Site Plan approved under this Chapter and its requirements shall be legally enforceable on any subsequent purchaser or other Person acquiring ownership of the land subject to the Site Plan, or any Lots, Tract, or Parcels of such land, as well as on the Applicant(s) and Owner(s) of the land who obtained Site Plan approval.

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B. Any violation of a Site Plan approved by Island County shall be considered a violation of Chapter 17.03 ICC and shall be subject to all of the remedies and penalties provided for in said Chapter.

(Ord. PD-84-08, May 14, 1984, vol. 22, p. 222, amended by Ord. PD-84-15, November 26, 1984, effective December 31, 1984, vol. 23, p. 204; amended by Ord. C-86-98 [PLG-021-98], September 29, 1998, vol. 43, p. 12; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

16.15.180 Severability

If any provision or provisions of this Chapter or its/their application to any Person or circumstance is held invalid, the remainder of this Chapter and the application of such provision or provisions to other Persons or circumstances shall not be affected.

(Ord. PD-84-08, May 14, 1984, vol. 22, p. 222, amended by Ord. PD-84-15, November 26, 1984, effective December 31, 1984, vol. 23, p. 204; amended by Ord. C-86-98 [PLG-021-98], September 29, 1998, vol. 43, p. 12; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

16.15.190 Effective Date

The amendments to this Chapter shall take effect on December 1, 1998 and shall apply to new applications submitted on or after that date and to incomplete applications filed prior to that date.

(Ord. PD-84-08, May 14, 1984, vol. 22, p. 222, amended by Ord. PD-84-15, November 26, 1984, effective December 31, 1984, vol. 23, p. 204; amended by Ord. C-86-98 [PLG-021-98], September 29, 1998, vol. 43, p. 12; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38; amended by Ord. C-136-98 [PLG-042-98], November 9, 1998, vol. 43, p. 65)

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Chapter 16.16

Economic Development Planning Commission

Section:

16.16.010 Establishment of Committee

16.16.020 Appointment of Members

16.16.030 Duties

16.16.040 Organization

16.16.050 Budget

16.16.060 Meetings

16.16.070 Reports

16.16.080 Effective Date

16.16.010 Establishment of Committee

The Island County Economic Development Planning Commission is hereby established.

(Res., April 17, 1972, vol. 14, p. 45)

16.16.020 Appointment of Members

- A. The membership of the Island County Economic Development Planning Commission shall be not less than fifteen (15) members who shall be appointed by the Board of Island County Commissioners from time to time.
- B. The chairman of the Board of County Commissioners and the mayors of all cities and towns of Island County shall be ex officio members of the committee.
- C. Terms of office shall be indefinite and shall continue for the life of the committee.

(Res., April 17, 1972, vol. 14, p. 45)

16.16.030 Duties

The overall Economic Development Planning Commission shall be charged with the responsibility of preparing and adopting an overall economic development plan in such form and content as will comply with state and federal requirements for such a document and shall assist the Island County Planning Agency in the preparation of the comprehensive plan element pertaining to the economy of Island County and shall formulate such economic goals and objectives as shall be meaningful and consistent with the protection of the environmental quality of Island County.

(Res., April 17, 1972, vol. 14, p. 45)

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16.16.040 Organization

The Economic Development Planning Commission shall adopt such organizational structure as the Commission shall deem necessary.

(Res., April 17, 1972, vol. 14, p. 45)

16.16.050 Budget

A. It shall be the duty of the Economic Development Planning Commission to prepare and propose an operating budget that would adequately distribute costs between participating agencies and entities.

B. The Island County Planning Agency shall provide such assistance in the form of staff time and operating supplies as the planning director shall deem advisable.

(Res., April 17, 1972, vol. 14, p. 45)

16.16.060 Meetings

The Economic Development Planning Commission shall meet at such time and place as may be decided by the committee.

(Res., April 17, 1972, vol. 14, p. 45)

16.16.070 Reports

The Economic Development Planning Commission shall file a written report of their activities annually with the Board of Island County Commissioners.

(Res., April 17, 1972, vol. 14, p. 45)

16.16.080 Effective Date

This Chapter shall be in full force and effect immediately upon passage.

(Res., April 17, 1972, vol. 14, p. 45)

**Chapter 16.17
Planned Residential Development**

Sections:

- 16.17.010 Purpose**
- 16.17.020 Applicability**
- 16.17.030 Definitions**
- 16.17.040 Application Requirements**
- 16.17.050 Modification of Application Requirements**
- 16.17.060 General Conditions of Approval**
- 16.17.070 Specific Criteria for Approval**
- 16.17.080 Review Process and Approving Authority**
- 16.17.090 Approval**
- 16.17.100 Limitations and Conditions**
- 16.17.110 Open Space and Community Area**
- 16.17.120 Dedications and Reservations**
- 16.17.130 Development in Conformity with PRD**
- 16.17.140 PRD Amendments**
- 16.17.150 Expiration of PRD Approval**
- 16.17.160 Penalties and Enforcement**
- 16.17.170 Severability**
- 16.17.180 Effective Date**

16.17.010 Purpose

The purpose of this Chapter is to establish a review process for certain types of residential development. The Planned Residential Development (PRD) Ordinance will serve as an official control pursuant to Chapter 36.70 RCW; a development regulation pursuant to Chapter 36.70A RCW; and is designed for the following specific purposes:

- A. Produce a development which would be better than traditional lot-by-lot development, on either consolidated lots or unsubdivided property, through variety in design, placement of buildings, and use of open space, in order to capitalize on the special features of the individual site;

16.17.010**PLANNING AND SUBDIVISIONS**

- B. Permit flexibility that will encourage a more creative approach in the development of land and will result in a more efficient, aesthetic, and desirable use of open space;
- C. Encourage the development of cluster housing, town houses, and other development concepts compatible with surrounding development and land uses;
- D. Leave more undisturbed open space and natural vegetation so that more rainwater drains into the soil for groundwater recharge, and there is a reduction in pollution, flooding, erosion, and drainage problems; and
- E. Protect rural character by:
 1. containing or otherwise controlling rural development;
 2. assuring visual compatibility with the surrounding rural area;
 3. reducing the inappropriate conversion of Rural Zoned lands into large Lots;
 4. facilitating the protection of critical areas;
 5. providing for wildlife and fish and wildlife habitat; and
 6. reducing conflicts from residential uses with lands Zoned Rural Agriculture, Rural Forest or Commercial Agriculture.

(Ord. PD-84-19, November 26, 1984, effective December 31, 1984, vol. 23, p. 205; amended by Ord. C-87-90 [PLG-011-90], June 25, 1990, vol. 31, p. 249; amended by Ord. C-170-90 [PLG-028-90], October 1, 1990, vol. 31, p. 449; amended by Ord. C-87-98 [PLG-022-98], September 29, 1998, vol. 43, p. 13; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38; amended by Ord. C-134-99 [PLG-041-99], November 23, 1999, vol. 44, p. 185)

16.17.020 Applicability

This Chapter shall apply to any residential development in the Rural Agriculture, Rural Forest, Rural, or Commercial Agriculture zone where lots are to be clustered on a portion of the property.

- A. Type II Decision. Any PRD where no more than four (4) Dwelling Units are proposed, shall be processed as a Type II decision pursuant to Chapter 16.19 ICC. The proposed short Subdivision (short-platting) of land into four (4) or fewer lots shall be reviewed pursuant to Chapter 16.06 ICC

Each contiguous parcel in one (1) ownership shall constitute a separate parcel in determining whether a proposed PRD will be classified as a Type II or Type III decision. For five (5) years subsequent to the recording of a Type II PRD, further divisions of said property shall constitute an action requiring review as a Type III decision.

- B. Type III Decision. Any PRD proposing five (5) or more Dwelling Units shall be processed pursuant to Chapter 16.19 ICC as a Type III decision. The proposed subdivision (long platting) of land into five (5) or more Lots shall be reviewed pursuant to Chapter 16.06 ICC.

C. Land Division under Chapter 16.06 ICC may be processed separately or simultaneously with an application for PRD approval, provided that, when applications are processed simultaneously, a single fee shall be charged.

(Ord. PD-84-19, November 26, 1984, effective December 31, 1984, vol. 23, p. 205; amended by Ord. C-45-88, June 20, 1988, vol. 28, p. 290; amended by Ord. C-87-90 [PLG-011-90], June 25, 1990, vol. 31, p. 249; amended by Ord. C-170-90 [PLG-028-90], October 1, 1990, vol. 31, p. 449; amended by Ord. C-87-98 [PLG-022-98], September 29, 1998, vol. 43, p. 13; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

16.17.030 Definitions

Unless expressly noted otherwise, words and phrases that appear in this Chapter and are also used in Title 16 or 17 ICC shall be given the meaning attributed to them in those titles. Capitalized words and phrases identify a defined term. When not inconsistent with the context, words used in the present tense shall include the future; the singular shall include the plural and the plural the singular; the word “shall” is always mandatory and the words “may” and “should” indicate a use of discretion in making a decision.

Buffer: A separation designed to absorb potential conflicts between differing land uses, or to protect critical areas or significant natural features. Generally, Buffers shall be left in a natural state, or, if necessary, may be supplemented by landscaping and are used so that Structures, Uses and Roads, when site conditions permit, are screened from Adjacent Properties or Public or Private Roads external to the PRD.

Clusters or Cluster Design: A development design technique that concentrates buildings in specific areas on a site to allow the remaining land to be used for Open Space including Community Area.

Screening: A method of visually or acoustically shielding or obscuring one form of land Use from another by fencing, walls, berms, natural vegetation, landscaping, or any combination thereof.

(Ord. C-87-98 [PLG-022-98], September 29, 1998, vol. 43, p. 13; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38; amended by Ord. C-136-98 [PLG-042-98], November 9, 1998, vol. 43, p. 65)

16.17.040 Application Requirements

Except as provided in ICC 16.17.050, each application for approval of a Planned Residential Development shall include the following information:

- A. A completed application in a format established by the County shall contain the following:
 - 1. Name, mailing address, and telephone number of the Applicant and if applicable, duly authorized representative;
 - 2. Assessor’s tax account numbers of every Parcel included within the proposal;
 - 3. Section, Township, Range, and Quarter Section;

4. Signature(s) of the Applicant(s);
 5. Legal description of the real property;
 6. Zoning classification;
 7. Approximate size (acreage or square feet) of the total property;
 8. If known by the applicant, date the Parcel(s) were created as legal Lot;
 9. If applicable, number of Lots to be created;
 10. Proposed source of water supply, including the name of the provider if to be served by a public system;
 11. Proposed method of sewage disposal, including the name of the district with jurisdiction, if to be served by sanitary sewer;
 12. Such fees as set by the Board;
 13. If applicable, Certificate of Transportation Concurrency;
 14. Assessor's Quarter Section Maps including the following information:
 - a) Subject property;
 - b) Contiguous properties in the same ownership;
 - c) All Parcels within a three-hundred (300) foot radius of the subject property; and
 - d) Names and mailing addresses of property owners of Parcels referenced above.
 15. Copies of soil logs registered with the Island County Health Department as required by Chapter 8.07 ICC;
 16. If available, as-built drawings for existing septic systems;
 17. Documents that show means of legal access if the property does not abut a public road;
 18. Environmental Checklist if required by Chapter 16.14C and Chapter 197-11 WAC; and
 19. Reports and determinations that are required by Island County Critical Area Ordinance, Chapter 17.02 ICC.
- B. A legible map that shall include or show the requirements listed below. Where location of a feature or Structure is required, a site specific survey by a registered land surveyor is encouraged but not required:

1. Location and approximate dimensions of boundaries of land proposed to be developed, showing the full extent of the Parcels(s) upon which the proposed PRD is located;
2. All contiguous property in ownership of Applicant;
3. Location of proposed Open Space, Community Area and recreation areas;
4. Approximate location and dimensions of existing and proposed Structures and other improvements, such as drainfields, wells, driveways, and fences;
5. Approximate location of existing and any accesses proposed, to all Lots. Include, if available, existing access permit numbers;
6. Approximate location, width, and name of every recorded easement, right-of-way for public service or utilities, serving or affecting the subject property and existing and proposed public and private Roads within or adjacent to the proposal;
7. Approximate location of existing drainage patterns and systems;
8. If applicable, nature and location of proposed temporary and permanent stormwater systems;
9. Approximate location of existing and proposed utilities, including well sites;
10. Approximate location of all soil test holes;
11. Approximate location and dimensions to appropriate map scale of the natural features of the site, including but not limited to:
 - a) Ravines and slopes greater than thirty-five percent (35%) with tops and toe of slope identified;
 - b) Critical areas and their Buffers on site or off-site when they may affect the proposal; and
 - c) Shorelines and approximate line of ordinary high water mark.
12. Title block on the lower right corner of the PRD map to include:
 - a) Name, address, and telephone number of the applicant(s), and
 - b) Date of drawing.
13. Legal description of the property proposed for the PRD;
14. Legend that includes:

- a) Site address if assigned and tax assessor Parcel number of the property proposed for the PRD; and
 - b) Total approximate area of the site and approximate area of each proposed and existing Parcel or Lot.
15. North arrow; and
16. Engineering scale and bar scale (not larger than 1" = 20' or smaller than 1" = 200').
- C. A written statement of the general purposes of the project and an explanation of all features pertaining to use and other pertinent matters not readily identifiable in map form. Such explanatory text may specify uses permitted on the site and in particular the area to be designated Community Area, if any, or other necessary restrictions. Such text, as approved by the approving authority shall constitute a contractual limitation to those uses and standards otherwise provided for in the Island County Code;
- D. A general landscape plan, drawn to scale, showing Open Space including Community Area, significant landscape features and vegetation on the site, and the location and design of landscaped area, the types and sizes of trees and plant materials to be planted on the site, and other pertinent landscape features and irrigation systems required to maintain trees and plant materials.
- E. A visual analysis/representation to identify the effect of the proposed development on surrounding properties and uses;
- F. A conceptual plan showing location and design of roadway and Community Area lighting and PRD signage.

(Ord. PD-84-19, November 26, 1984, effective December 31, 1984, vol. 23, p. 205; amended by Ord. C-87-90 [PLG-011-90], June 25, 1990, vol. 31, p. 249; amended by Ord. C-170-90 [PLG-028-90], October 1, 1990, vol. 31, p. 449; amended by Ord. C-87-98 [PLG-022-98], September 29, 1998, vol. 43, p. 13; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38; amended by Ord. C-02-08 [PLG-011-07], March 17, 2008, effective July 1, 2008, vol. 2008, p. 113)

16.17.050 Modification of Application Requirements

The Planning Director may waive or modify any required portion of ICC 16.17.040 deemed unnecessary or redundant to the purposes of this Chapter, or may establish any subset of ICC 16.17.040 as application requirements to adapt to specific and unique site conditions or to allow adjustment for projects of limited scale and impact; provided further that any interested party, at the public hearing on the proposal, may question whether sufficient information has been provided to address the review criteria of ICC 16.17.060.

