

# TITLE 18 ENVIRONMENT

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- 18.08 (Reserved)
- 18.12 Open Space Plan
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- 18.18 Watershed Protection Districts - Burley Lagoon Shellfish Closure Response Strategy and Protection Program
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## Chapter 18.04

### STATE ENVIRONMENTAL POLICY ACT

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### PART ONE-AUTHORITY

#### 18.04.010 Authority.

- A. The eCounty of Kitsap adopts this eChapter under the State Environmental Policy Act (SEPA), RCW 43.21C.120, and the SEPA Rules, WAC 197-11-904.
- B. This eChapter contains this eCounty's SEPA procedures and policies.
- C. The SEPA Rules, Chapter 197-11 WAC, must be used in conjunction with this eChapter and may be used to supplement this Chapter where needed.

### PART TWO – GENERAL REQUIREMENTS

#### 18.04.020 Purpose of this part and adoption by reference.

This part contains the basic requirements that apply to the SEPA process. The eCounty adopts the following sections of Chapter 197-11 of the Washington Administrative Code by reference, except as modified by additional definitions under KCC 18.04.030.

#### WAC 197-11-030 Policy

- 040 Definitions.
- 050 Lead agency.
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- 228 Overall SEPA/GMA integration procedures.
- 230 Timing of an integrated GMA/SEPA process.
- 232 SEPA/GMA integration procedures for preliminary planning, environmental analysis, and expanded scoping.
- 235 Documents.
- 250 SEPA/Model Toxics Control Act integration.
- 253 SEPA lead agency for MTCA actions.
- 256 Preliminary evaluation.
- 259 Determination of nonsignificance for MTCA remedial actions.
- 262 Determination of significance and EIS for MTCA remedial actions.
- 265 Early scoping of MTCA remedial actions.
- 268 MTCA interim actions.

**18.04.030 Additional definitions.**

In addition to those definitions contained within WAC 197-11-700 through 197-11-799 and 197-11-220, when used in this ~~e~~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 ~~e~~C~~o~~unty established by ordinance, rule, or order.
- B. “Development units” means the proposed quantity of development measured by dwelling units for residential development and square feet for specific nonresidential use categories.
- C. “SEPA rules” means Chapter 197-11 WAC adopted by the Department of Ecology.
- D. “Ordinance” means the ordinance, resolution, or other procedure used by the ~~e~~C~~o~~unty to adopt regulatory requirements.
- E. “Early notice” means the ~~e~~C~~o~~unty’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 (MDNS) procedures)~~.

**18.04.040 Designation of ~~r~~Responsible ~~o~~Official.**

- A. For those proposals for which the ~~e~~C~~o~~unty is the lead agency, the ~~r~~Responsible ~~o~~Official shall be the ~~d~~D~~i~~rector of the ~~d~~D~~e~~partment of ~~e~~C~~o~~munity ~~d~~D~~e~~velopment or his/~~her~~ appointed designee.
- B. For all proposals for which the ~~e~~C~~o~~unty is the lead agency, the ~~r~~Responsible ~~o~~Official shall make the threshold determination, supervise scoping and preparation of any required ~~e~~E~~n~~vironmental ~~i~~mpact ~~s~~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 Section 18.04.020.

- C. The ~~e~~County shall retain all documents required by the SEPA rules (WAC Chapter 197-11) and make them available in accordance with RCW Chapter 42.17.

**18.04.050 Lead agency – determination -and responsibilities.**

- A. The ~~d~~Department within the ~~e~~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, 197-11-253, and 197-11-922 through 197-11-940, unless the lead agency has been previously determined or the ~~d~~Department is aware that another ~~d~~Department or agency is in the process of determining the lead agency.
- B. When the ~~e~~County is the lead agency for a proposal, the ~~d~~Department receiving the application shall determine the ~~R~~Responsible ~~Official~~ who shall supervise compliance with the threshold determination requirements, and if an EIS is necessary, shall supervise preparation of the EIS.
- C. When the ~~e~~County is not the lead agency for a proposal, all ~~d~~Departments of the ~~e~~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 ~~e~~County ~~d~~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. ~~This provision does not preclude additional environmental analysis pursuant to WAC 197-11-600. In some cases, the eCounty may conduct supplemental environmental review under WAC 197-11-600.~~
- D. If the ~~e~~County or any of its ~~d~~Departments receives a lead agency determination made by another agency that appears inconsistent with the criteria of WAC 197-11-253 or 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 and resolved within fifteen days of receipt of the determination, or the ~~e~~County must petition the ~~d~~Department of ~~e~~Ecology for a lead agency determination under WAC 197-11-946 within the fifteen-day time period. Any such petition on behalf of the ~~e~~County must be initiated by the ~~R~~Responsible ~~Official~~.
- E. Departments of the ~~e~~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 ~~R~~Responsible ~~Official~~ and any ~~d~~Department that will incur responsibilities as the result of such agreement approve the agreement.
- F. Any ~~d~~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.

- G. When the eCounty is lead agency for a MTCA remedial action, the dDepartment of eEcology shall be provided an opportunity under WAC 197-11-253(5) to review the environmental documents prior to public notice being provided. If the SEPA and MTCA documents are issued together with one public comment period under WAC 197-11-253(6), the eCounty shall decide jointly with the Department of eEcology who receives the comment letters and how copies of the comment letters will be distributed to the other agency.

**~~18.04.060 — Transfer of lead agency status to a state agency.~~**

~~For any proposal for a private project where the eCounty would be the lead agency and for which one or more state agencies have jurisdiction, the eCounty's rResponsible oOfficial 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 eCounty shall be an agency with jurisdiction. To transfer lead agency duties, the eCounty's rResponsible oOfficial must transmit a notice of the transfer together with any relevant information available on the proposal to the appropriate state agency with jurisdiction. The rResponsible oOfficial of the eCounty shall also give notice of the transfer to the private applicant and any other agencies with jurisdiction over the proposal.~~

**18.04.070 Additional timing considerations.**

- A. For nonexempt proposals, the DNS or the final EIS for the proposal shall accompany the eCounty's staff recommendation to any appropriate advisory body, such as the planning eCommission.