(Ord. PD-84-19, November 26, 1984, effective December 31, 1984, vol. 23, p. 205; amended by Ord. C-87-98 [PLG-022-98], September 29, 1998, vol. 43, p. 13; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38; amended by Ord. C-136-98 [PLG-042-98], November 9, 1998, vol. 43, p. 65)

16.17.060 General Conditions of Approval

No application for a PRD shall be approved unless a specific finding is made that the proposal is appropriate in the location for which it is proposed. This finding shall be based on the following criteria:

- A. The proposed PRD shall not result in a significant adverse environmental impact that cannot be mitigated by reasonable mitigation measures.
- B. The PRD will be adequately served by Rural Governmental Services as defined by Chapter 17.03 ICC, will not impose an undue burden on any of the improvements, facilities, utilities, or services existing or planned to serve the area, and will not require in the future Urban Governmental Services as that term is defined by Chapter 17.03 ICC.
- C. The subject site is physically suitable for the type, density and intensity of the use being proposed.
- D. The proposed use and its design provide a better opportunity to protect Rural Character as defined by Chapter 17.03 ICC than a traditional subdivision or short subdivision.
- E. Except for the designated open space and access road, proposals within the Rural Agriculture or Commercial Agriculture zones shall not be located on prime Agriculture soils or interfere with Commercial Agriculture or Commercial Forest Use of the land.

In approving an application for a PRD, the decision-making authority may impose conditions to carry out the above criteria. Any such conditions shall be supported by a written finding and have a direct nexus to and be limited to those specific actions necessary to carry out these criteria.

(Ord. C-134-99 [PLG-041-99], November 23, 1999, vol. 44, p. 185)

16.17.070 Specific Criteria for Approval

- A. No application for PRD approval shall be approved unless it meets the requirements of this section. No development pursuant to an approved PRD shall be undertaken unless it meets the requirements of⁹ Titles 8, 11, 13, 16 and 17 ICC.
 - 1. Preservation of natural features.
 - a) Proposed Structures, Uses and Roads shall be located to minimize disturbance to natural features by, for example, minimizing tree and soil removal.
 - b) Open Space, in the amount required by Chapter 17.03 ICC, shall be clearly defined and protect natural features in the following order of importance or priority:
 - (i) first, include critical areas designated and regulated by Chapter 17.02 ICC;

⁹ **Reviser's Note:** The word "of" is added as it was inadvertently omitted from this ordinance.

- (ii) second, for CA and RA zoned lands include areas of prime agricultural soils identified by NRCS;
 - (iii) third, include areas useful for wildlife and fish and wildlife habitat; and
 - (iv) fourth, include natural features, identified by the Applicant, that are important to the overall design of the PRD.
- c) When site conditions permit, Open Space aggregation is encouraged into one contiguous area and shall not include private yards.
2. Relationship of proposed Structures, Uses and Roads to site and surrounding area.
- a) Dwelling units shall be grouped in Clusters with each Dwelling Unit having visual and/or physical access to Open Space.
 - b) No more than six (6) Dwelling Units shall be included in a Cluster.
 - c) A Cluster shall be separated from other Clusters by at least two hundred (200) feet of Open Space, except this requirement may be reduced if required to protect natural features or if the proposed separation provides a sight obscuring Buffer.
 - d) When natural vegetation exists, Structures, Uses and roads shall be located so they are Screened from Public Roads and Adjacent Properties.
 - e) Placement of Structures, Uses or Roads on undisturbed, forested ridgelines should be sited to minimize tree and soil removal.
 - f) Lighting fixtures shall be shielded, hooded and oriented towards the ground so that direct rays of light from the lighting sources are not visible past the property boundaries. The maximum number of lighting fixtures should be adequate to light the Use for safety, security, operations and visibility, appropriate to the type of Use.
 - g) For PRDs located adjacent to RA, RF, CA, AP lands or Critical Areas, the Open Space area shall be located between these lands or areas and proposed structures and uses.
3. Traffic and Circulation.
- a) Vehicular access shall be designed and located to minimize interference with traffic flow on adjacent Roads.
 - b) Access points on the site shall not interfere with access to Adjacent properties.
 - c) Interior Roads shall be designed to minimize conflicts between pedestrian and vehicular circulation.

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- d) Interior Roads and parking areas shall be designed so there are no conflicts between the maneuvering areas for the parking spaces and the major circulation through the sites.
 - e) Driveways, Roads and parking areas shall be designed so exiting vehicles are not required to back out into a public or private road that is external to the PRD.
4. Utility Service. When feasible, electrical, telephone and cable utility lines shall be installed underground.
5. Recreational facilities.
- a) Clubhouses, beaches, swimming pools, exercise pathways, tennis courts and other special recreation features are encouraged.
 - b) When site conditions permit, recreational Structures shall not be located adjacent to public or private Roads that are external to the PRD.
- B. The above review criteria shall be in addition to any standards or requirements established by applicable state and County laws or ordinances. They are not intended to be absolute in nature or to discourage creativity, innovation or full use of the site. The approving authority shall have the authority to modify standards contained within criteria as may be found necessary. However, said modifications shall be made only to ensure that the proposal is adapted to any unique or special site feature and is compatible with surrounding land uses.

(Ord. PD-84-19, November 26, 1984, effective December 31, 1984, vol. 23, p. 205 ; amended by Ord. C-87-90 [PLG-011-90], June 25, 1990, vol. 31, p. 249; amended by Ord. C-170-90 [PLG-028-90], October 1, 1990, vol. 31, p. 449; amended by Ord. C-87-98 [PLG-022-98], September 29, 1998, vol. 43, p. 13; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38; amended by Ord. C-136-98 [PLG-042-98], November 9, 1998, vol. 43, p. 65; amended by Ord. C-134-99 [PLG-041-99], November 23, 1999, vol. 44, p. 185)

16.17.080 Review Process and Approving Authority

Applications for planned residential developments shall be processed pursuant to Chapter 16.19 ICC.

(Ord. PD-84-19, November 26, 1984, effective December 31, 1984, vol. 23, p. 205; amended by Ord. C-87-90 [PLG-011-90], June 25, 1990, vol. 31, p. 249; amended by Ord. C-170-90 [PLG-028-90], October 1, 1990, vol. 31, p. 449; amended by Ord. C-87-98 [PLG-022-98], September 29, 1998, vol. 43, p. 13; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

16.17.090 Approval

Upon approval of a PRD, the approving authority shall affix his/their signature(s) in an appropriate place on the plan, along with a brief statement that the authority has granted approval of the PRD referencing any conditions of approval, if any, and the date of approval.

(Ord. PD-84-19, November 26, 1984, effective December 31, 1984, vol. 23, p. 205; amended by Ord. C-87-90 [PLG-011-90], June 25, 1990, vol. 31, p. 249; amended by Ord. C-170-90 [PLG-028-90], October 1, 1990, vol. 31, p. 449; amended by Ord. C-87-98 [PLG-022-98], September 29, 1998, vol. 43, p. 13; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

16.17.100 Limitations and Conditions

The approving authority shall have the authority to place on any PRD granted approval, appropriate limitations and conditions to insure that the development is consistent with applicable ordinances, plans, and policies of Island County and to carry out the recommendations of the reviewing departments as applicable.

(Ord. PD-84-19, November 26, 1984, effective December 31, 1984, vol. 23, p. 205; amended by Ord. C-87-90 [PLG-011-90], June 25, 1990, vol. 31, p. 249; amended by Ord. C-170-90 [PLG-028-90], October 1, 1990, vol. 31, p. 449; amended by Ord. C-58-91, March 11, 1991, vol. 32, p. 262; amended by Ord. C-87-98 [PLG-022-98], September 29, 1998, vol. 43, p. 13; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

16.17.110 Open Space and Community Area

- A. All land proposed as Open Space must be established and conveyed by Conservation Easement under one (1) of the following options:
 - 1. It may be conveyed to a public agency that will agree to maintain the Open Space and any buildings, structures, or improvements which have been placed on it; or
 - 2. When no maintenance of the Open Space is required, it may be conveyed to all new owners in undivided joint ownership; or
 - 3. When maintenance of the Open Space is required and the applicant does not propose to remain responsible for maintenance, then a homeowners' association or similar organization shall be established by covenant for the maintenance of the Open Space. Membership in the association or organization and dues or other assessment for maintenance purposes shall be mandatory.
- B. The Open Space must be subject to covenants approved by the County which restrict the Open Space to the Uses specified in the PRD application and which provide for the maintenance of the Open Space in a manner which assures its continuing Use for the intended purpose.
- C. Open Space may not be put to any Use not specified in the application unless the PRD has been amended by Island County to permit said Use. However, no change of Use so authorized may be considered as a waiver of any of the covenants limiting the Use of Open Space, and all rights to enforce these covenants against any unpermitted Use are expressly reserved by the County.
- D. A portion of any required Open Space, not to exceed fifteen percent (15%), area may be designated Community Area.
- E. Community Area may be used for well sites, drain fields or recreational purposes. The uses authorized for the Community Areas must be appropriate to the scale and character of the

Planned Residential Development considering its location, size, density, expected population, topography, and the number and type of Dwellings to be provided;

(Ord. PD-84-19, November 26, 1984, effective December 31, 1984, vol. 23, p. 205; amended by Ord. C-87-90 [PLG-011-90], June 25, 1990, vol. 31, p. 249; amended by Ord. C-170-90 [PLG-028-90], October 1, 1990, vol. 31, p. 449; amended by Ord. C-87-98 [PLG-022-98], September 29, 1998, vol. 43, p. 13; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

16.17.120 Dedications and Reservations

Provision for Open Space, drainage ways, streets or Roads may be made by dedicating land for public use, by reserving land for future public acquisition and development, or by conveying land or easements therein to nonprofit corporations for use by all or a limited segment of the public. All dedications and reservations shall be recited on the face of the PRD as well as incorporated in such documents as may be needed to reflect the assignment of interest.

Dedications shall be required by the County only when the need for such dedication is supported by the site specific impacts of the proposed PRD and/or uses allowed in the PRD by Chapter 17.03 ICC. Refusal of the¹⁰ Approving Authority to accept a Dedication shall not be grounds for disapproval of the PRD.

(Ord. PD-84-19, November 26, 1984, effective December 31, 1984, vol. 23, p. 205; amended by Ord. C-87-90 [PLG-011-90], June 25, 1990, vol. 31, p. 249; amended by Ord. C-170-90 [PLG-028-90], October 1, 1990, vol. 31, p. 449; amended by Ord. C-87-98 [PLG-022-98], September 29, 1998, vol. 43, p. 13; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38; amended by Ord. C-136-98 [PLG-042-98], November 9, 1998, vol. 43, p. 65)

16.17.130 Development in Conformity with PRD

Where the approving authority approves a PRD, any and all development and use of the land to which the PRD pertains shall be in conformity with the PRD as finally approved. Further, no development pursuant to an approved PRD shall be undertaken without meeting the requirements of Titles 8, 11, 13, 16 and 17 ICC.

(Ord. PD-84-19, November 26, 1984, effective December 31, 1984, vol. 23, p. 205; amended by Ord. C-87-90 [PLG-011-90], June 25, 1990, vol. 31, p. 249; amended by Ord. C-170-90 [PLG-028-90], October 1, 1990, vol. 31, p. 449; amended by Ord. C-87-98 [PLG-022-98], September 29, 1998, vol. 43, p. 13; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

16.17.140 PRD Amendments

An approved Planned Residential Development may be amended by the same procedures provided under this Chapter for the original PRD approval. For purposes of this Chapter, amendment shall include changes in Building layout, type or size, changes to Open Space, Community Area, or improvements thereto, modifications of conditions of approval and changes in approved Uses; provided, that changes that comply with all previously-imposed conditions of approval shall not require a PRD amendment unless alterations in Building layout, Open Space,

¹⁰ **Reviser's Note:** The word "the" is added as it was inadvertently omitted from this ordinance.

Community Area, circulation, project phasing, Building type or size are proposed, that may generate environmental impacts not considered in the previous PRD approval.

(Ord. PD-84-19, November 26, 1984, effective December 31, 1984, vol. 23, p. 205; amended by Ord. C-87-90 [PLG-011-90], June 25, 1990, vol. 31, p. 249; amended by Ord. C-170-90 [PLG-028-90], October 1, 1990, vol. 31, p. 449; amended by Ord. C-87-98 [PLG-022-98], September 29, 1998, vol. 43, p. 13; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38; amended by Ord. C-136-98 [PLG-042-98], November 9, 1998, vol. 43, p. 65)

16.17.150 Expiration of PRD Approval

The approval of a PRD under this Chapter is conditioned upon compliance with the conditions of approval, and any building permits obtained pursuant thereto being utilized within five (5) years after the effective date of said PRD approval. If the permit or permits are not utilized or construction work is not initiated within said time and carried on diligently in accordance with the conditions imposed by the county pursuant to PRD approval, the PRD shall become null and void and any approval, permit, or conditions granted thereby shall be deemed to have lapsed, provided that the five (5) year time period may be extended by the approval of a phasing plan.

(Ord. PD-84-19, November 26, 1984, effective December 31, 1984, vol. 23, p. 205; amended by Ord. C-87-90 [PLG-011-90], June 25, 1990, vol. 31, p. 249; amended by Ord. C-170-90 [PLG-028-90], October 1, 1990, vol. 31, p. 449; amended by Res. PLG-036-92, June 15, 1992, vol. 34, p. 148; amended by Ord. PLG-027-93, May 10, 1993, vol. 35, p. 386; amended by Ord. PLG-051-93, October 25, 1993, vol. 36, p. 241; amended by Ord. C-87-98 [PLG-022-98], September 29, 1998, vol. 43, p. 13; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

16.17.160 Penalties and Enforcement

- A. Any Planned Residential Development approved under this Chapter and its requirements shall be legally enforceable on any subsequent purchaser or other person acquiring ownership of the land subject to the Planned Residential Development or any lot, tract, or parcel of such land, as well as on the applicant(s) and owner(s) of the land who obtained Planned Residential Development approval.
- B. Any violation of a Planned Residential Development approved by Island County shall be considered a violation of Chapter 17.03 ICC, and shall be subject to all of the remedies and penalties provided for in said Chapter.

(Ord. PD-84-19, November 26, 1984, effective December 31, 1984, vol. 23, p. 205; amended by Ord. C-87-90 [PLG-011-90], June 25, 1990, vol. 31, p. 249; amended by Ord. C-170-90 [PLG-028-90], October 1, 1990, vol. 31, p. 449; amended by Ord. C-87-98 [PLG-022-98], September 29, 1998, vol. 43, p. 13; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

16.17.170 Severability

If any provision or provisions of this Chapter or its/their application to any person or circumstance is held invalid, the remainder of this Chapter and the application of such provision or provisions to other persons or circumstances shall not be affected.