**PART THREE – CATEGORICAL EXEMPTIONS AND – THRESHOLD DETERMINATIONS**

**18.04.080 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 eCounty adopts the following sections by reference, as supplemented in this part:

- RCW 43.21C.229 Infill Development – Categorical exemptions from chapter.
- WAC 197-11-300 Purpose of this part.
  - 305 Categorical exemptions.
  - 310 Threshold determination required.
  - 315 Environmental checklist.
  - 330 Threshold determination process.
  - 335 Additional information.
  - 340 Determination of nonsignificance (DNS).
  - 350 Mitigated DNS.
  - 355 Optional DNS process.
  - 360 Determination of significance (DS)/ initiation of scoping.
  - 390 Effect of threshold determination.

**18.04.090 Flexible thresholds for categorical exemptions.**

The exemptions in this subsection apply to all licenses required to undertake the construction in question, except when a rezone or any license governing emissions to the air or discharges to

water is required. The eCounty establishes the following exempt levels for minor new construction under WAC 197-11-800(1)(bc)-based on local conditions:

A.

1. For residential dwelling units in WAC 197-11-800(1)(b)(i):
  - a. up to 9 residential dwelling units within the boundaries of an urban growth area; or
  - b. up to 4 residential dwelling units outside the boundaries of an urban growth area;
2. For agricultural structures in WAC 197-11-800(1)(b)(ii): up to 15,000 square feet of ground coverage. This exemption shall not apply to feed lots;
3. For office, school, commercial, recreational, service or storage buildings in WAC 197-11-800(1)(b)(iii): up to 8,000 square feet with associated parking up to 40 parking spaces;
4. For parking lots in WAC 197-11-800(1)(b)(iv): up to 40 parking spaces;
5. For landfills and excavations in WAC 197-11-800(1)(b)(v):
  - a. up to 500 cubic yards; or
  - b. up to 150 cubic yards if the proposal is located on property subject to the provisions in Title 22, Shoreline Management Master Program.

B. Whenever the eCounty establishes new exempt levels under this Section, it shall send them to the Department of Ecology-, Headquarters Office, Olympia, Washington 98504 under WAC 197-11-800(1)(c).

### ARTICLE 3 – CATEGORICAL EXEMPTIONS – THRESHOLD DETERMINATIONS

#### 18.04.100 Categorical exemptions for infill development.

A. In order to accommodate infill development in the Silverdale Infill Area, except for in the Urban Low Residential (UL) and Urban Restricted (UR) zones, the eCounty establishes the following exempt levels for construction of residential developments and mixed use developments under RCW 43.21C.229: The Silverdale Mixed Use Infill Trip Bank referred to in this Part was established with the Kitsap County 2006 Comprehensive Plan Update (Ordinances 368-2006 & 370-2006).

1. For residential developments in the Urban Medium Residential (UM) and Urban High Residential (UH) zones, up to the maximum total number of available trips in the Silverdale Mixed Use Infill Trip Bank, as established by the Department of Public Works; or
2. For mixed use developments in the Neighborhood Commercial (NC), Highway/Tourist Commercial (HTC), Regional Commercial (RC), and Mixed Use (MU) zones, up to the maximum total number of available trips in the Silverdale Mixed Use Infill Trip Bank, as established by the Department of Public Works.

B. In determining whether or not a proposal is exempt, the dDepartment shall consider a traffic analysis based on the quantity of development units and the related applicable trip generation. The traffic analysis shall be filed by the applicant at the same time as an application for a permit, license, certificate or other approval. Traffic analysis will follow Traffic Impact Analysis guidelines as set forth in KCC Chapter 20.04. Developments that qualify for this SEPA exemption would still be subject to the Transportation Facilities Concurrency Ordinance (KCC Chapter 20.04). Development will be allowed under this

exemption up to the point that all the trips in the trip bank have been taken, unless denied by concurrency.

- C. Upon approval of the proposal according to the provisions of Title 21, the Department shall document the change in total available trips in accordance with adopted administrative guidelines. These exempt levels are not applicable once the total available trips have been utilized.
- D. The Department of Public Works will monitor the total number of trips taken from the Silverdale Mixed Use Infill Trip Bank as part of the development approval process.

**18.04.110 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 or not 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.

**18.04.115 Environmental checklist.**

- A. Except as provided in subsection (D) of this section, 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

eCounty and applicant agree an EIS is required, SEPA compliance has been completed, or SEPA compliance has been initiated by another agency. The eCounty shall use the environmental checklist to determine the lead agency, and if the eCounty is the lead agency, for determining the rResponsible oOfficial and for making the threshold determination.

- B. For private proposals, the eCounty will require the applicant to complete the environmental checklist, providing assistance as necessary. For eCounty proposals, the dDepartment initiating the proposal shall complete the environmental checklist for that proposal.
- C. The eCounty may require that it, and not the private applicant, will complete all or part of the environmental checklist for a private proposal, if either of the following occurs:
  - 1. The eCounty 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.
- D. For projects submitted as planned actions under WAC 197-11-164, the eCounty shall use its existing environmental checklist form or may modify the environmental checklist form as provided in WAC 197-11-315. The modified environmental checklist form may be prepared and adopted along with or as part of a planned action ordinance, or developed after the ordinance is adopted. In either case, a proposed modified environmental checklist form must be sent to the dDepartment of eEcology to allow at least a thirty-day review prior to use.

#### **18.04.120 Mitigated DNS.**

- A. As provided in this section and WAC 197-11-350, the rResponsible oOfficial may issue a DNS based on conditions attached to the proposal by the rResponsible oOfficial 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 dDepartment is lead agency; and
  - 2. Precede the eCounty's actual threshold determination for the proposal.
  - 3. The rResponsible oOfficial should respond to the request for early notice within thirty working days. The response shall:
    - a. Be written;
    - b. State whether the eCounty currently considers issuance of a DS likely and, if so, indicate the general or specific area(s) of concern that is/are leading the eCounty to consider a DS; and

- c. 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.
- 4. As much as possible, the eCounty should assist the applicant with identification of impacts to the extent necessary to formulate mitigation measures.
- 5. When an applicant submits a changed or clarified proposal, along with a revised or amended environmental checklist, the eCounty shall base its threshold determination on the changed or clarified proposal and should make the determination within fifteen days of receiving the changed or clarified proposal:
  - a. If the eCounty 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 eCounty shall issue and circulate a DNS under WAC 197-11-340(2).
  - b. If the eCounty indicated areas of concern, but did not indicate specific mitigation measures that would allow it to issue a DNS, the eCounty shall make the threshold determination, issuing a DNS or DS as appropriate.
  - c. 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 storm water runoff" are inadequate, whereas proposals to "muffle machinery to X decibels" or "construct 200-foot storm water retention pond at Y location" are adequate.
  - d. 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.

C. The County shall reconsider the mitigated DNS based on timely comments and may retain or modify the MDNS or, if the county determines that significant adverse impacts are likely, withdraw the mitigated DNS or supporting documents. When a mitigated DNS is modified, the lead agency shall send the modified mitigated DNS to agencies, local tribes and jurisdictions.

A mitigated DNS is issued under WAC 197-11-340(2), requiring a fourteen day comment period and public notice.

- D. 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 manner specifically prescribed by the eCounty.
- E. If the eCounty's tentative decision on a permit or approval does not include mitigation measures that were incorporated in a mitigated DNS for the proposal, the

eCounty should evaluate the threshold determination to assure consistency with WAC 197-11-340(3)(a) (withdrawal of DNS).

- F. The eCounty's written response under subsection (2) 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 eCounty to consider the clarifications or changes in its threshold determination.

#### **PART FOUR – ENVIRONMENTAL IMPACT STATEMENT (EIS)**

##### **18.04.125 Purpose of this part and adoption by reference.**

This part contains the rules for preparing eEnvironmental iImpact sStatements (EISs). The eCounty adopts the following sections by reference, as supplemented by this part:

WAC 197-11-400	Purpose of EIS.
-402	General requirements.
-405	EIS types.
-406	EIS timing.
-408	Scoping.
-410	Expanded scoping.
-420	EIS preparation.
-425	Style and size.
-430	Format.
-435	Cover letter or memo.
-440	EIS contents.
-442	Contents of EIS on nonproject proposals.
-443	EIS contents when prior nonproject EIS.
-444	Elements of environment.
-448	Relationship of EIS to other considerations.
-450	Cost-benefit analysis.
-455	Issuance of DEIS.
-460	Issuance of FEIS.
-443	EIS contents when prior nonproject EIS.
-444	Elements of environment.
-448	Relationship of EIS to other considerations.
-450	Cost-benefit analysis.
-455	Issuance of DEIS.
-460	Issuance of FEIS.

##### **18.04.130 Preparation of EIS – Additional considerations.**

- A. Preparation of draft and final EIS's (DEIS and FEIS) and draft and final supplemental EIS's (SEIS) is the responsibility of the eDepartment of eCommunity eDevelopment under the direction of the eResponsible eOfficial. Before the eCounty issues an EIS, the eResponsible eOfficial shall be satisfied that it complies with this eChapter and WAC Chapter 197-11.

- B. The DEIS and FEIS or draft and final SEIS may be “prepared” by eCounty staff or by a consultant selected by the eCounty or the applicant. If the #Responsible eOfficial requires an EIS for a proposal and determines that someone other than the eCounty will prepare the EIS, the #Responsible eOfficial shall notify the applicant immediately after completion of the threshold determination. The #Responsible eOfficial shall also notify the applicant of the eCounty’s procedure for EIS preparation, including approval of the DEIS and FEIS prior to distribution. The applicant is responsible for paying the costs associated with preparation of the EIS.
- C. The eCounty may require an applicant to provide information the eCounty does not possess, including specific investigations. However, the applicant is not required to supply information that is not required under this eChapter or that is being requested from another agency. (This does not apply to information the eCounty may request under another ordinance, regulation, or statutes).

**18.04.140 Additional elements to be covered in EIS.**

- A. The analysis of the following additional elements may be included as part of the environment for the purpose of EIS content, but does not add to the criteria for threshold determinations or perform any other function or purpose under this eChapter:
1. Economy;
  2. Social policy analysis;
  3. Cost-benefit analysis;
  4. Any other element that may be dictated by special circumstances associated with the proposal.
- B. Inclusion of these elements in an EIS will be at the discretion of the #Responsible eOfficial as determined by the scoping process.

**PART FIVE – COMMENTING**

**18.04.150 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 eCounty adopts the following sections e by reference, as supplemented in this part:

- WAC 197-11-500 Purpose of this part.
- 502 Inviting comment.
- 504 Availability and cost of environmental documents.
- 508 SEPA register.
- 510 Public notice.
- 535 Public hearings and meetings.
- 545 Effect of no comment.
- 550 Specificity of comments.
- 560 FEIS response to comments.
- 570 Consulted agency costs to assist lead agency.

- 550 Specificity of comments.
- 560 FEIS response to comments.
- 570 Consulted agency costs to assist lead agency.