(Ord. PD-84-19, November 26, 1984, effective December 31, 1984, vol. 23, p. 205)

16.17.180 Effective Date

The amendments to this Chapter shall take effect December 1, 1998 and shall apply to new applications submitted on or after that date and to incomplete applications filed prior to that date. (Ord. PD-84-19, November 26, 1984, effective December 31, 1984, vol. 23, p. 205; amended by Ord. C-87-98 [PLG-022-98], September 29, 1998, vol. 43, p. 13; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38; amended by Ord. C-136-98 [PLG-042-98], November 9, 1998, vol. 43, p. 65)

Chapter 16.18

Historic Preservation Districts

(Chapter 16.18, Historic Preservation Districts, Ord. P-38-72, October 16, 1972, vol. 14, p. 149; repealed by Ord. C-79-90 [PLG-010-90], May 21, 1990, vol. 31, p. 158)

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Chapter 16.18A

Historic Preservation Districts

(Chapter 16.18A, Historic Preservation Districts, Ord. C-79-90 [PLG-010-90], May 21, 1990, vol. 31, p. 158, amended by Ord. C-60-97, November 17, 1997, vol. 41, p. 194; repealed by Ord. C-84-05 [PLG-017-04], July 25, 2005, vol. 2005, p. 236)

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Chapter 16.19 ¹¹

Land Use Review Process

Sections:

16.19.010	Purpose
16.19.020	Applicability
16.19.030	Definitions
16.19.040	Application/Decision Types, Permit Classifications, and Urban Growth Area/Joint Planning Area Procedures
16.19.050	Community Meeting - Intent and Purpose
16.19.060	Procedural Requirements for Essential Public Facilities
16.19.070	Pre-Application Conferences
16.19.080	Acceptance of Applications
16.19.090	Requests for Additional Information
16.19.100	Approval Time Periods
16.19.110	Vesting of Applications
16.19.120	Consistency Review by Agencies
16.19.130	Consolidated Permit Review
16.19.140	Notice of Application/Public Comment Period
16.19.150	SEPA Compliance and Environmental Procedures
16.19.160	Type I and II Decisions
16.19.170	Type III Decisions
16.19.180	Hearing Examiner Decisions
16.19.190	Administrative Appeals
16.19.200	Judicial Review
16.19.205	Growth Management Hearings Board Review
16.19.210	Annual Report
16.19.220	Severability
16.19.230	Effective Date

¹¹ **Reviser's Note:** By Ordinance C-63-99 and Ordinance C-138-99 the Board of Island County Commissioners revised this chapter by adding new sections and other revisions. Please note that certain section numbers indicated by internal references in chapter 16.19 are incorrect as they were not changed by the ordinances to correspond with the current revisions.

16.19.010

PLANNING AND SUBDIVISIONS

16.19.010 Purpose

The purpose of this Chapter is to provide a concise and easily understood process for the review of land Use and development proposals by:

- A. Establishing uniform processes for the review of land Use and development proposals;
- B. Consolidating the application, review and approval processes;
- C. Integrating environmental and land Use review within a one-hundred twenty (120) day period required by Chapter 36.70B RCW;
- D. Establishing an expedited review process for the construction and installation of public facilities that implement service provider comprehensive plans that have been determined by the County to be consistent with the County's GMA Comprehensive Plan; and
- E. Implementing Urban Growth and Joint Planning Area Agreements.

(Ord. PD-84-14, November 5, 1984, vol. 23, p. 159; amended by Ord. C-83-98 [PLG-018-98], September 29, 1998, vol. 43, p. 12; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38; amended by Ord. C-136-98 [PLG-042-98], November 9, 1998, vol. 43, p. 65; amended by Ord. C-138-99 [PLG-047-99], November 22, 1999, vol. 44, p. 155)

16.19.020 Applicability

The land use review processes set forth herein shall apply to actions including administrative decisions, land division, zoning variances, zoning amendments, site plan review and planned residential development approval, provided for by Titles 11, 16 and 17 ICC, the placement of property in deferred tax programs as provided for in Chapters 84.33 and 84.34 RCW, and SEPA threshold determinations issued for any Type IV legislative action that is initiated pursuant to Chapter 36.70A RCW.

(Ord. PD-84-14, November 5, 1984, vol. 23, p. 159; amended by Ord. C-170-90 [PLG-028-90], October 1, 1990, vol. 31, p. 449; amended by Ord. C-83-98 [PLG-018-98], September 29, 1998, vol. 43, p. 12; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38; amended by Ord. C-96-06 [PLG-006-06], August 21, 2006, vol. 2006, p. 246)

16.19.030 Definitions

Aggrieved person: A Person is aggrieved or adversely affected within the meaning of this Chapter only when all of the following conditions are present:

- A. The land Use decision or determination has prejudiced or is likely to prejudice that Person;
- B. That Person's asserted interests are among those that the County was required to consider when it made the land Use decision or determination; and
- C. A judgment in favor of that Person would substantially eliminate or redress the prejudice to that Person caused or likely to be caused by the land Use decision or determination.

Closed Record Appeal: An administrative appeal on the record to the Board following an Open Record Hearing on a Type III decision when the appeal is on the record with no new evidence or information allowed to be submitted and only appeal argument allowed.

LAND USE REVIEW PROCESS

16.19.030

Contiguous: For the purposes of this ordinance “contiguous” shall mean adjoining with a common boundary line, including a public road right-of-way; except that where two (2) or more lots adjoin only at a corner or corners, they shall not be considered as contiguous unless the common property line between the two (2) parcels measures not less than sixty (60) feet in a single direction.

Open Record Hearing: A Hearing, conducted by the Hearing Examiner; the Planning Commissioner; or the Board of Island County Commissioners. An Open Record Hearing creates the County’s record through testimony and submission of evidence and information. An Open Record Hearing held prior to a County decision on a project permit is known as an “Open Record predecision Hearing.” An Open Record Hearing, held on an appeal, is known as an “Open Record Appeal Hearing.”

Party of Record: The Applicant and any Person, agency or organization who specifically requests in writing a notice of decision or by signing a register provided for such purpose at an Open Record predecision or appeal Hearing.

(Ord. PD-84-14, November 5, 1984, vol. 23, p. 159; amended by Ord. C-83-98 [PLG-018-98], September 29, 1998, vol. 43, p. 12; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38; amended by Ord. C-138-99 [PLG-047-99], November 22, 1999, vol. 44, p. 155; amended by Ord. C-96-06 [PLG-006-06], August 21, 2006, vol. 2006, p. 246)

16.19.040 Application/Decision Types, Permit Classifications, and Urban Growth Area/Joint Planning Area Procedures

A. Application Types. Applications and decisions for review pursuant to this Chapter shall be categorized as a Type I, II, or III decision as set forth in Table A.

TABLE A

APPLICATION/DECISION TYPES				
	I	II	III	IV
Type of Decision	Ministerial	Administrative	Quasi-Judicial	Legislative
Pre-Application Conference	Optional	Optional	Required	N/A
Final Decision or Recommendation	Planning Director or Public Works Director	Planning Director or Public Works Director	Hearing Examiner	Planning Commission or Hearing Examiner
Notice of Application	No	Yes	Yes	N/A
Open Record Predecision Hearing	No	No	Yes	N/A
Open Record Appeal Hearing	Yes*	Yes	No	No
Closed Record Appeal	No	No	Yes	No
Judicial Appeal	Yes	Yes	Yes	Yes

*Only appeals by the Applicant permitted

1. Type I. Type I decisions are made by the Director or his or her designee (“Director”) of the Department of Planning and Community Development (“Department”). Type I decisions are ministerial decisions exempt from SEPA threshold determinations which require the exercise of little or no administrative discretion. Public notice is not required for Type I decisions. However, any Type I decision not exempt from a SEPA threshold determination shall be treated as a Type II decision.
 2. Type II. Type II decisions are administrative decisions made by the Director, or his or her designee. Type II decisions involve matters that require some judgment and discretion and are subject to an Open Record Appeal to the Hearing Examiner.
 3. Type III. Type III decisions are quasi-judicial decisions made by the Hearing Examiner following an Open Record predecision Hearing. Type III decisions are subject to a Closed Record Appeal to the Board, based on the record established by the Hearing Examiner.
 4. Type IV. Type IV decisions are legislative decisions made by the Board of Commissioners after recommendation by the Planning Commission. Public hearing(s) conducted by the Planning Commission precede a recommendation. The Board may, but in most cases will not, conduct its own hearing(s) after receiving the recommendation. Type IV decisions involve the establishment of public policy that may later be applied to Type I through Type III decisions.
 5. Consolidated Permits. Unless otherwise agreed to by the Applicant, all Type II and III decisions included in consolidated permit applications processed pursuant to ICC 16.19.110 may be processed and decided together, including any administrative appeals, using the highest numbered application type applicable to the project application. Consolidated permits shall be processed with a single fee.
 6. SEPA Review. Land Use permits that are categorically exempt from review under the State Environmental Policy Act (“SEPA”) will not require a threshold determination (determination of non-significance (“DNS”) or Determination of Significance (“DS”). For all other projects, the SEPA review procedures codified in Chapter 16.14C ICC are supplemental and concurrent to the procedures set forth in this Chapter.
- B. Permit Classifications: Land Use decisions shall be categorized by Application type as set forth in Table B.

TABLE B
Permit Classifications

CODE CHAPTER	I	II	III	IV
Chapters 11.02, 11.03, 11.04, 14.01A, 16.06, 16.14, 16.15, 16.17, 17.02, 17.02A, 17.03, 17.05		Any otherwise Type I application/decision not exempt from SEPA threshold determinations		
Chapters 11.02, 11.03 and 11.04	Administrative Determinations exempt from SEPA threshold determinations			
Chapter 14.01A	Building Permits exempt from SEPA threshold determinations			
Chapter 15.02	Storm and Surface Water Utility Charges			
Chapter 15.03	Clean Water Utility Rate Adjustments and/or Classification Changes			
Chapter 16.06	Administrative Determinations Boundary Line Adjustments Final Subdivision and Short Subdivision Decisions that are all exempt from SEPA threshold determinations	Preliminary Short Subdivision Decisions Alterations, Withdrawal or Vacation of a Short Subdivision	Preliminary Subdivision Decisions Alterations, Withdrawal or Vacation of a Subdivision	
Chapter 16.14C	SEPA categorical exemption decisions for Type I Decisions	SEPA categorical exemption decisions and SEPA threshold determinations for Type II Decisions	SEPA categorical exemption decisions and SEPA threshold determinations for Type III Decisions	
Chapter 16.15	Administrative Determinations exempt from SEPA threshold determinations	Administrative Conditional Uses (see 16.15 and 17.03)	Quasi-Judicial Conditional Uses (see 16.15 and 17.03)	

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TABLE B (Continued)
Permit Classifications

<u>CODE CHAPTER</u>	I	II	III	IV
Chapter 16.17	Administrative Determinations exempt from SEPA threshold determinations	PRDs of 4 or less units	PRDs of 5 or more units	
Chapters 17.02 and 17.02A	Permitted Use/Reasonable Use Determinations Adaptive Management Orders Administrative Determinations Single Family On Existing Lot Wetland Map Corrections Rural Stewardship Plans Voluntary Improvement Plans that are all exempt from SEPA threshold determinations	Permitted Use/Reasonable Use Determinations Reasonable Use Compliance Restoration Plans	Alterations of Deepwater Habitat or FWHCA Permitted Use/Reasonable Use Determinations Base Density Exceptions	Designation of Habitats or Species of Local Importance
Chapter 17.03	Animal Management Plan RA, and RF Rezones Temporary Use Approvals Permitted Uses Farm (BMP) Management Plan that are all exempt from SEPA threshold determinations	Zoning Code Interpretations Zoning Variances Zoning Setback Reductions Certificates of Zoning Compliance Administrative Conditional Uses Enforcement Orders	Quasi-Judicial Conditional Uses CA, RA and RF Rezones Revocations of Permits and Approvals	Special Review District Approvals Zoning Code Amendments Farm/EDU Management Plan Approvals CA/RA/RF Verifications Designation of Existing Master Planned Resorts
Chapter 17.05	Shoreline Exemptions Administrative Determinations exempt from SEPA threshold determinations	Shoreline Substantial Development Permits Shoreline CUP and Variances	Shoreline Permit Approvals for Quasi-Judicial Uses	Shoreline Master Program Amendments

C. Urban Growth Area Procedures

1. City of Langley

- a) Owners of property within the unincorporated portion of the Langley Urban Growth Area that is contiguous to the municipal boundary of the City or owners of property contiguous to property currently subject to a petition for annexation, for which a building permit, subdivision, short subdivision, PRD, Class IV Forest Practices Permit or other Type II or Type III conditional use, hereinafter referred to as Langley UGA Development, is proposed, shall be required to file a petition to annex to the City of Langley and shall apply to the City for any necessary approvals and permits, except that:
 - (i) Property for which a building permit for remodeling, repair, or reconstruction of an Existing structure or for a new accessory structure associated with a single family residential use is proposed is not required to annex and the permit application shall be submitted to and processed by the County under the applicable County zoning and land use standards; and
 - (ii) Property for which a new permitted use within an Existing structure is proposed shall not be required to annex and any permit or approval shall be submitted to and processed by the County under the applicable County zoning and land use standards.
- b) If the City of Langley does not annex the property within one-hundred-twenty (120) days of the receipt of a petition to annex, the complete application for the proposed structure or Langley UGA Development, including the Annexation/Development Agreement, shall be submitted to and processed by the County under the applicable County zoning and land use standards.

2. City of Oak Harbor

- a) Owners of property contiguous to City boundaries or owners of property contiguous to property currently subject to a petition for annexation for which a building permit, Type II or Type III use is proposed, shall be required to file a petition to annex to the City of Oak Harbor and shall apply to the City for any necessary approvals and permits except that:
 - (i) Building permits for such things as accessory structures, remodels of existing structures and additions which involve less than 60% of the assessed value of the structure shall be exempt from the requirement to submit a petition for annexation. All permit applications shall be submitted to and processed by the County under the applicable County Zoning and Land Use Standards; and

- (ii) Property for which a new permitted use within an existing structure is proposed shall not be required to petition for annexation and any permit or approval shall be submitted to and processed by the County under the applicable County Zoning and Land Use Standards.
 - (iii) If the City of Oak Harbor does not annex the property within one hundred and eighty (180) days of the receipt of a petition to annex, the complete development application shall be submitted to and processed by the County under the applicable County Zoning and Land Use Standards.
- b) The County shall apply the following standards for development of property inside the Urban Growth Area (UGA) of Oak Harbor but not contiguous to the City limits:
 - (i) The County and the City are “co-lead” agencies pursuant to Chapter 197-11 WAC with the County named “nominal lead” and responsible for complying with the procedural requirements of SEPA; and
 - (ii) Any required pre-application conference applications shall be forwarded to the City. City Planning Staff will be notified of the pre-application time and location and will be welcome to attend. Any written comments from the City prior to the pre-application conference will be forwarded to the applicant.
 - (iii) All complete Type II and III applications for development shall be forwarded to the City for review and comment during the public comment period.
- c) Joint Planning Area Development Standards and Procedures:
 - (i) Any required pre-application conference applications shall be forwarded to the City. City planning staff will be notified of the pre-application time and location and will be welcome to attend. Any written comments from the City prior to the pre-application conference will be forwarded to the applicant.
 - (ii) All complete Type III applications for development shall be forwarded to the City for review and comment during the Public comment period.
 - (iii) The City may request an Annexation Development Agreement during the public comment period for any Type III application. If the County receives the request in writing during the comment period the County will require it as a condition of approval provided the Annexation Development Agreement shall become effective only if it is executed by all other parties within thirty (30) days of development approval.