**18.04.160 Public notice.**

- A. Whenever possible, the eCounty shall integrate the public notice required under this section with existing notice procedures for the eCounty's nonexempt permit(s) or approval(s) required for the proposal.
- B. Whenever Kitsap County issues a DNS under WAC 197-11-340(2) or a DS under WAC 197-11-360(3) the eCounty shall give public notice as follows:
1. If public notice is required for the nonexempt license, the notice shall state whether a DS or DNS has been issued and when comments are due.
  2. If an environmental document is issued concurrently with the notice of application, the public notice requirements for the notice of application in RCW 36.70B.110(4) will suffice to meet the SEPA public notice requirements in WAC 197-11-510(1).
  3. If no public notice is otherwise required for the permit or approval, the eCounty shall give notice of the DNS or DS by:
    - a. Posting the property, for site-specific proposals
    - b. Publishing notice in a newspaper of general circulation in the county, city or general area where the proposal is located; and
    - c. Mailing a copy of the notice to property owners within four hundred feet of the proposal.
  4. Whenever the eCounty issues a DS under WAC 197-11-360(3), the eCounty shall state the scoping procedure for the proposal in the DS as required in WAC 197-11-408 and in the public notice.
- C. If a DNS is issued using the optional DNS process, the public notice requirements for a notice of application in RCW 36.70B.110(4) as supplemented by the requirements in WAC 197-11-355 will suffice to meet the SEPA public notice requirements in WAC 197-11-510(1)(b).
- D. Whenever the eCounty 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:
1. Indicating the availability of the DEIS in any public notice required for a nonexempt license; and
  2. Posting the property, for site-specific proposals;
  3. Publishing notice in a newspaper of general circulation in the county, city, or general area where the proposal is located; and
  4. Mailing a copy of the notice to property owners within four hundred feet of the proposal.

- E. Public notice for projects that qualify as planned actions shall be tied to the underlying permit as specified in WAC 197-11-172(3).
- F. The eCounty may require an applicant to complete the public notice requirements for the applicant's proposal at his or her expense.

**18.04.170 Designation of official to perform consulted agency responsibilities for the eCounty.**

- A. The eDirector of the eDepartment of eCommunity eDevelopment or his/her appointed designee shall be responsible for preparation of written comments for the eCounty in response to a consultation request prior to a threshold determination, participation in scoping, and reviewing a DEIS.
- B. The eDepartment of eCommunity eDevelopment shall be responsible for the eCounty's compliance with WAC 197-11-550 whenever the eCounty 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 eDepartment s of the eCounty.

**PART SIX– USING EXISTING ENVIRONMENTAL DOCUMENTS**

**18.04.180 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 eCounty's own environmental compliance. The eCounty adopts the following sections of Chapter 197-11 by reference:

- WAC 197-11-164 Planned actions – Definition and criteria.
- 168 Ordinances or resolutions designating planned actions – Procedures for adoption.
- 172 Planned actions – Project review.
- 600 When to use existing environmental documents.
- 610 Use of NEPA documents.
- 620 Supplemental environmental impact statement – Procedures.
- 625 Addenda – Procedures.
- 630 Adoption – Procedures.
- 635 Incorporation by reference – Procedures.
- 640 Combining documents.

**PART SEVEN – SEPA AND AGENCY DECISIONS**

**18.04.190 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 [article part](#) also contains procedures for appealing SEPA determinations to agencies or the courts. The eCounty adopts the following sections by reference:

**18.04.200 Substantive authority.**

- A. The policies and goals set forth in this eChapter are supplementary to those in the existing authorization of Kitsap eCounty.
- B. The eCounty may attach conditions to a permit or approval for a proposal so long as:
1. Such conditions are necessary to mitigate specific probable adverse environmental impacts identified in environmental documents pursuant to this eChapter;
  2. Such conditions are in writing;
  3. The mitigation measures included in such conditions are reasonable and capable of being accomplished;
  4. The eCounty 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 or more policies in subsection (D) of this section and cited in the license or other decision document.
- C. The eCounty 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 pursuant to this eChapter, and
  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 or more policies identified in subsection (D) of this section and identified in writing in the decision document.
- D. The eCounty designates and adopts by reference the policies set forth in RCW 43.21C.020, and the policies in the following County ordinances, plans, rules, and regulations as now existing or hereafter amended, following policies as the basis for the eCounty's exercise of authority pursuant to this section:
- ~~1. The county shall use all practicable means, consistent with other essential considerations of state policy, to improve and coordinate plans, functions, programs, and resources to the end that the state and its citizens may:~~
    - ~~a. Fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;~~
    - ~~b. Assure for all people of Washington safe, healthful, productive, and aesthetically and culturally pleasing surroundings;~~
    - ~~c. Attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;~~
    - ~~d. Preserve important historical, cultural, and natural aspects of our national heritage;~~

- e. ~~Maintain, wherever possible, an environment which supports diversity and variety of individual choice;~~
- f. ~~Achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and~~
- g. ~~Enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.~~
- 2. ~~The county recognizes that each person has a fundamental and inalienable right to a healthful environment and that each person has a responsibility to contribute to the preservation and enhancement of the environment.~~
- 3. ~~The county adopts by reference the policies in the following eCounty ordinances, plans, rules, and regulations by reference:~~
  - a~~1~~. The Kitsap County Comprehensive wWater and sSewerage pPlans;
  - b~~2~~. The Kitsap County Shoreline Management Master Program, Title 22 of this eCode, ~~as may hereafter be amended;~~
  - e~~3~~. The Kitsap County Comprehensive Plan ~~adopted May 7, 1998, as may hereafter be amended;~~
  - d~~4~~. The Kitsap County View Blockage Resolution, Chapter 17.450 of this eCode, ~~as may hereafter be amended;~~
  - e~~5~~. Kitsap County Noise Ordinance, Chapter 10.28 of this eCode;
  - f~~6~~. Kitsap County Zoning Ordinance, Title 17 of this eCode, ~~as may hereafter be amended;~~
  - g~~7~~. The Kitsap County Building Code, Chapter 14.04 of this eCode, ~~as may hereafter be amended;~~
  - h~~8~~. The Kitsap County Flood Damage Prevention Ordinance, Title 15 of this eCode, ~~as may hereafter be amended;~~
  - i~~9~~. The Kitsap County Parks, Recreation & Open Space Plan~~park and recreation plan, as may hereafter be amended;~~
  - j~~10~~. The Kitsap County Bicycle Facilities Plan~~bicycle plan;~~
  - k~~11~~. The Bremerton-Kitsap County Health District ~~board of health~~ regulations;
  - l~~12~~. Kitsap County Subdivision Ordinance, Chapters 16.04 through 16.44 of this eCode, ~~as may hereafter be amended;~~
  - m~~13~~. The Kitsap County Short Subdivision Ordinance, Chapter 16.48 of this eCode, ~~as may hereafter be amended;~~
  - n~~14~~. The Kitsap County Storm Water Management Ordinance, Title 12 of this eCode, ~~as may hereafter be amended;~~
  - o~~15~~. The Kitsap County Critical Areas Ordinance, Title 19 of this eCode, ~~as may hereafter be amended;~~
  - p~~16~~. Kitsap County-wide planning policy, adopted November 22, 2004, as may hereafter be amended.

E. The following State laws, policies, ordinances, resolutions, programs and master site plans as now existing or hereafter amended, shall supplement this Chapter:

- 1. Biosolids Management, WAC chapter 173-308;
- 2. Solid Waste Handling Standards, WAC chapter 173-350; and
- 3. Criteria for Municipal Solid Waste Landfills, WAC chapter 173-351.

**18.04.210 Appeals.**

A. In addition to the procedures set forth in Title 21 of this code, the eCounty establishes the following administrative appeal procedures under RCW 43.21C.075 and WAC 197-11-680:

1. An administrative appeal relating to a FEIS or threshold determination ~~DNS~~ for a nonexempt action that does not require a public hearing shall be heard by the Hearing Examiner.
2. An administrative appeal relating to a FEIS or threshold determination ~~DNS~~ for a nonexempt action that requires a public hearing shall be combined with and heard by the reviewing body for the underlying action.
3. Administrative appeals relating to a DS or a threshold determination ~~DNS~~ shall be heard by the hearing examiner.
4. For any appeal under this subsection, the eCounty shall provide for a record that shall consist of the following:
  - a. Findings and conclusions;
  - b. Testimony under oath; and
  - c. A taped or written transcript, the cost of which may be borne by the appellant.
5. The eCounty may require the appellant to provide an electronic transcript.
6. The procedural determination by the eCounty's ~~R~~Responsible ~~e~~Official shall carry substantial weight in any appeal proceeding.

B. Any appeal of the County's final administrative appeal under (A) shall be to Superior County pursuant to RCW 36.70C.

B.C. The eCounty shall give official notice under WAC 197-11-680(5) whenever it issues a permit or approval for which a statute or ordinance establishes a time limit for commencing judicial appeal.

**18.04.220 Notice/statute of limitations.**

A. The eCounty, 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 eCounty-~~auditor~~, applicant or proponent pursuant to RCW 43.21C.080.

**PART EIGHT – DEFINITIONS**

**18.04.230 Purpose of this part and adoption by reference.**

This part contains uniform usage and definitions of terms under SEPA. The eCounty adopts the following sections by reference, as supplemented by WAC 173-806-040, except as modified by additional definitions under KCC 18.04.030:

- WAC 197-11-700 Definitions.
- 702 Act.
- 704 Action.

- 706 Addendum.
- 708 Adoption.
- 710 Affected tribe.
- 712 Affecting.
- 714 Agency.
- 716 Applicant.
- 718 Built environment
- 720 Categorical exemption.
- 721 Closed record appeal.
- 722 Consolidated appeal.
- 724 Consulted agency.
- 726 Cost benefit analysis.
- 728 County.
- 730 Decision maker.
- ~~-732 Department.~~
- 734 Determination of nonsignificance (DNS).
- 736 Determination of significance (DS).
- 738 EIS.
- 740 Environment
- 742 Environmental checklist
- 744 Environmental document.
- 746 Environmental review.
- 750 Expanded scoping.
- 752 Impacts.
- 754 Incorporation by reference.
- 756 Lands covered by water.
- 758 Lead agency.
- 760 License.
- 762 Local agency.
- 764 Major action.
- 766 Mitigated DNS.
- 768 Mitigation.
- 770 Natural environment.
- 772 NEPA.
- 774 Nonproject.
- 775 Open record hearing.
- 776 Phased review.
- 778 Preparation.
- 780 Private project.
- 782 Probable.
- 784 Proposal.
- 786 Reasonable alternative.
- 788 Responsible official.
- 790 SEPA.
- 792 Scope.
- 793 Scoping.

- 794 Significant.
- 796 State agency.
- 797 Threshold determination.
- 799 Underlying governmental action.

**PART NINE – CATEGORICAL EXEMPTIONS**

**18.04.240 Adoption by reference.**

The County adopts by reference the following rules for categorical exemptions, as supplemented in this ordinance, including KCC 18.04.090 (Flexible thresholds), KCC 18.04.110 (Use of exemptions).

- WAC 197-11-800 Categorical exemptions.
- 880 Emergencies.
- 890 Petitioning DOE to change exemptions.

**PART TEN – AGENCY COMPLIANCE**

**18.04.250 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 categorical exemptions that do not apply within critical areas, listing agencies with environmental expertise, selecting the lead agency, and applying these rules to current agency activities. The County adopts the following sections by reference:

- WAC 197-11-900 Purpose of this part.
- 902 Agency SEPA policies.
- WAC 197-11-916 Application to ongoing actions.
- 920 Agencies with environmental expertise.
- 922 Lead agency rules.
- 924 Determining the lead agency.
- 926 Lead agency for governmental proposals.
- 928 Lead agency for public and private proposals.
- 930 Lead agency for private projects with one agency with jurisdiction.
- 932 Lead agency for private projects requiring licenses from more than one agency, when one of the agencies is a county.
- 934 Lead agency for private projects requiring licenses from a local agency, not a county and one or more state agencies.
- 936 Lead agency for private projects requiring licenses from more than one state agency.
- 938 Lead agencies for specific proposals.
- 940 Transfer of lead agency status to a state agency.
- 942 Agreements on lead agency status.
- 944 Agreements on division of lead agency duties.
- 946 DOE resolution of lead agency disputes.
- 948 Assumption of lead agency status.

**18.04.260 Fees.**

- A. The eCounty shall require the applicable fees listed in KCC 21.06.100.
- B. The eCounty may collect a reasonable fee from an applicant to cover the cost of meeting the public notice requirements of this ordinance relating to the applicant's proposal.
- C. The eCounty may charge any person for copies of any document prepared under this ordinance, and for mailing the document, in a manner provided by eChapter 42.17 RCW.
- D. As set forth in KCC 18.04.130, the applicant is responsible for paying the costs associated with preparation of an EIS where one is required.