3. Town of Coupeville - Reserved

(Ord. C-83-98 [PLG-018-98], September 29, 1998, vol. 43, p. 12; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38; amended by Ord. C-136-98 [PLG-042-98], November 9, 1998, vol. 43, p. 65; amended by Ord. C-138-99 [PLG-047-99], November 22, 1999, vol. 44, p. 155; amended by Ord. C-03-00 [PLG-002-00], April 10, 2000, vol. 44, p. 384; amended by Ord. C-59-02 [PLG-011-02], August 12, 2002, vol. 46, p. 292; amended by Ord. C-75-04 [PLG-012-04], July 26, 2004, effective July 1, 2004, vol. 2004, p. 218; amended by Ord. C-22-06 [PLG-003-06], April 24, 2006, vol. 2006, p. 140; amended by Ord. C-97-06 [PLG-010-06], August 21, 2006, vol. 2006, p. 247; amended by Ord. C-02-08 [PLG-011-07], March 17, 2008, effective July 1, 2008, vol. 2008, p. 113; amended by Ord. C-39-11 [PLG-001-11], May 2, 2011, vol. 2011, p. 81; amended by Ord. C-61-11 [PLG-004-11], May 23, 2011, vol. 2011, p. 94)

16.19.050 Community Meeting - Intent and Purpose

- A. The purpose of the community meeting is to enhance public participation and to provide a means for the applicant and surrounding neighbors to meet independent of the County to review a development proposal and identify issues regarding the proposal so they may be addressed prior to application submittal in a manner that is consistent with the requirements of this Chapter. This preliminary meeting is intended to result in an application that is more responsive to community concerns and to expedite and lessen the expense of the

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review process by avoiding needless delays, appeals, remands or denials. Early citizen participation through the community meeting is an effective form of citizen involvement because it provides the opportunity to maximize citizen participation to identify issues very early in the process.

- B. Unless otherwise specified in Chapter 17.03 ICC, conditional land use proposals classified as Type III applications, except for home industries and surface mines on mineral lands that are designated by the County of long term commercial significance, that are proposed in the Rural, Rural Agriculture, Rural Forest, and Commercial Agriculture Zones, shall be subject to the community meeting requirements.
- C. Community Meeting Requirements – The applicant shall be required to hold only one Community meeting prior to the project’s pre-application conference, but may hold more if desired. If feasible, the meeting shall be held at a location within five (5) miles of the project’s property boundaries. The Community meeting shall be held on a weekday evening or on weekends at any reasonable time. Mailed notice of the meeting shall be provided by the applicant to the surrounding community consistent with the Public Notice requirement of ICC 16.19.140.G.1 for a Type III application. The applicant shall also post notice of the community meeting by posting a sign on the subject site in advance of the meeting consistent with the posting requirement of ICC 16.19.140.F.1. All attendees of the meeting shall be given an opportunity to make comment on the proposal. The applicant shall record the meeting and prepare meeting notes of major points about the development proposal that were discussed at the meeting, including comments on how the applicant has or has not addressed these major points in the application. Upon their request, the applicant shall provide members of the community in attendance, a copy of the meeting notes. The meeting notes, a tape copy of the recorded meeting, and affidavit of notice and posting shall accompany the application. All individuals attending the Community meeting who request a notice of application shall receive mailed notice pursuant to ICC 16.19.140.G.1.
- D. The applicant must present the proposal to the community in sufficient detail to explain the project’s scope and the location and improvements proposed on the property but is under no obligation to provide a detailed design at this early phase of design development.
- E. If the applicant fails to hold a community meeting; fails to provide the affidavits of posting and notice; or fails to provide written notes and recording tape from the meeting, the application shall be incomplete.

(Ord. C-63-99 [CD-01-99], June 21, 1999, vol. 43, p. 338)

16.19.060 Procedural Requirements for Essential Public Facilities

Applications for Essential Public Facilities - Applications for uses which qualify as essential public facilities are subject to the following requirements.

- A. In order to enable the Director to determine the appropriate classification for the use, the prospective applicant shall provide the following to the county:
1. A description of the proposed use including the size and types of proposed facilities, equipment, and structures and the number of employees and the potential number of people to be served.
 2. A description of the proposed site.
 3. A report detailing how the proposal is consistent with the local comprehensive plan and development regulations.
 4. A copy of the applicant's adopted comprehensive plan, or similar project planning document/market study and capital improvement program, for public facilities, in which the project is identified.
 5. Identification of the approximate geographic area within which the proposed use could potentially have adverse impacts such as increased traffic, public safety risks, noise, glare, emissions, or other environmental impacts.
- B. The following requirements apply to those essential public facilities identified as Class A Facilities by the Director:
1. At least ninety (90) days before the Community meeting, the prospective applicant shall notify the affected public and jurisdictions of the general type and nature of the proposal, identify sites under consideration for accommodating the proposed facility, and identify opportunities to obtain information and comment to the county on the proposal.
 2. Applications for specific projects shall not be considered complete in the absence of proof of a published notice regarding the proposed project in a newspaper of general circulation in the affected area. This notice shall include the information described above and shall be published at least ninety (90) days prior to the Community meeting.
 3. The applicant shall include with the application an analysis of the alternative sites considered for the proposed facility. Any proposal for siting an essential public facility in the Rural Forest or Rural Agriculture Zone must demonstrate an overwhelming need for the specific site and the lack of reasonable alternatives. The alternative site analysis shall include the following:
 - a) An evaluation of the site's capability to meet basic siting criteria for the proposed facility, such as size, physical characteristics, access, and availability of necessary utilities and support services;
 - b) An explanation of the need for the proposed facility in the proposed location;

- c) The site's relationship to the service area and the distribution of other similar public facilities within the service area or jurisdiction, whichever is larger;
 - d) A general description of the relative environmental, traffic, and social impacts associated with locating the proposed facility at the alternative sites which meet the applicant's basic siting criteria. The applicant shall also identify proposed mitigation measures to alleviate or minimize significant potential impacts; and
 - e) The application shall also briefly describe the process used to identify and evaluate the alternative sites.
4. The requirements of subsections B.3.a), b) and c) above do not apply to the expansion of existing facilities when the individual or cumulative alterations will not increase the floor area or exterior improvement area by more than twenty-five (25) percent. The increase is measured from the time the use became a conditional use or the effective date of this Chapter. For land-based facilities, such as regional airports, the requirements of subsections B.3.a), b) and c) above do not apply to the expansion of existing facilities where the facility capacity (excluding accessory buildings) or gross land area, as of the effective date of this provision, is increased by less than twenty-five (25) percent.
- C. Class B Facilities. The following requirements apply to those essential public facilities identified as Class B facilities by the Director, except public schools that have an established school site as part of the Land Use Element of the Comprehensive Plan:
1. At least thirty (30) days before the Community meeting, the prospective applicant shall notify the affected public and jurisdictions of the general type and nature of the proposal, identify sites under consideration for accommodating the proposed facility, and identify opportunities to obtain information and comment to the county on the proposal.
 2. Applications for specific projects shall not be considered complete in the absence of proof of a published notice regarding the proposed project in a newspaper of general circulation in the affected area. This notice shall include the information described above and shall be published at least thirty (30) days prior to the Community meeting.
 3. The applicant shall include with the application an analysis of the alternative sites considered for the proposed facility. Any proposal for siting an essential public facility in the Rural Forest or Rural Agriculture Zone must demonstrate an overwhelming need for the specific site and the lack of reasonable alternatives. This analysis shall include the following:
 - a) An evaluation of the site's capability to meet basic siting criteria for the proposed facility, such as size, physical characteristics, access, and availability of necessary utilities and support services;
 - b) An explanation of the need for the proposed facility in the proposed location;

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- c) The site's relationship to the service area and the distribution of other similar public facilities within the service area or jurisdiction, whichever is larger;
 - d) A general description of the relative environmental, traffic, and social impacts associated with locating the proposed facility at the alternative sites which meet the applicant's basic siting criteria. The applicant shall also identify proposed mitigation measures to alleviate or minimize significant potential impacts; and
 - e) The application shall also briefly describe the process used to identify and evaluate the alternative sites.
4. The requirements of subsections B.3.a) and b) above do not apply to the expansion of existing facilities when the individual or cumulative alterations will not increase the floor area or exterior improvement area by more than twenty-five (25) percent. The increase is measured from the time the use became a conditional use or the effective date of this Chapter. For land-based facilities, such as landfills, the requirements of subsections B.3.a) and b) above do not apply to the expansion of existing facilities where the facility capacity (excluding accessory buildings) or gross land area, as of the effective date of this provision, is increased by less than sixty (60) percent. The increase is measured from the time the use became a conditional use or the effective date of this Chapter.

(Ord. C-63-99 [CD-01-99], June 21, 1999, vol. 43, p. 338)

16.19.070 Pre-Application Conferences

- A. The purpose of a pre-application conference is to review and discuss the application requirements with the Applicant and provide comments on the development proposal. A pre-application conference shall be scheduled by the Department, upon the request of an Applicant, and shall be held in a timely manner, typically within thirty (30) days from the date of the Applicant's request. The fee for the pre-application conference shall be credited in full against the permit application fee if the application is made within one-hundred-eighty (180) days of the pre-application conference. Other than as set forth in subsection D, nothing in this section shall be interpreted to require more than one pre-application conference or to prohibit the Applicant from filing an application if the Department is unable to schedule a pre-application conference within thirty (30) days following the Applicant's request.
- B. Unless the Director determines otherwise, a pre-application conference is required for all Type III decisions and for all Type II decisions proposed within the unincorporated portion of an Urban Growth Area or Joint Planning Area. For Type I and II decisions not within the unincorporated portion of an Urban Growth Area or Joint Planning Area, the pre-application conference is optional.

- C. A pre-application conference shall include representatives from the Health and Public Works Departments; and include the appropriate municipality for development within urban growth or joint planning areas; and other representatives of other agencies when appropriate, if the municipality desires to participate after having been notified of the application by the County.
- D. An Applicant for any Type III decision or any Type II decision within the unincorporated portion of an Urban Growth Area or Joint Planning Area, not contiguous to the City/Town, wishing to submit a permit application more than one-hundred-eighty (180) days following a pre-application conference for the same permit application shall be required to schedule another pre-application conference.

(Ord. C-83-98 [PLG-018-98], September 29, 1998, vol. 43, p. 12; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38; amended by Ord. C-136-98 [PLG-042-98], November 9, 1998, vol. 43, p. 65; amended by Ord. C-138-99 [PLG-047-99], November 22, 1999, vol. 44, p. 155)

16.19.080 Acceptance of Applications

- A. Application Submittal. The permit application shall be submitted to the Department. Applications shall be in a format established by the Board and shall contain all information required by the pertinent Chapter of the Island County Code. Computer generated forms with all required information in the same order and in a similar context are acceptable. Applications on property within the unincorporated portion of an Urban Growth Area that are not required to annex shall be required to execute and submit an Annexation/Development Agreement, which has been filed for record against the title of the property by the owner with the Island County Auditor, as an application requirement. Applications within the Joint Planning Area shall be required to execute an Annexation/Development Agreement as an application requirement if an Annexation/Development Agreement is requested by the municipality. A building permit application on property that is subject to an approved and recorded Annexation/Development Agreement shall not be required to obtain or submit a new Annexation/Development Agreement if the proposal is determined to be consistent with the previously approved Annexation/Development Agreement.
- B. Notice of Complete Application. Except as provided in C below, within fourteen (14) days following receipt of a land Use permit application, the Department shall mail written notice to the Applicant that the application is either complete or incomplete. If the application is incomplete, the notice shall state with specificity what is necessary to make the application complete. To the extent known by the Department, the notice shall identify other agencies of local, state, regional or federal governments that may have jurisdiction over some aspects of the development proposal. Once determined complete, copies of the application shall be forwarded to appropriate County agencies for review.

- C. Notice of Complete Application. (For Type I and II decisions).
1. An Applicant may schedule an appointment for submission of a Type I or II decision. At the scheduled appointment, the County shall determine whether the application is complete or incomplete. If all documents have been submitted that are required by the checklist for Type I or II decisions, the application shall be determined complete. The completeness review, provided for in this subsection, will be only looking for the submission of the required documents and not one of review of documents for approval or even for review to determine if more information will be required for approval. Additional information can be requested as provided for in ICC 16.19.070.
 2. If at a scheduled appointment the application cannot be determined to be complete, the Applicant may request that the application go forward with the submitted information and the Department will respond within fourteen (14) days with a notice that the application is complete or incomplete, with a statement of missing documents included with the notice as provided in subsection E below.
- D. An application shall be deemed complete under this section if the Department does not mail written notice to the Applicant that the application is incomplete within the fourteen (14) day period as provided herein.
- E. For incomplete applications, within fourteen (14) days following the receipt of additional information, the Department shall mail written notice to the Applicant that the application is complete or incomplete. The application shall be deemed complete if the Department fails to mail the notice within this time period.
- F. The Department's signing a completed application at a scheduled application meeting or the Department's mailing of a notice of complete application as provided above, or the failure of the Department to mail such a notice shall cause an application to be conclusively deemed to be complete and vested as provided in this Chapter.
- G. An Applicant may request that an incomplete application be processed by the County and a decision rendered. Provided that the vesting provisions of ICC 16.19.110 will not apply unless the application is determined by the appropriate approving authority to be complete. Such determination may be obtained through the appeal of the denial of a Type I or II decision or the applicable review process for a Type III decision.

(Ord. PD-84-14, November 5, 1984, vol. 23, p. 159; amended by Ord. C-170-90 [PLG-028-90], October 1, 1990, vol. 31, p. 449; amended by Res. PLG-069-93, January 10, 1994 and February 28, 1994, effective January 1, 1994, vol. 36, pp. 384 and 493; amended by Ord. C-83-98 [PLG-018-98], September 29, 1998, vol. 43, p. 12; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38; amended by Ord. C-136-98 [PLG-042-98], November 9, 1998, vol. 43, p. 65; amended by Ord. C-138-99 [PLG-047-99], November 22, 1999, vol. 44, p. 155; amended by Ord. C-44-00 [PLG-011-00], June 5, 2000, vol. 44, p. 429, readopted June 19, 2000, vol. 44, p. 446)

16.19.090 Requests for Additional Information

The following procedures shall apply if a request for additional information is made by the County:

- A. The Department shall request additional information, in excess of that included on the application form(s), only when there is a clear and present need for such additional information in order to assure that the public health, safety and welfare is adequately protected. Additional information may be requested for any Type I-III decision.
- B. All requests for additional information by the Department shall be made within seven (7) days following the completion of the Public Comment Period and for Type I decisions that are exempt from SEPA, within twenty-one (21) days of the notice of complete application. The Department shall, when making requests for additional information, include the reason(s) why additional information is necessary and set a reasonable deadline for the submittal of the requested information. Failure by the Department to request additional information within the time periods set forth above shall bar the Department from requiring any further information prior to final approval.
- C. If the Applicant requests in writing for the Department to proceed with project review without the requested additional information, the process shall continue.
- D. When granting a request for a deadline extension, the Department shall give consideration to the number of days between receipt by the Department of a written request for a deadline extension and the mailing to the Applicant of the Department's decision regarding the need for additional information and the complexity of the requested material and other factors relevant to the reasonableness of the request.