**18.04.270 Administrative guidelines.**

The rResponsible eOfficial is authorized to adopt further administrative guidelines to provide processing, administration and interpretation of these regulations. All such policies shall be in writing and available to the public in the offices of the dDepartment of eCommunity dDevelopment.

**18.04.280 Severability.**

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

**PART ELEVEN– FORMS**

**18.04.290 WAC 173-806-230 – Adoption by reference.**

The eCounty adopts the following forms and sections by reference:

- WAC 197-11-960 Environmental checklist.
- 965 Adoption notice.
- 970 Determination of nonsignificance (DNS).
- 980 Determination of significance and scoping notice (DS).
- 985 Notice of assumption of lead agency status.
- 990 Notice of action.

**Chapter 18.08**

**(Reserved)**

\* Editor’s Note: Former Chapter 18.08, “Shoreline Management,” was primarily concerned with blocking of views caused by construction within shoreline vicinities. It was familiarly known as the “View Blockage Resolution,” and was derived from Resolution 240-1984. At the time of the 2000 republication of this code, the chapter was relocated to the Zoning Ordinance, and is now codified as Chapter 17.450, “View Blockage Requirements.”

**Chapter 18.12**  
**OPEN SPACE PLAN\***

**Sections:**

- 18.12.010 Purpose, goals and policies.
- 18.12.020 Eligible lands.
- 18.12.030 Current use valuation.
- 18.12.040 Classification of land as open space.
- 18.12.050 Length of time in classification.
- 18.12.060 Owner may request withdrawal from classification.
- 18.12.070 Action on withdrawal from classification.
- 18.12.080 Owner to notify assessor of change in use.
- 18.12.090 Transfer of classified land.
- 18.12.100 Removal of land classification by county assessor.
- 18.12.110 When removal of land not subject to additional tax.
- 18.12.120 Refund of application fee.
- 18.12.130 Disposition of additional tax, interest and penalties.

\* Editor's Note: Prior history: Resolution 112-1987.

**18.12.010 Purpose, goals and policies.**

- (a) Purpose. The purpose of the Kitsap County open space plan is to follow the legislative declaration of the open space law which states in part: "... it is in the best interest of the state to maintain, preserve, conserve and otherwise continue in existence adequate open space lands ... and to assure the use and enjoyment of natural resources and scenic beauty for the economic and social well-being of the state and its citizens ...."
- (b) Goals. The goals of the open space plan are as follows:
  - (1) To identify, restore, preserve and enhance those sites of historical, cultural, ecological and scientific significance, and other open space land as defined in RCW 84.34.020(1), as a means of enhancing the quality of life for present and future generations;
  - (2) To accomplish the intent of this program and the comprehensive plan by means of incentives rather than regulation;
  - (3) To establish a fair and objective process for determining the eligibility of lands for current use assessment as open space, and correlating current use value to the degree of public benefit derived by preservation of such lands.
- (c) Policies. The policies of the open space plan are as follows:
  - (1) Kitsap County shall promote programs which preserve and conserve open space and historical or natural areas of cultural, scientific or ecological significance.
  - (2) Kitsap County shall develop guidelines for acceptance of open space dedication.
  - (3) Kitsap County shall encourage organized private groups in their endeavors to provide park, recreation and open space facilities and services.
  - (4) Open space lands shall be readily available in all residential areas and encouraged in business areas. Public access shall be encouraged on all open space lands, if appropriate.
  - (5) Kitsap County shall encourage provision of open space within urban centers to compensate for higher residential densities.

- (6) Open space shall be distributed throughout urban areas to insure ready access to passive and active forms of recreation and preserve sensitive areas.
- (7) Where possible, open space elements shall be combined to form a visual and sometimes physical separation between major sectors of the urbanized areas in order to discourage continuous urban sprawl and preserve many of the natural features of the land.
- (8) Areas designated for open space purposes shall be held inviolate against diversion to non-open space uses, and shall not be considered as a reserve for such uses. If an overriding public purpose by another governmental agency requires the taking of open space land, compensations should be made for the area taken by the provision of an equal or better area and facilities.
- (9) Multiple uses of open space land shall be encouraged, provided that the uses are compatible and adequate area is provided for each specific function.
- (10) The county shall analyze and support applications for current use tax exemption in open space areas for their recreational and conservation value to the public.
- (11) Applications submitted for current use assessment under RCW Chapter 84.34 shall be evaluated by the county according to the public benefit to be derived in granting open space designation and will not be construed as a mechanism to subsidize an individual, organization or industry.
- (12) Kitsap County encourages dedication of open space lands in perpetuity by conservation easement.
- (13) Livestock shall be prohibited on designated open space lands and must be separated from the lands by physical barrier. However, lands that qualify as farm and agricultural conservation land shall be exempted from this policy.
- (14) Kitsap County shall recognize qualified state, county, city and independent verification of plants, animals, geologic and other natural features.

### **18.12.020 Eligible lands.**

The Open Space Act (Chapter 84.34 RCW) describes, in RCW 84.34.020, lands which may be considered for current use assessment as open space. Kitsap County has refined this definition to a prioritized list of lands which may be eligible for enrollment in the open space taxation program within the unincorporated area of Kitsap County.

- (1) State Act definition (RCW 84.34.020):
  - (A) Any land area so designated by an official comprehensive land use plan adopted by any city or county and zoned accordingly, or
  - (B) Any land area, the preservation of which in its present use would:
    - (i) Conserve and enhance natural or scenic resources, or
    - (ii) Protect streams or water supply, or
    - (iii) Promote conservation of soils, wetlands, beaches or tidal marshes, or
    - (iv) Enhance the value to the public of abutting or neighboring parks, forests, wildlife preserves, nature reservations or sanctuaries or other open space, or
    - (v) Enhance recreation opportunities, or
    - (vi) Preserve historic sites, or
    - (vii) Preserve visual quality along highway, road, and street corridors or scenic vistas, or
    - (viii) Retain in its natural state tracts of land not less than one acre situated in the urban area and open to public use on such conditions as may be reasonably required by the legislative body granting the open space classification, or
  - (C) Any land meeting the definition of farm and agricultural conservation land in this section. As a condition of granting open space classification, the legislative body may not require public access on land classified under subsection (1)(B)(iii) of this section for the purpose of promoting conservation of wetlands. "Farm and agricultural conservation land" means either:
    - (A) Land that was previously classified under RCW 84.34.020(2) (farm and agricultural land) that no longer meets the criteria of said subsection (2) and that is reclassified under RCW 84.34.020(1) (open space land), or
    - (B) Land that is traditional farmland that is not classified under RCW Chapter 84.33 or 84.34, that has not been irrevocably devoted to a use inconsistent with agricultural uses, and that has a high potential for returning to commercial agriculture.
- (2) Lands Eligible for Current Use Assessment as Open Space in Kitsap County.
  - (A) Lands which contain the following resources, as determined by Kitsap County, may be eligible for current use assessment as open space, except that where a residence or accessory dwelling unit exists a one-acre site for each dwelling unit will be excluded from eligibility.
  - (B) Recognized sources are used for identification of resources. Detailed descriptions of resources and recognized sources are contained in subsection (3) of this section.
  - (C) The presence or occurrence of an eligible resource on a parcel must be field checked by an appropriate agency. This may include the county department of community development, Washington State Department of Wildlife or Department of Natural Resources – Natural Heritage Program. All known data sources for the location of Kitsap County open space lands are noted in subsection (3) of this section. When a particular parcel is not located on the lists, a property owner

who believes that the specific resource is present, can request the appropriate agency to inspect the site for that resource, or could provide to the county and that agency for their review a site analysis prepared by a consultant specializing in that area of expertise (i.e., botanist, wildlife manager, geologist, etc.). Professional standards may be established by the county for acceptable consultants. The county shall utilize the site analysis and any comments from the agency in determining if the parcel is eligible.

<b>RESOURCE LIST</b>	<b>RECOGNIZED SOURCES</b>
<b>High Priority Resources</b>	
1. Fish-Rearing Habitat Ponds and Primary Stream Buffers	WDOF Catalog
2. Wetlands, Ponds and Streams	USFWS Inventory, WDOF Catalog
3. “Natural” Shoreline Environments	KC Shoreline Mgt. Master Program
4. Special Animals and Plants	WA Natural Heritage Plan
<b>High Priority Resources (Cont’d.)</b>	
5. Significant Wildlife Habitats	WDW
6. Archaeological and Historical Sites	WA Ofc. Arch. & Hist.
7. Urban Open Space	KC Comp. Plan Maps
8. Designated Open Space	KC Comp. Plan Maps
9. Watersheds	KC Health Dept., WSDSHS
10. Farm and agricultural conservation land	Pursuant to RCW 84.34.020
11. Conservation easement	As recorded with the county auditor
12. Land or interest acquired for open space or conservation futures	Pursuant to RCW 84.34.210-220
<b>Medium Priority Resources</b>	
1. “Conservancy” Shoreline Environments	KC Shoreline Mgt. Master Program
2. Secondary Stream Buffers	High Priority List items 1 & 2
3. Geologic and Shoreline Features	Natural Heritage Program
4. Public Lands Buffer	KC Comp. Park & Rec. Plan
<b>Low Priority Resources</b>	
1. Steep Slopes	KC Slope Stability Study
2. Private Recreation Areas	By Definition

RESOURCE LIST	RECOGNIZED SOURCES
3. “Rural” Shoreline	KC Shoreline Mgt. Master Program
4. Preservation of visual quality	Pursuant to RCW 84.34.020

(3) Detailed Descriptions of Priority Resources.

(A) *High Priority Resources.*

(i) *Fish Rearing Habitat – Ponds and Primary Stream Buffers.*

Definition: Ponds, rivers and streams which are used in the life cycles of fish based on data compiled by the Washington State Department of Fisheries and other agencies with appropriate expertise. Primary streamside buffers shall be no less than twenty-five feet and no more than fifty feet in width on either side of the stream, and shall be fenced as necessary to prevent intrusion by livestock, in order to qualify as a high priority resource. Additional buffer width shall be as a medium priority resource – secondary stream buffer.

Small lakes, over one acre in size and creeks or streams located within a well-defined channel that carry a perennial flow throughout the year (ninety percent of the time or more); and which also support fish and are not under the jurisdiction of the Shoreline Management Act.

Source: Catalog of Washington Streams – State Department of Fisheries: also Washington

Department of Wildlife and the Department of Natural Resources stream maps.

Examples: Dogfish Creek, Barker Creek, Buck Square Lake.

Criteria: Eligible lands are those meeting the definition above. Not eligible under this category if site is also a “natural” shoreline environment or a “conservancy” shoreline environment. A primary streamside buffer of natural vegetation at least twenty-five feet in width must be preserved from clearing and intrusion by livestock.

(ii) *Wetlands, Ponds and Streams.*

Definition: Wetlands as defined by the Kitsap County critical area designation as well as ponds and streams which are not used in the life cycles of fish.

Sources: Wetland Inventory – United States Department of the Interior, Fish and Wildlife Service:

Catalog of Washington Streams – State Department of Fisheries, also Department of Wildlife.

Example: Morgan’s Marsh.

Criteria: Eligible lands are those meeting the definition above. Not eligible under this category if site is also a “natural” shoreline environment, a “conservancy” shoreline environment, or a fish rearing habitat. A primary streamside buffer of at least twenty-five feet in width must be preserved from clearing and intrusion by livestock.

(iii) *“Natural” Shoreline Environment.*

Definition: A marine, lake or riverine shoreline and its “associated wetlands” identified as a “natural environment” in the Shoreline Management Master Program for Kitsap County.

Source: Shoreline Management Master Program – Kitsap County.