(Ord. C-83-98 [PLG-018-98], September 29, 1998, vol. 43, p. 12; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38; amended by Ord. C-136-98 [PLG-042-98], November 9, 1998, vol. 43, p. 65)

16.19.100 Approval Time Periods

- A. Type I. Except for final subdivision plats and final short subdivision plats, final decisions by the Director for Type I applications shall be issued within one hundred twenty (120) days following mailing the complete application notice, completion at the scheduled completion meeting or failing to timely mail a notice of complete application. Decisions on Type I applications that are not exempt from SEPA review shall be issued in the same manner as a decision on a Type II application. Final subdivision plat and final short subdivision plat decisions shall be issued within thirty (30) days of the date a complete application is filed with the County, pursuant to RCW 58.17.140.
- B. Type II. Final decisions by the Director for Type II applications shall be issued within one hundred twenty (120) days following mailing or failing to timely mail a notice of complete application.

- C. Type III. Except for preliminary subdivision decisions, final decisions by the Hearing Examiner for Type III applications shall be made within one hundred-twenty (120) days following the mailing or failing to timely mail a notice of complete application. Preliminary subdivision decisions shall be made within ninety (90) days of the date a complete application is filed with the County, pursuant to RCW 58.17.140.
- D. Type I - III. The following periods shall be excluded from decision time periods set forth in this Chapter:
1. Any period of time during which the Applicant has been requested by any County Department, Hearing Examiner, or Board to correct plans and required application submittals, perform required studies, or provide additional information. The period shall be calculated from the date notice is mailed to the Applicant of the need for additional information until the earlier of:
 - a) the date the County mails written notice to the Applicant that the additional information satisfies the County's request, or
 - b) fourteen (14) days after the date the additional information has been provided.
 2. The period of time during which an Environmental Impact Statement is being prepared following a Determination of Significance pursuant to Chapter 43.21C RCW.
 3. The period of time established by this Chapter to consider an Open and Closed Record Appeal, including appeals of preliminary determinations of code consistency.
 4. Any period of time during which an Applicant fails to post notice on the property, if required by ICC 16.19.140, following the date notice is required until an Affidavit of Posting is provided to the Department by the Applicant.
 5. Any period of time during which an Applicant fails to post notice on the property, or otherwise comply with the posting requirements of ICC 16.19.140.
 6. Any time extension mutually agreed upon by the Applicant and the Department.
- E. The time limits established in this section shall not apply if a proposed development:
1. requires an amendment to the comprehensive plan or a development regulation; or
 2. is substantially revised by the Applicant, when such revisions will result in a substantial change in a project's review requirements, as determined by the Department, in which case the time period shall start from the date at which the revised project application is determined to be complete.
- F. Expedited Review – Priority processing shall be given to those public facility owners/operators that:

1. have a valid adopted comprehensive plan consistent with the requirements of WAC 365-195-315(1)(a)(b), (c) and (d); which has been determined by the County to be consistent with the County's GMA Comprehensive Plan; and
 2. have submitted to the Department a list of the agency's proposed public facilities planned for initiation or construction as required by RCW 36.70.520, for review/report under RCW 36.70.530.
- G. If the County is unable to issue its final decision within the time limits established by this section, it shall provide written notice of this fact to the project Applicant and the Board. The notice shall include a statement of reasons why the time limits have not been met and an estimated date for issuance of the notice of final decision.

(Ord. C-83-98 [PLG-018-98], September 29, 1998, vol. 43, p. 12; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38; amended by Ord. C-136-98 [PLG-042-98], November 9, 1998, vol. 43, p. 65; amended by Ord. C-63-99 (CD-01-99), June 21, 1999, vol. 43, p. 338; amended by Ord. C-138-99 [PLG-047-99], November 22, 1999, vol. 44, p. 155; amended by Ord. C-44-00 [PLG-011-00], June 5, 2000, vol. 44, p. 429, readopted June 19, 2000, vol. 44, p. 446; amended by Ord. C-73-03 [PLG-003-03], July 21, 2003, vol. 47, p. 153; amended by Ord. C-118-11, November 21, 2011, vol. 2011, p. 218)

16.19.110 Vesting of Applications

- A. Except as otherwise described in this section, applications for Type I, II, and III decisions, shall be considered under the zoning and other development regulations in effect on the date a notice of complete application is mailed or notice of completion is given at the application meeting scheduled pursuant to this Chapter. The Department's issuance of a notice of complete application as provided in this Chapter, or the failure of the Department to provide such a notice as provided in this Chapter, shall cause an application to be conclusively deemed to be vested.

Applications for subdivisions and short subdivisions shall be considered under Chapter 16.06 ICC and the zoning and other development regulations that are in effect at the time a fully completed application for preliminary plat approval or short plat approval is submitted to the Department. This regulation applies to all subdivision and short subdivision applications submitted to Island County on or after September 29, 1998, the effective date of this section. In accordance with RCW 19.27.095, building permit applications shall be considered under the building code, zoning and other development regulations that are in effect at the time a fully completed building permit application is submitted to the Department.

- B. Supplemental information required after vesting of a complete application shall not affect the validity of the vesting for such application unless the information is requested because incorrect information is submitted by the Applicant and if the incorrect information would materially affect the final decision on the application.
- C. Modifications required by the County to a pending application, other than those set forth in subsection B, shall not be deemed a new application and not affect vesting.

- D. An Applicant requested modification occurring either before or after issuance of the permit shall be deemed a new application, and eliminate vesting, when such modification would result in a substantial change in a project’s review requirements, as determined by the Department. For example, changes in the type of decision, i.e., Type I to Type II or Type II to Type III or a change requiring a new SEPA threshold determination, would be considered substantial changes. Modifications that reduce the scope of a proposal or reduce environmental impacts would not be considered a substantial change.

(Ord. C-83-98 [PLG-018-98], September 29, 1998, vol. 43, p. 12; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38; amended by Ord. C-136-98 [PLG-042-98], November 9, 1998, vol. 43, p. 65; amended by Ord. C-159-01 [PLG-028-01], January 7, 2002, vol. 46, p. 74; amended by Ord. C-75-04 [PLG-012-04], July 26, 2004, effective July 1, 2004, vol. 2004, p. 218)

16.19.120 Consistency Review by Agencies

- A. Each application will be reviewed by the Director to determine consistency with the adopted Comprehensive Plan and development regulations. The review will at a minimum include the following factors for determining consistency:
 - 1. Type of land Use permitted on the site;

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2. The density of the development allowed on the site such as the number of units per acre or lot coverage;
 3. Shoreline and Critical Areas Regulations; and
 4. Land Use standards.
- B. For applications, the County Engineer shall notify the Director that the proposed Roads, utilities, drainage facilities, and other improvements can or cannot conform to adopted development standards and the application complies with the concurrency requirements of Chapter 11.04 ICC.
- C. For applications, the Health Officer shall notify the Director that the proposed method of waste disposal and proposed system of water supply can or cannot conform to adopted development standards.
- D. For applications with legal descriptions that have not been prepared by a land surveyor licensed in the State of Washington, the County Engineer shall, in such manner deemed appropriate, establish the adequacy of legal descriptions.
- E. The conclusions of a consistency determination by staff shall be documented in the project permit decision or staff report to the Hearing Examiner.
- F. At or subsequent to a pre-application conference, the Department may issue a preliminary determination of consistency that a proposed development is not permissible under applicable County policies or codes. In that event, the Applicant shall have the option to appeal the preliminary determination to the Hearing Examiner in the manner provided for a Type II decision, as an alternative to proceeding with a complete application. Mailed and published notice of the appeal shall be provided pursuant to this Chapter.
- G. Consistency determinations by the County Engineer and Health Officer shall be forwarded to the Director as follows:
1. For Type I decisions, within 21 days following the mailing or failing to mail notice of a complete application.
 2. For Type II and III decisions prior to the completion of the public comment period (thirty-eight (38) days following the mailing or failing to mail a complete application).

(Ord. PD-84-14, November 5, 1984, vol. 23, p. 159; amended by Ord. C-170-90 [PLG-028-90], October 1, 1990, vol. 31, p. 449; amended by Ord. C-172-91, December 16, 1991, vol. 33, p. 265; amended by Ord. C-83-98 [PLG-018-98], September 29, 1998, vol. 43, p. 12; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38; amended by Ord. C-136-98 [PLG-042-98], November 9, 1998, vol. 43, p. 65; amended by Ord. C-63-99 (CD-01-99), June 21, 1999, vol. 43, p. 338)

16.19.130 Consolidated Permit Review

- A. When the Applicant requests it, the Department shall integrate and consolidate the review and decision on two (2) or more project permits that relate to the proposed project action discussed in this Chapter.

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- B. If the Applicant chooses to use the consolidated permit review process, the Determination of Completeness, notice of application, and notice of final decision must contain all project permits the County is reviewing through the consolidated permit review process.
- C. The consolidated permit review can combine an Open Record Hearing on one (1) or more permits with a Closed Record Appeal Hearing on other permits.

(Ord. C-83-98 [PLG-018-98], September 29, 1998, vol. 43, p. 12; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38; amended by Ord. C-136-98 [PLG-042-98], November 9, 1998, vol. 43, p. 65)

16.19.140 Notice of Application/Public Comment Period

- A. A notice of application shall be provided to the public for all land Use permit applications requiring Type I, II and III decisions pursuant to this section, except as otherwise specified below.
 - 1. Notice for Type II decisions shall be by publication and posting of the subject property. There shall be no public notice for Type I decisions that are exempt from SEPA review. Notice for Type I decisions that are not exempt from SEPA review shall be the same as notice for a Type II decision.
 - 2. Notice of Type III decisions shall be by publication, posting of the subject property and by mail.
- B. Notice of the application shall be sent for publication, mailed by the Department or posted by the Applicant within seven (7) days following the Department's determination that the application is complete. The public comment period of fourteen (14) days shall be provided, except as otherwise provided in Chapter 90.58 RCW. The public comment period shall commence on the date of publication.
- C. If the County has made a Determination of Significance ("DS") under Chapter 43.21 RCW prior to the issuance of the notice of application, the notice of the DS shall be combined with the notice of application and the scoping notice.
- D. All required mailed notices of application shall contain the following information:
 - 1. The file number;
 - 2. The name of the Applicant;
 - 3. The date of the notice of application;
 - 4. A brief description of the project, its location, and if any critical areas or their buffers, regulated by the County, are located on the property;
 - 5. A site plan on paper no larger than 8-1/2 x 14 inches, if applicable;
 - 6. The procedures and deadline for filing comments, requesting notice of any required hearings, receiving decisions and any appeal procedure;

7. The date, time, place and type of hearing, if applicable and scheduled at the time of notice; and
 8. If applicable, a statement that the optional DNS process is being used and that the public comment period may be the only opportunity to comment on the environmental impacts of the project.
- E. Notice shall be provided in the following manner:
1. Posted at the project site as provided in subsection F hereof;
 2. If applicable, mailed by first class mail as provided in subsection G hereof; and
 3. Published as provided in subsection H hereof.
- F. Posted notice of application shall be as follows:
1. Posted by the date of publication by the Applicant on the property or principal entry point to the property from the nearest public right-of-way upon which the proposed development is located, using a stencil form provided by the County on a waterproof sign. At the discretion of the Director, the posting of additional signs may be required to assure that adequate public notice is provided. Said sign(s) shall be maintained by the Applicant until action is taken on the application, when it shall be promptly removed by the Applicant. Said sign(s) shall be located so as to be visible from the abutting road(s). Signs shall be at least one and one-half (1-1/2) feet by two (2) feet in size and shall include the information set forth in subsection D.1, 2, 3, 4, 6 and 7; and
 2. An Affidavit of Posting, verifying compliance with subsection 1. above, must be returned to the County by the Applicant. If the Affidavit is not returned prior to the end of the public comment period, new notice shall be required to allow a second public comment period. All costs incurred for the second notice shall be paid by the Applicant and the approval time periods established in ICC 16.19.100 shall be extended accordingly.
- G. Mailed notice of application when applicable shall be as follows:
1. By first class mail to owners of record of property in an area within three-hundred (300) feet of the site and those individuals who attended a required Community meeting who requested a mailed notice of application pursuant to ICC 16.19.050.C;
 2. To any municipality or special district when the proposal is located within an UGA or service area of the district;
 3. To the State Department of Transportation, if the site adjoins a state highway;
 4. For Type III decisions, to all cities within one (1) mile of the proposed development, and to operator(s) of all airports within two (2) miles of the proposed development and the Navy if the proposed development is within five (5) miles of any Navy operated runway; and

5. Be considered supplementary to posted and or published notice and be deemed satisfactory despite the failure of one (1) or more owners to receive the mailed notice sent to addresses of record.
- H. Notice shall be published once in a newspaper of general circulation within the County and contain the information required for mailed notice set forth in subsection D except for D.5.
- I. The identification of parties who should, under this Chapter, receive notice is the responsibility of the County. The cost of the postage shall be billed to the Applicant.

(Ord. C-83-98 [PLG-018-98], September 29, 1998, vol. 43, p. 12; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38; amended by Ord. C-136-98 [PLG-042-98], November 9, 1998, vol. 43, p. 65; amended by Ord. C-63-99 (CD-01-99), June 21, 1999, vol. 43, p. 338; amended by Ord. C-44-00 [PLG-011-00], June 5, 2000, vol. 44, p. 429, readopted June 19, 2000, vol. 44, p. 446)

16.19.150 SEPA Compliance and Environmental Procedures

An application for project approval or a legislative action initiated pursuant to Chapter 36.70A RCW shall comply with Chapter 43.21C RCW, the State Environmental Policy Act (SEPA), Chapter 197-11 WAC, and Chapter 16.14C ICC, County Environmental Policy.

- A. Except for a Determination of Significance and except as otherwise expressly allowed by RCW 36.70B.110, the County may not issue its threshold determination until the expiration of the public comment period provided for in this section.
- B. DNSs on Type I or II decisions shall be issued after the public comment period at the same time that the decision is made on the underlying permit.
- C. For Type I or II decisions involving a DS, the decision on the application may be made no sooner than seven (7) days and no later than fourteen (14) days after issuance of the final EIS.
- D. For Type III decisions, the threshold determination shall be issued at least fifteen (15) days prior to the Open Record pre-decision Hearing scheduled for the application.
- E. For Type IV legislative actions initiated pursuant to Chapter 36.70A RCW the associated SEPA threshold determination is a Type II decision that is appealable to the Hearing Examiner. The Hearing Examiner's decision may be appealed to the Growth Management Hearings Board.
- F. The public comment period provided for in ICC 16.19.140 shall constitute the integrated comment period provided for by WAC 197-11-355 and used to obtain comments on the application and the threshold determination made under SEPA and Chapter 16.14C ICC. If a DNS is issued, a second public comment period will not be required.

(Ord. PD-84-14, November 5, 1984, vol. 23, p. 159; amended by Ord. C-83-98 [PLG-018-98], September 29, 1998, vol. 43, p. 12; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38; amended by Ord. C-136-98 [PLG-042-98], November 9, 1998, vol. 43, p. 65; amended by Ord. C-63-99 (CD-01-99), June 21, 1999, vol. 43, p. 338; amended by Ord. C-44-00 [PLG-011-00], June 5, 2000, vol. 44, p. 429, readopted June 19, 2000, vol. 44, p. 446; amended by Ord. C-96-06 [PLG-006-06], August 21, 2006, vol. 2006, p. 246)

16.19.160**PLANNING AND SUBDIVISIONS****16.19.160 Type I and II Decisions**

- A. The Director shall act on a Type I or II decision as follows:
1. Approval;
 2. Disapproval specifying reasons for disapproval; or
 3. Grant preliminary approval subject to conditions and completion of specified improvements.

Said decision of the Director shall be based upon reports of reviewing agencies, comments received during the review period, the requirements of this Chapter, and all other relevant facts and information needed to determine that the application complies with applicable regulations adopted by the County. Where appropriate, a decision shall also state the specific precedent, reasons, conditions, and analysis upon which the decision is based.

- B. Notice of decision will be provided by first class mail to:
1. The Applicant;
 2. Any Person, agency, or organization who, prior to rendering the decision, requests in writing notice of the decision; and
 3. For decisions with SEPA threshold determinations, any Person or agency entitled to notice pursuant to WAC 197-11-355

(Ord. PD-84-14, November 5, 1984, vol. 23, p. 159; amended by Ord. C-170-90 [PLG-028-90], October 1, 1990, vol. 31, p. 449; amended by Ord. C-83-98 [PLG-018-98], September 29, 1998, vol. 43, p. 12; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38; amended by Ord. C-136-98 [PLG-042-98], November 9, 1998, vol. 43, p. 65)

16.19.170 Type III Decisions

The Department shall schedule a date for an Open Record predecision Hearing before the Hearing Examiner for Type III decisions.

- A. Notice of the Open Record predecision Hearing shall be as follows:
1. A notice of the Hearing providing the location and a general description of the proposed project shall be published at least ten (10) days prior to the Hearing date in a newspaper of general circulation in the County and in a newspaper of general circulation in the area in which the proposed project is located. The notice of a Hearing before the Hearing Examiner shall indicate if the Examiner's decision will be final and will not be appealable to the Board.
 2. Written notice of the Hearing shall be mailed to any Person, agency, or organization that requests in writing notice of the Hearing during the public comment process provided for in ICC 16.19.140.

3. Written notice of the Hearing shall also be provided to any organization or individual who has requested, in writing, to receive notice of all land use applications encompassed by this Chapter; provided that the County may charge a reasonable fee for such notice.
- B. The Planning Department shall coordinate and assemble the review of other County Departments having an interest in the Type III decision and shall prepare a report summarizing the factors involved and the Department's findings and recommendations. At least ten (10) days prior to the scheduled Open Record predecision Hearing, the report shall be filed with the Hearing Examiner and copies shall be mailed to the Applicant, parties of record, and made available for public inspection.
- C. Prior to making a decision on any Type III decision, the Hearing Examiner shall hold at least one (1) Open Record predecision Hearing thereon. In the conduct of any Hearing, the Examiner shall have the power to administer oaths, preserve order, and to issue summons for and compel the appearance of witnesses and production of documents and materials.

(Ord. PD-84-14, November 5, 1984, vol. 23, p. 159; amended by Ord. C-170-90 [PLG-028-90], October 1, 1990, vol. 31, p. 449; amended by Ord. C-83-98 [PLG-018-98], September 29, 1998, vol. 43, p. 12; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38; amended by Ord. C-136-98 [PLG-042-98], November 9, 1998, vol. 43, p. 65; amended by Ord. C-63-99 (CD-01-99), June 21, 1999, vol. 43, p. 338; amended by Ord. C-44-00 [PLG-011-00], June 5, 2000, vol. 44, p. 429, readopted June 19, 2000, vol. 44, p. 446)

16.19.180 Hearing Examiner Decisions

Within fourteen (14) days of the conclusion of an Open Record predecision Hearing for a Type III decision or Open Record Appeal Hearing for a Type II decision, unless a longer period is agreed to in writing by the applicant, the Hearing Examiner shall render a written decision as applicable which shall include at least the following:

- A. Findings based upon the record and conclusions therefrom which support the decision. Such findings and conclusions shall also set forth the manner by which the decision or recommendation would carry out and conform to the County's Comprehensive Plan, other adopted policies and objectives, zoning, and this Chapter.
- B. A decision on the application which may be to grant, deny, or grant with such conditions, modifications, and restrictions as the Examiner finds necessary to make the application compatible with the environment and ensure compliance with the Comprehensive Plan, Shoreline Master Program, State Environmental Policy Act, and other County codes and ordinances found applicable. Examples of the kinds of conditions, modifications, and restrictions which may be imposed include, but are not limited to, additional setbacks, screenings in the form of fencing or landscaping, restrictive covenants, easements, dedications of additional rights-of-way, performance bonds, and measures to mitigate identified adverse environmental impacts associated with the proposed action.

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C. Not later than three (3) working days following the rendering of a written decision, copies of the decision shall be mailed by the Hearing Examiner to the Applicant and to other parties of record in the case.

(Ord. PD-84-14, November 5, 1984, vol. 23, p. 159; amended by Ord. C-170-90 [PLG-028-90], October 1, 1990, vol. 31, p. 449; amended by Ord. C-58-91, March 11, 1991, vol. 32, p. 262; amended by Ord. C-83-98 [PLG-018-98], September 29, 1998, vol. 43, p. 12; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38; amended by Ord. C-136-98 [PLG-042-98], November 9, 1998, vol. 43, p. 65)

16.19.190 Administrative Appeals

A. Type I Decisions

1. Except as provided in (2), (3), (4) and (5) below, a Type I decision is a final county land use decision not subject to administrative appeal.
2. An Applicant may appeal a denial of a Type I application, except for appeals to the Hearing Examiner of Marshall Drainage Basin and Clean Water Utility charges under subsections (3) and (4) below, or a Type I capacity determination issued under Chapter 11.04 ICC to the Board of Island County Commissioners. A written statement of appeal, accompanied by a fee must be filed with the Clerk of the Board by the applicant, within fourteen (14) days following the mailing of the Director's decision. A more comprehensive statement setting forth in detail alleged errors and/or the basis for appeal must be submitted by the appealing person or department within thirty (30) days following mailing of the Director's decision, or the appeal is not properly filed and will be dismissed without hearing. The appeal shall be an Open Record Appeal Hearing and the written decision of the Board, in the format provided under ICC 16.19.180, shall be rendered within fourteen (14) days of the conclusion of the hearing, unless a longer period is agreed to in writing by the applicant.
3. A property owner may appeal to the Hearing Examiner a Type I Public Works Director's decision on charges and denials of rate adjustments pursuant to ICC 15.02.130 and 15.02.075.B.4 regarding the Storm and Surface Water Utility, Marshall Drainage Basin, under the procedure set forth in ICC 15.02.130.
4. A property owner may appeal to the Hearing Examiner a Type I Public Works Director's decision on denials of rate adjustments and classification changes of the Clean Water Utility pursuant to ICC 15.03.130 and 15.03.075.B.4. A written statement of appeal, accompanied by a fee, must be filed with the Hearing Examiner by the property owner within fourteen (14) days following the mailing of the Public Works Director's decision. A more comprehensive statement setting forth in detail alleged errors and/or the basis for appeal must be submitted by the appealing person within thirty (30) days following mailing of the Director's decision, or the appeal is not properly filed and will be dismissed without hearing. The appeal shall be an Open Record Appeal Hearing and the written decision of the Hearing Examiner, in the format provided under ICC 16.19.180, shall be rendered within fourteen (14) days of the conclusion of the hearing, unless a longer period is agreed to in writing by the property owner.

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5. An applicant may appeal a Type I Clearing and Grading decision issued under Chapter 11.02 ICC to the Hearing Examiner as established in ICC 11.02.250.A, 16.13.100.A, and 16.19.040.
- B. Type II Decisions. The appeal of a Type II decision shall be an Open Record Appeal.
1. Administrative decisions of the Director on Type II applications shall be final and conclusive unless within fourteen (14) days following mailing of the Director's decision, a written statement of appeal, accompanied by a fee except when submitted by a County Department, is filed with the Hearing Examiner by the Applicant, a Department of the County, or any Aggrieved Person. A more comprehensive statement setting forth in detail alleged errors and/or the basis for appeal must be submitted by the appealing Person or Department within thirty (30) days following mailing of the Director's decision, or the appeal is not properly filed and will be dismissed without Hearing.
 2. A SEPA threshold determination issued for a Type IV legislative action that is initiated pursuant to Chapter 36.70A RCW may be appealed to the Hearing Examiner within 14 days following the completion of the public comment period. An appeal shall be accompanied by a written statement of appeal and the applicable fee. Appeals may be filed by a County Department of any Aggrieved Person. A more comprehensive statement setting forth in detail alleged errors and/or the basis for appeal must be submitted by the appealing Person or Department within thirty (30) days following the completion of the public comment period, or the appeal is not properly filed and will be dismissed without Hearing.
- C. Type III Decisions
- Decisions of the Examiner on Type III applications shall be final and conclusive unless within fourteen (14) days following mailing of such decision a written statement of appeal is filed with the board by the Applicant, a Department of the County, or Party of Record, who is also an Aggrieved Person. Said statement shall set forth any alleged errors and/or the basis for appeal and shall be accompanied by a fee pursuant to the fee schedule adopted by the Board; provided that such appeal fee shall not be charged to a Department of the County or to other than the first appellant. The appeal of a Type III decision shall be a Closed Record Appeal.
- D. The timely filing of an administrative appeal shall stay the effective date of the decision until such time as the appeal is heard and decided or is withdrawn. The burden of proof regarding modification or reversal shall rest with the appellant.
- E. Within seven (7) days following the timely filing of an appeal, notice thereof and of the date, time, and place for the appeal hearing shall be mailed to the applicant, the appellant, and to all other parties of record. Such notice, which shall provide a general description of the appeal and of the property location, shall additionally indicate the deadline for submittal of written comments.

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- F. A decision on the appeal shall be rendered no later than ninety (90) days after the timely filing of an appeal.
- G. Shoreline substantial development, Conditional Use and variance permit decisions whether classified as Type I or Type II, are appealable pursuant to Chapter 90.58 RCW and Chapter 16.21 ICC and not this Chapter.

(Ord. PD-84-14, November 5, 1984, vol. 23, p. 159; amended by Ord. PD-86-14, June 16, 1986, vol. 25, p. 383; amended by Ord. C-170-90 [PLG-028-90], October 1, 1990, vol. 31, p. 449; amended by Res. PLG-038-92, June 15, 1992, vol. 34, p. 149; amended by Ord. C-83-98 [PLG-018-98], September 29, 1998, vol. 43, p. 12; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38; amended by Ord. C-63-99 (CD-01-99), June 21, 1999, vol. 43, p. 338; amended by Ord. C-138-99 [PLG-047-99], November 22, 1999, vol. 44, p. 155; amended by Ord. C-44-00 [PLG-011-00], June 5, 2000, vol. 44, p. 429, readopted June 19, 2000, vol. 44, p. 446; amended by Ord. C-96-06 [PLG-006-06], August 21, 2006, vol. 2006, p. 246; amended by Ord. C-36-11 [PLG-002-11], April 18, 2011, vol. 2011, p. 70; amended by Ord. C-39-11 [PLG-001-11], May 2, 2011, vol. 2011, p. 81)

16.19.200 Judicial Review

- A. A written decision of the Board after appeal from a Type III Hearing Examiner decision, a written decision of the Hearing Examiner on an appeal of a Type II Director decision, and a final Type I decision of the Director shall each be a final County land Use decision. Failure of a Person to timely take an available appeal to a County decision maker or decision making body shall preclude any further review, including court review.
- B. Except for SEPA threshold determinations issued for Type IV legislative actions initiated pursuant to Chapter 36.70A RCW which shall follow the procedures set forth in ICC 16.19.205 a Person with standing seeking further review of a final County land Use decision, within twenty-one (21) days of the issuance of the decision, must both file a petition for review in the Island County Superior Court and serve the petition on all necessary parties in conformity with the requirements of the State Land Use Petition Act, Chapter 36.70C RCW.

(Ord. PD-84-14, November 5, 1984, vol. 23, p. 159; amended by Ord. C-170-90 [PLG-028-90], October 1, 1990, vol. 31, p. 449; amended by Ord. C-58-91, March 11, 1991, vol. 32, p. 262; amended by Ord. C-83-98 [PLG-018-98], September 29, 1998, vol. 43, p. 12; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38; amended by Ord. C-96-06 [PLG-006-06], August 21, 2006, vol. 2006, p. 246)

16.19.205 Growth Management Hearings Board Review

- A. Type IV legislative actions initiated pursuant to Chapter 36.70A RCW, and/or a written decision of the Hearing Examiner on an appeal of the associated SEPA threshold determination are final County land Use decisions.
- B. A Person with standing may seek further review of a Type IV legislative action initiated pursuant to Chapter 36.70A RCW or of the written decision of the Hearing Examiner on an appeal of the associated SEPA threshold determination by the Growth Management Hearings Board. A petition to the Growth Management Hearings Board shall be filed within sixty (60) days after the County publishes notice that an amendment to the Comprehensive Plan and/or Development Regulations has been adopted and shall follow the procedures set forth in RCW 36.70A.290.

(Ord. C-96-06 [PLG-006-06], August 21, 2006, vol. 2006, p. 246)

16.19.210 Annual Report

County staff shall prepare an annual report on the implementation of this Chapter and submit it to the Board by the first day in April of each calendar year.

(Ord. C-83-98 [PLG-018-98], September 29, 1998, vol. 43, p. 12; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

16.19.220 Severability

If any provision of this Chapter or its application to any person or circumstance is held invalid the remainder of this Chapter and the application of such provision to other persons or circumstances shall not be affected.

(Ord. PD-84-14, November 5, 1984, vol. 23, p. 159)

16.19.230 Effective Date

The amendments to this Chapter shall take effect on December 1, 1998, and shall apply to new applications submitted on or after that date and to incomplete applications filed prior to that date.

(Ord. C-83-98 [PLG-018-98], September 29, 1998, vol. 43, p. 12; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38; amended by Ord. C-136-98 [PLG-042-98], November 9, 1998, vol. 43, p. 65 amended by Ord. C-136-98 [PLG-042-98], November 9, 1998, vol. 43, p. 65)

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Chapter 16.20
Shoreline Management

(Chapter 16.20, Shoreline Management, Ord. 1003, December 6, 1971, vol. 13, p. 541; repealed by Ord. PD-84-02, March 5, 1984, vol. 22, p. 36)

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Chapter 16.20A
Shoreline Management

(Chapter 16.20A, Shoreline Management, and the Ordinances and Resolutions passed March 5, 1984, December 18, 1989, October 1, 1990, November 18, 1991, June 15, 1992, September 28, 1992, and April 5, 1993 covering said subject, is superseded by Chapter 16.21 ICC, Ord. C-19-01 [PLG-001-01], June 18, 2001, vol. 45, p. 358, effective June 21, 2001 when Department of Ecology approved)

Chapter 16.21
Shoreline Management

Sections:

- 16.21.010 Purpose**
- 16.21.020 Shoreline Master Program**
- 16.21.030 Shoreline Permits, When Granted**
- 16.21.040 Shoreline Permit Applications**
- 16.21.050 Review Process and Approving Authority**
- 16.21.060 Shoreline Maps**
- 16.21.070 Notice of Approval or Denial**
- 16.21.080 When Substantial Development May Commence**
- 16.21.090 Appeals to Shorelines Hearings Board**
- 16.21.100 Penalties and Enforcement**
- 16.21.110 Fees**
- 16.21.120 Severability**
- 16.21.130 Effective Date**

16.21.010 Purpose

The purpose of this chapter is to set forth the special procedures for regulating uses and activities governed by the Shoreline Management Act (SMA) Chapter 90.58 RCW. Except as provided for in this chapter, permits granted under the SMA and the County's Shoreline Master Program shall be processed pursuant to Chapter 16.19 ICC.

(Ord. C-19-01 [PLG-001-01], June 18, 2001, vol. 45, p. 358, effective June 21, 2001 when Department of Ecology approved)

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16.21.020 Shoreline Master Program

Island County's Shoreline Master Program (SMP) adopted pursuant to Chapter 90.58 RCW shall consist of the following:

- A. The goals and policies contained in the shoreline management element of the County's GMA Comprehensive plan; and
- B. The shoreline regulations contained in Chapter 17.05 ICC.

(Ord. C-19-01 [PLG-001-01], June 18, 2001, vol. 45, p. 358, effective June 21, 2001 when Department of Ecology approved)

16.21.030 Shoreline Permits, When Granted

- A. A shoreline permit shall be granted only the proposed development is consistent with:
 - 1. The policies and provisions of the SMA;
 - 2. Washington Administrative Code (WAC) guidelines and regulations of the Department of Ecology implementing the SMA; and
 - 3. The policies and provisions of the adopted Island County Shoreline Management Master Program (SMP).
- B. Exemption from shoreline permit requirements does not constitute exemption from the policies of the SMA and the SMP, and other applicable local, state, or federal permit or other requirements. No development shall be undertaken on shorelines of the state within Island County except those which are consistent with the policy of the SMA, the SMMP, and other applicable local state, or federal permit or other requirements.

(Ord. C-19-01 [PLG-001-01], June 18, 2001, vol. 45, p. 358, effective June 21, 2001 when Department of Ecology approved)

16.21.040 Shoreline Permit Applications

Any person desiring to undertake substantial development on shorelines of the state located within Island County shall apply to the Island County Planning Department for a shoreline permit, in a format established by the County. The application shall contain, as a minimum, such information as is required by state and local rules and regulations adopted pursuant to the SMA.

(Ord. C-19-01 [PLG-001-01], June 18, 2001, vol. 45, p. 358, effective June 21, 2001 when Department of Ecology approved)

16.21.050 Review Process and Approving Authority

- A. Planning Director Determinations. Determinations of the Planning Director regarding applicability of the SMP, exemptions and application requirements shall be processed as Type I decisions pursuant to Chapter 16.19 ICC.

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- B. Substantial Development Permits, Conditional Uses and Variances. Unless the underlying approval is classified Type III decision, all Substantial Development Permit, Conditional Use and Variance decisions shall be processed as a Type II decision pursuant to Chapter 16.19 ICC.
- C. Shoreline Master Program Amendment. All amendments to the County's Shoreline Master Program shall be processed as a Type IV decision pursuant to Chapter 16.19 ICC.
(Ord. C-19-01 [PLG-001-01], June 18, 2001, vol. 45, p. 358, effective June 21, 2001 when Department of Ecology approved)

16.21.060 Shoreline Maps

Shorelines of the state located within Island County shall be designated on official shoreline maps to be kept in the office of the Island County Planning Department.
(Ord. C-19-01 [PLG-001-01], June 18, 2001, vol. 45, p. 358, effective June 21, 2001 when Department of Ecology approved)

16.21.070 Notice of Approval or Denial

The Planning Department shall notify the following persons in writing of the final approval or denial of a shoreline permit as required by law:

- A. The applicant;
- B. The Washington State Department of Ecology;
- C. All "parties of record" for each decision as defined in Chapter 16.19, ICC and any person who has written the planning department requesting such notice; and
- D. Any affected Indian Tribe.

(Ord. C-19-01 [PLG-001-01], June 18, 2001, vol. 45, p. 358, effective June 21, 2001 when Department of Ecology approved)

16.21.080 When Substantial Development May Commence

Construction pursuant to a shoreline permit shall not begin or be authorized until thirty (30) days from the date the final order granting the permit was filed with the Washington State Department of Ecology pursuant to RCW 90.58.140(6), or until all review proceedings are terminated if such proceedings were initiated within thirty (30) days from the date of such filing, except as provided in RCW 90.58.140(5), (b) and (c). Issuance of a shoreline permit shall in no way be construed as excusing the applicant from compliance with any other local, state, or federal statutes, ordinances, or regulations applicable to the proposed substantial development.

(Ord. C-19-01 [PLG-001-01], June 18, 2001, vol. 45, p. 358, effective June 21, 2001 when Department of Ecology approved)

16.21.090 Appeals to Shorelines Hearings Board

- A. After completing any administrative appeal regarding a shoreline substantial development permit pursuant to Chapter 16.19 ICC, further review may be sought by appeal to the Washington State Shorelines Hearings Board pursuant to Chapter 90.58 RCW.
- B. No Shoreline Conditional Use Permit or Variance approval by the County is final until reviewed and approved by the Department of Ecology according to WAC 173-16-070 or as hereafter amended. Further review may then be sought by appeal to the Washington State Shorelines Hearings Board pursuant to Chapter 90.58 RCW.

(Ord. C-19-01 [PLG-001-01], June 18, 2001, vol. 45, p. 358, effective June 21, 2001 when Department of Ecology approved)

16.21.100 Penalties and Enforcement

Any person who shall fail to conform to the terms of a permit issued under this Chapter or who shall undertake development on the shorelines of the state without first obtaining any permit required under this Chapter shall be subject to the penalties and enforcement provisions of Section 17.03.260 ICC except the civil penalty for violation shall be as set forth in RCW 90.58.210. In addition, Island County and/or the Department of Ecology shall have the authority to take enforcement action pursuant to RCW 90.58.210-220, and .230, and Chapter 173-27 WAC.

(Ord. C-19-01 [PLG-001-01], June 18, 2001, vol. 45, p. 358, effective June 21, 2001 when Department of Ecology approved)

16.21.110 Fees

A fee as set by the Board shall be paid to the Planning Department at the time a shoreline permit application is accepted to cover the cost of administration.

(Ord. C-19-01 [PLG-001-01], June 18, 2001, vol. 45, p. 358, effective June 21, 2001 when Department of Ecology approved)

16.21.120 Severability

If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of this chapter or the application of the provisions to other persons or circumstances shall not be affected.

(Ord. C-19-01 [PLG-001-01], June 18, 2001, vol. 45, p. 358, effective June 21, 2001 when Department of Ecology approved)

16.21.130 Effective Date

This chapter shall take effect on October 1, 1998, or the effective date of Chapters 17.03, 17.02 and 17.05 ICC whichever is later and shall apply to new applications submitted on, or after that date and to incomplete applications filed prior to that date.

(Ord. C-19-01 [PLG-001-01], June 18, 2001, vol. 45, p. 358, effective June 21, 2001 when Department of Ecology approved)

Chapter 16.22

Camano Community Council

(Chapter 16.22, Camano Community Council, and Ordinance C-004-95 passed May 2, 1995 covering said subject, is repealed by Ordinance C-74-98 on July 13, 1998, vol. 42, p. 250)

Chapter 16.23

Greenbank Community Council

(Chapter 16.23, Greenbank Community Council, and Ordinance C-04-96 passed February 26, 1996 covering said subject, is repealed by Ordinance C-74-98 on July 13, 1998, vol. 42, p. 250)

Chapter 16.25

Agriculture, Minerals and Forestry Protection

Sections:

16.25.010	Purpose
16.25.020	Definitions
16.25.030	Policy
16.25.040	Protection Measures
16.25.050	Severability
16.25.060	Effective Date

16.25.010 Purpose

The purpose of this Chapter is to reduce the loss of commercially productive agriculture, surface mining and forestry operations by such things as nuisance complaints, and governmental policies. Island County recognizes that it is imperative that the rights and opportunities of agriculturists and foresters to earn a livelihood be maintained for lands that have agriculture or forestry operations and that mineral lands of long term commercial significance be protected. This chapter is intended to conserve resource lands as required by RCW 36.70A.060.

This ordinance is not to be construed in any way as modifying or abridging state law as set out in the Washington Administrative Code (WAC), the Forest Practices Act, Chapter 7.48 RCW or any other applicable provision of state law; rather, it is only to be utilized in the interpretation and enforcement of the provisions of Titles 11, 16, and 17 ICC.

(Ord. C-84-98 [PLG-019-98], July 13, 1998, vol. 42, p. 257; amended by Ord. C-93-99 [PLG-022-99], August 23, 1999, vol. 43, p. 427)

16.25.020 Definitions

It is the declared policy of Island County to conserve, protect, enhance and encourage agricultural and forestry operations and to conserve, protect and enhance mineral lands of long term commercial significance within the County. As used herein, the following words have the designated meanings:

- A. **“Agricultural Operation”** means a condition or activity that occurs in connection with the commercial production of food or fiber and includes: cultivation and tillage of the soil; dairying; the production, irrigation, cultivation, growing, harvesting, processing and

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sale of any agricultural commodity, including viticulture, horticulture, apiculture, the raising of livestock or poultry, and any commercial agricultural practices performed as incident to or in conjunction with such operations, including storage, preparation for market, delivery to storage or to market, or to carriers for transportation to market, and includes agricultural activity as defined in RCW 7.48.310.

- B. **“Forestry Operation”** means a condition or activity that occurs in connection with the commercial production of forestry products including the cultivation, growing, harvesting, managing, processing and sale of any forestry commodity, including any commercial forestry practices performed as incident to or in conjunction with such operations, such as storage, preparation for market, delivery to storage or to market, or to carriers for transportation to market and includes forest practices as defined in RCW 76.09.020.
- C. **“Surface Mining Operation”** means a mineral extraction and/or processing activity that has received County approval.
- D. **“Nuisance”** refers to activities that are defined by Chapter 7.48 RCW.
- E. **“Agricultural Good Management Practices”** means current, economically feasible, management practices available as endorsed by the United States Department of Agriculture, Washington State University, University of Washington, the Washington State Department of Agriculture, or the Agriculture and Forestry Technical Advisory Committee.
- F. **“Forestry Good Management Practices”** with respect to non-conversion forestry means those practices set forth in the Washington State Forest Practices Act and administered by the Department of Natural Resources. In general, it means those practices endorsed by the Department of Natural Resources, Washington State University, and the University of Washington and the Society of American Foresters.
- G. **“Surface Mining Good Management Practices”** means those practices that conform to all applicable regulations of Island County and State law.
- H. **“Mineral Lands of Long Term Commercial Significance”** means those lands designated pursuant to RCW 36.70A.170 and depicted on Map E of the Island County Comprehensive Plan and the Island County Zoning Atlas.

(Ord. C-84-98 [PLG-019-98], July 13, 1998, vol. 42, p. 257; amended by Ord. C-93-99 [PLG-022-99], August 23, 1999, vol. 43, p. 427)

16.25.030 Policy

It is the declared policy of Island County to conserve, protect, enhance and encourage agricultural and forestry operations and mineral lands of long term commercial significance within the County. Where non-agricultural/forestry land uses extend into areas of agricultural, surface mining and forestry operations, or exist side-by-side, such operations may become subject to nuisance complaints. As a result, agriculture, surface mining and forestry operators

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may be forced to cease or curtail operations and agricultural, surface mining, and forestry operators may be discouraged from making investments in improvements. As long as these uses are allowed under County Code and are conducted and maintained in a manner consistent with good management practices and do not violate local, state, or federal regulations, they shall not be considered a nuisance or be declared a nuisance as defined in the Island County Code unless the activity has a substantial adverse effect on the public health and safety. Further, nothing in this Chapter shall affect or impair any right to sue for damages under RCW 7.48.305.

(Ord. C-84-98 [PLG-019-98], July 13, 1998, vol. 42, p. 257; amended by Ord. C-93-99 [PLG-022-99], August 23, 1999, vol. 43, p. 427; amended by Ord. C-44-00 [PLG-011-00], June 5, 2000, vol. 44, p. 429, readopted June 19, 2000, vol. 44, p. 446)

16.25.040 Protection Measures

The following measures shall be taken to conserve and protect agriculture and forestry operations and mineral lands of long term commercial significance in Island County:

- A. **Mailed Notice:** With property tax statements next issued after the effective date of this Chapter, Island County shall mail the following notice to all owners of real property in Island County; provided that no liability shall attach to Island County for any actions or omissions under this section:

“Island County has established a policy for unincorporated areas to conserve, protect and encourage agriculture and forestry operations and surface mining on mineral lands of long term commercial significance. If your real property is located near an agriculture, surface mine or forestry operation, you may be subject to inconvenience or discomfort arising from such operations, including, but not limited to, noise, vibration, odors, fumes, dust, flies, and other associated pests, the operation of machinery of any kind during any 24-hour period, the storage and disposal of manure, and the application of fertilizers, soil amendments, and pesticides. For mineral lands these activities may include mining extraction, screening, washing, crushing, stockpiling, blasting, transporting and recycling of minerals. If conducted in compliance with local, state, and federal laws, these inconveniences or discomforts are hereby deemed not to constitute a nuisance as provided in Chapter 7.48 RCW for purposes of the Island County Code and shall not be subject to legal action as a public nuisance unless the activity has a substantial adverse effect on the public health and safety.”

- B. **Recorded Disclosure Notice:** All recorded documents concerning the transfer of real property located within Rural Agriculture, Rural Forest or Commercial Agriculture and within five-hundred (500) feet¹² of these lands or lands designated mineral lands of long term commercial significance by sale, exchange, gift, real estate contract, lease with an

¹² **Reviser’s Note:** As confirmed by the Board of County Commissioners’ minutes dated July 13, 1998, the word “feet” is added as it was inadvertently omitted from this ordinance.

option to purchase, any other option to purchase, or any other means of transfer, shall contain a statement containing the language set forth in subsection A. above.

- C. **Property Notice:** A notice shall be executed for any plat, short plat, PRD, development permit(s) or building permit(s) approved by Island County located within five-hundred (500) feet of property zoned Rural Agriculture, Rural Forest or Commercial Agriculture and lands designated mineral lands of long term commercial significance.

The notice shall state:

“Applicant and applicant’s heirs, legal representatives, assigns, and lessees, hereby acknowledge and agree to accept by the placement of this notice and the acceptance and recording of this instrument that 1) The property herein described is situated within five-hundred (500) feet of agricultural, forest land, or a surface mining operation, or lands designated mineral lands of long term commercial significance; 2) A variety of commercial activities may occur on these lands that are not compatible with residential development for certain periods of limited duration, and therefore the property may be subject to noise, dust, smoke and odors resulting from harvest, planting, fertilization, waste disposal and pest control associated with permitted agricultural, surface mining or forest practices; 3) For mineral lands these activities may include mining, extraction, screening, washing, crushing, stockpiling, blasting, transporting and recycling of minerals; and 4) These practices, when performed in accordance with County, State and Federal law, shall not be subject to legal action as a public nuisance unless the activity has a substantial adverse effect on the public health and safety. By the recording of this notice, the County does not intend to affect or impair any right to sue for damages under new 7.48.305.”

(Ord. C-84-98 [PLG-019-98], July 13, 1998, vol. 42, p. 257; amended by Ord. C-93-99 [PLG-022-99], August 23, 1999, vol. 43, p. 427; amended by Ord. C-44-00 [PLG-011-00], June 5, 2000, vol. 44, p. 429, readopted June 19, 2000, vol. 44, p. 446)

16.25.050 Severability

If any provision or provisions of this Chapter or its/their application to any person or circumstance is held invalid, the remainder of this Chapter and the application of such provision or provisions to other persons or circumstances shall not be affected.

(Ord. C-84-98 [PLG-019-98], July 13, 1998, vol. 42, p. 257)

16.25.060 Effective Date

This Chapter shall take effect on October 1, 1998 or the effective date of Chapter 17.03 ICC whichever is later and shall apply to new applications submitted on or after that date and to incomplete applications filed prior to that date. Amendments adopted relating to surface mining and mineral lands of long-term commercial significance shall take effect immediately upon the date of adoption.

(Ord. C-84-98 [PLG-019-98], July 13, 1998, vol. 42, p. 257; amended by Ord. C-93-99 [PLG-022-99], August 23, 1999, vol. 43, p. 427)

Chapter 16.26

Comprehensive Plan/Development Regulation Review and Amendment Procedures

Sections:

16.26.010	Purpose
16.26.020	Applicability
16.26.030	Definitions
16.26.040	Review Process and Approving Authority
16.26.050	General Procedures
16.26.060	Annual Review Procedures
16.26.070	Application Requirements
16.26.080	Public Notice and Comment
16.26.090	Seven Year Review Procedures
16.26.100	Appeals
16.26.110	Severability
16.26.120	Effective Date

16.26.010 Purpose

The purpose of this Chapter is to establish procedures, pursuant to Chapter 36.70A RCW, for the review and amendment of the Comprehensive Plan and implementing Development Regulations found in Titles 8, 11, 13, 16 and 17 ICC.

(Ord. C-135-98 [PLG-041-98], November 9, 1998, vol. 43, p. 62)

16.26.020 Applicability

Every amendment to the Comprehensive Plan and Development Regulations shall conform to the requirements of this Chapter except:

- A. The adoption of emergency amendments;
- B. The adoption of amendments to resolve an appeal of the Comprehensive Plan or Development Regulations filed with the Growth Management Hearings Board or with the court;

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- C. The initial adoption of a subarea plan;
- D. The adoption of amendments to the County’s Shoreline Master Program under the procedures set forth in Chapter 90.58 RCW;
- E. The adoption of amendments to the capital facilities element of the Comprehensive Plan that occurs concurrently with the adoption or amendment of the County budget;
- F. The adoption of Development Regulations or amendments thereto that implement the Comprehensive Plan and for which no amendment to the Comprehensive Plan is required before adoption of the regulation or amendment to the regulation;
- G. Amendments to the Comprehensive Plan that are only procedural in nature or affect only procedural requirements;
- H. Amendments to this Chapter 16.26 ICC; and
- I. Amendments to the Comprehensive Plan that are merely to correct errors in mapping or to change zoning or Comprehensive Plan land use designations so that they meet adopted designation criteria.

(Ord. C-135-98 [PLG-041-98], November 9, 1998, vol. 43, p. 62)

16.26.030 Definitions

Unless expressly noted otherwise, words and phrases that appear in this Chapter shall be given the meaning attributed to them by this Section. When not inconsistent with the context, words used in the present tense shall include the future; the singular shall include the plural and the plural the singular; the word “shall” is always mandatory and the words “may” and “should” indicate a use of discretion in making a decision. Capitalized words and phrases identify a term defined in this Chapter; other Chapters of Title or Chapters contained in Title 17.

Comprehensive Plan: The Comprehensive Plan adopted to comply with Chapter 36.70A RCW including all optional elements adopted through Ordinance C-123-98 as hereafter may be amended by the Board of Island County Commissioners.

Development Regulation: The specific Chapters in Title 8, 11, 13, 16 and 17 of the Island County Code that have been adopted expressly to implement the Comprehensive Plan and are adopted pursuant to Chapter 36.70A RCW.

Findings of Fact and Legislative Intent: The formally adopted document that establishes both the factual basis for the Comprehensive Plan and Development Regulations and serves as the interpretive guide for legislative intent.

Site Specific Amendment: An amendment to the Comprehensive Plan or Development Regulations that affects one or a small group of Parcels, most frequently an amendment to the Land Use Map and/or Zoning Atlas.

(Ord. C-135-98 [PLG-041-98], November 9, 1998, vol. 43, p. 62)

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16.26.040 Review Process and Approving Authority

All amendments to the Comprehensive Plan and Development Regulations shall be approved by the Board of Island County Commissioners, processed as a Type IV decision pursuant to Chapter 16.19 ICC. SEPA threshold determinations associated with Type IV decisions that are reviewed under this Chapter shall be processed as Type II decisions that may be appealed to the Hearing Examiner. Appeals or further review of the Hearing Examiner's written decision shall be by the Growth Management Hearings Board according to the procedures set forth in Chapter 36.70A RCW.

(Ord. C-135-98 [PLG-041-98], November 9, 1998, vol. 43, p. 62; amended by Ord. C-96-06 [PLG-006-06], August 21, 2006, vol. 2006, p. 246)

16.26.050 General Procedures

- A. Amendments may be initiated by any Person, the Board, the Planning Commission or the Planning Director or the Department Director responsible for the administration of a Development Regulation.
- B. Amendments may be considered by the Board no more frequently than once a year and all proposed amendments shall be considered concurrently so that the cumulative effect of the various amendments can be ascertained.
- C. All amendments adopted by the Board shall be consistent with Chapter 36.70A RCW and shall comply with Chapter 43.21C RCW.
- D. All Development Regulations adopted to implement the Comprehensive Plan and amendments thereto shall be consistent with the adopted Comprehensive Plan and adopted Findings of Fact and Legislative Intent.

(Ord. C-135-98 [PLG-041-98], November 9, 1998, vol. 43, p. 62)

16.26.060 Annual Review Procedures

- A. Amendments proposed by a Person shall be accepted at any time during the calendar year but those applications received after February 1st of each calendar year shall be reviewed during the following calendar year.
- B. Unless specifically authorized by the Board, no amendment proposed by a Person that is not approved by the Board may be reinitiated for three (3) years after its consideration by the Board.
- C. On March 1 of each year, the Planning Director shall forward to the Board and Planning Commission a complete listing of amendments requested by a Person, the Board, the Planning Commission or the Planning Director. This list shall be known as the Annual Review Docket.
- D. The Planning Director shall review the Annual Review Docket with the Board of County Commissioners by April 1 of each year. The review shall consider whether any proposed amendment should remain on the Annual Review Docket or be moved to the Seven-Year Review Docket pursuant to 16.26.090 ICC.

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- E. The Planning Director shall prepare a report to the Planning Commission for each application and present the reports no later than May 1 of each calendar year. The report shall include a recommendation on each annual review application. The report shall evaluate the proposed amendments as follows:
1. Does the proposed amendment or revision maintain consistency with other Plan elements or Development Regulations. If not, are amendments or revisions to other Plan elements or regulations necessary to maintain consistency also under annual review by the Planning Commission and the Board;
 2. Do all applicable elements of the Comprehensive Plan support the proposed amendment or revisions;
 3. Does the proposed amendment or revision more closely meet the goals, objectives and policies of the Comprehensive Plan;
 4. Is the proposed amendment or revision consistent with the county-wide planning policies;
 5. Is the proposed amendment supported by adopted Findings of Fact and Legislative Intent;
 6. Does the proposed amendment or revision comply with the requirements of the GMA; and
 7. Are the assumptions underlying the applicable portions of the Comprehensive Plan or Development Regulations no longer valid because new information is available which was not considered at the time the plan or regulation was adopted.
- F. The Planning Commission shall hold at least one public hearing on the annual review amendments and shall forward to the Board its recommendation on amendments no later than July 1 of each calendar year. After receipt of the Planning Commission recommendation or after lapse of the prescribed time for rendering a recommendation, the Board shall act on annual review amendments. With each adopted amendment the Board shall also adopt Findings of Fact and Legislative Intent to support the change in the Comprehensive Plan and/or Development Regulations. These Findings shall identify as applicable the following:
1. The local circumstances if any, that have been relied on in reaching a decision on the proposed amendment; and

2. How the planning goals of the GMA have been balanced in the decision on the proposed amendment.

(Ord. C-135-98 [PLG-041-98], November 9, 1998, vol. 43, p. 62; amended by Ord. C-153-99 [PLG-052-99], December 13, 1999, vol. 44, p. 217; amended by Ord. C-95-00 [PLG-019-00], November 27, 2000, vol. 45, p. 85, readopted December 11, 2000, vol. 45, p. 115; amended by Ord. C-86-05 [PLG-019-04], July 25, 2005, vol. 2005, p. 237)

16.26.070 Application Requirements

- A. All applications for amendment of the Comprehensive Plan or Development Regulations submitted by a Person shall, in a format established by the County, contain the following:
 1. Application form signed by the owner(s) of record, address, telephone numbers and agent information;
 2. A description of the proposed amendment including proposed map or text changes;
 3. The location of the proposed amendment shown on an assessor's map dated and signed by the Applicant, if the proposal is for a land use map or Zoning Atlas amendment;
 4. A legal description and a notarized signature of one or more owners, if a change in the Zoning Atlas is requested by Owner(s) concurrent with a requested land use map amendment;
 5. An explanation of why the amendment is being proposed and, if applicable, how or why the map or text is in error;
 6. An explanation of anticipated impacts to be caused by the change;
 7. An explanation of how the proposed amendment is consistent with GMA, the county-wide planning policies, the Comprehensive Plan and adopted Findings of Fact and Legislative Intent;
 8. An explanation of how the change affects Development Regulations or how the amendment brings the Development Regulations into compliance with the Plan;
 9. If applicable, an explanation of why existing Comprehensive Plan language should be added, modified, or deleted;
 10. A SEPA checklist, if required; and
 11. Fees as set by the Board.
- B. Persons wishing to initiate an Amendment are encouraged, but not required, to use the preapplication procedures of ICC 16.19.050.

(Ord. C-135-98 [PLG-041-98], November 9, 1998, vol. 43, p. 62)

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16.26.080 Public Notice and Comment

- A. Notice of the time, place and purpose of an Open Record Hearing before the Planning Commission or Board to consider annual review amendments shall be provided by publication in the official County newspaper, and a newspaper of general circulation within the area affected by the amendment, at least ten (10) days before the date of hearing. Notice for Site-specific amendments shall also be provided by posting and by mail pursuant to ICC 16.19.120.
- B. The Planning Director shall notify the State of Washington pursuant to RCW 36.70A.106 at least sixty (60) days prior to the adoption of Comprehensive Plan amendments, Development Regulations or annual review amendments.
- C. Within ten (10) days of adoption, the Planning Director shall transmit the adopted Plan amendment, Development Regulation or annual review amendments to the State and publish notice of the adoption in the official County newspaper.

(Ord. C-135-98 [PLG-041-98], November 9, 1998, vol. 43, p. 62)

16.26.090 Seven Year Review Procedures

- A. The Seven-Year Review Cycle is established in accordance with RCW 36.70A.130 and shall include:
 - 1. A comprehensive review to provide for a cumulative analysis of the Twenty-Year Plan and its implementing regulations based upon official population growth forecasts and other relevant data in order to consider substantive changes to Planning policies language, and changes to the Urban Growth Areas.
 - 2. The Seven-Year Review cycle shall include a review of the effectiveness of the following provisions and recommendations made if the provisions can be made more effective:
 - a) EDU Program;
 - b) PRDs;
 - c) Design Review Standards;
 - d) Non-Residential Design Guidelines; and
 - e) Non-Residential Zones.
 - f) BMPs
 - g) PBRS
 - h) Special Review Districts

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3. If the Board of County Commissioners determines that the purposes of the Comprehensive Plan are not being achieved because of significant changes in official population growth forecasts, major changes to the Plan may be considered on even calendar years.
- B. Items placed on the Annual Review Docket shall be reviewed by the Director and Board of County Commissioners to determine if they should be placed on the Seven-Year Review Docket. The Director and Board of County Commissioners shall move Annual Review items to the Seven-Year Review Docket when:
1. Major changes to the Comprehensive Plan and/or its Zone Designation criteria are proposed, and
 2. Major changes to an Urban Growth Area Boundary or Joint Planning Area are proposed.
- C. The Seven-Year Review Cycle shall include all Annual Review applications from the same year.

(Ord. C-135-98 [PLG-041-98], November 9, 1998, vol. 43, p. 62; amended by Ord. C-95-00 [PLG-019-00], November 27, 2000, vol. 45, p. 85, readopted December 11, 2000, vol. 45, p. 115; amended by Ord.C-86-05 [PLG-019-04], July 25, 2005, vol. 2005, p. 237)

16.26.100 Appeals

Appeals of decisions to amend the Comprehensive Plan or Development Regulations shall comply with the procedures set forth in Chapter 36.70A RCW.

(Ord. C-135-98 [PLG-041-98], November 9, 1998, vol. 43, p. 62)

16.26.110 Severability

If any provision or provisions of this Chapter or its/their application to any Person or circumstance is held invalid, the remainder of this Chapter and the application of such provision or provisions to other Persons or circumstances shall not be affected.

(Ord. C-135-98 [PLG-041-98], November 9, 1998, vol. 43, p. 62)

16.26.120 Effective Date

This Chapter shall take effect on December 1, 1998.

(Ord. C-135-98 [PLG-041-98], November 9, 1998, vol. 43, p. 62)

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