Examples: Starts Bay, the Nature Conservancy (Hansville).

Criteria: Eligible lands are those identified as “natural” shoreline environments and their associated wetlands in the Shoreline Management Master Program for Kitsap County.

Only those lands in the actual shoreline classification adjacent to the water shall be eligible for the open space tax program. This area encompasses two hundred feet upland from the ordinary high-water mark, or the edge of the associated wetland boundary. Use restrictions may be placed within these areas and all proposed forest practice applications shall be prefiled with the Kitsap County department of community development to determine if any special cutting restrictions will be appropriate.

(iv) *Special Animals and Plants.*

A. Special Animals.

Definition: Those animal species defined in the Natural Heritage Plan listed as being either an endangered, threatened or sensitive species by the Washington State Department of Game. Within Kitsap County this term shall also include all monitor species.

Source: Natural Heritage Plan administered by the Washington State Department of Natural Resources, Natural Heritage Program. The Natural Heritage data base administered by the Washington State Department of Natural Resources, Natural Heritage Program and the Washington State Department of Wildlife, Nongame Division.

Criteria: Eligible sites are those in the Natural Heritage Data Base as verified by the Natural Heritage Program or which are verified by the State Department of Game or an expert in the field as containing the same animals and which are acceptable by the state agency for addition to the data base. Properties which are eligible under “significant wildlife habitat” would not be eligible in this subsection.

B. Special Plants.

Definition: Those vascular plant species defined in the Natural Heritage Plan listed as being either an endangered, threatened or sensitive species by the Washington State Department of Natural Resources, Natural Heritage Program.

Source: Natural Heritage Plan administered by the Washington State Department of Natural Resources, Natural Heritage Program.

Examples: Sphagnum moss bog or fen.

Criteria: Eligible sites are those in the Natural Heritage data base, as verified by the Natural Heritage Program, or which are verified by an expert in the field as containing the same plants and which are acceptable by the state agency for addition to the data base.

(v) *Significant Wildlife Habitat Area.*

Definition: An area which is utilized by both special and/or other animals in such frequency and diversity for critical ecological processes occurring such as breeding, nesting, feeding and resting.

Source: Washington Department of Wildlife.

Example: Ross Point.

Criteria: Eligible areas are those identified by either: (1) the Washington Department of Wildlife (WDW); or (2) a competent professional whose findings are substantiated by WDW.

(vi) *Archaeological and Historical Sites.*

A. Archaeological Site.

Definition: All sites and locations of prehistorical or archaeological interest including but not limited to burial sites, camp sites, rock shelters, caves and the artifacts and implements of the culture.

Source: Location and details of known sites are on file at the Washington State Office of Archeology and Historic Preservation. General information available by request on a square-mile-basis.

Criteria: Eligible lands are those which are either: (1) on file at the Washington State Office of Archeology and Historic Preservation; or (2) verified by an expert in the field as containing the same features and acceptable by the State Office of Archeology and Historic Preservation for addition to their inventory.

#### B. Historical Site.

Definition: A building, structure or site which is of significance to the county's cultural heritage including, but not limited to: Native American and pioneer settlements, old buildings, forts, trails, landings, bridges or the sites thereof together with interpretive facilities, and which are identified on a local, state or national register of historic places. A building or structure shall include a maximum of one acre of land.

Source: No comprehensive inventory has been done by the county to date. Refer to state or national register at state Office of Archeology and Historic Preservation. The Kitsap County Historical Society maintains a list of historical sites in Kitsap County.

Examples: Port Madison, Fort Ward, Old Man House.

Criteria: Eligible lands are those on the State and National Registers of Historic Places or any county register of historic places which is developed in the future. Sites identified by the Kitsap County Historical Society may also be considered as medium or low priority resources.

#### (vii) *Urban Open Space.*

Definition: Land maintained in its natural state, with appropriate public access, and located within an urbanizing area.

Source: Kitsap County Comprehensive Plan maps.

Criteria: Eligible lands are those meeting the definition above. "Urbanizing area" shall mean that area within an area designated "urban" or "semi-urban" on the Comprehensive Plan maps of Kitsap County.

#### (viii) *Designated Open Space.*

Definition: Land designated "open space" by Kitsap County Comprehensive Plan, South Kitsap Subarea Plan, Central Kitsap Subarea Plan or North Kitsap Subarea Plan.

Source: Land designated "open space" by the Kitsap County Comprehensive Plan, South Kitsap Subarea Plan, Central Kitsap Subarea Plan or North Kitsap Subarea Plan.

Example: None at this time.

Criteria: Eligible lands are those designated as "open space" by one or more of the above planning documents in order to preserve the existing character of a particular area.

#### (ix) *Watersheds and Aquifer Recharge Area.\**

Definition: Undeveloped land which serves as the watershed for a "public water system" as defined in WAC 248-54-560, or aquifer recharge areas defined in the critical area designation for Kitsap County.

Source: Bremerton-Kitsap health department, Washington State Department of Social and Health Services, Kitsap PUD No. 1.

Criteria: Eligible lands are those meeting the definition above. Given the nature and function of the resource, public access may be restricted due to sensitivity.

\* Note: Aquifer recharge areas will be included in this category upon designation of said areas.

(x) *Farm and Agricultural Conservation Land.*

Definition: "Farm and agricultural conservation land" means either:

- A. Land that was previously classified under RCW 84.34.020(2) (farm and agricultural land) that no longer meets the criteria of said subsection (2) and that is reclassified under RCW 84.34.020(1) (open space land).
- B. Land that is traditional farmland that is not classified under RCW Chapters 84.33 or 84.34, that has not been irrevocably devoted to a use inconsistent with agricultural uses, and that has a high potential for returning to commercial agriculture. A farm plan which includes water quality protection measures from the Kitsap conservation district may be required prior to approval of open space designation.

Sources: RCW 84.34.020(8).

Example: The Howe family farm located at the intersection of Long Lake Road and Mile Hill Drive in South Kitsap.

Criteria: Eligible lands are those meeting the definition above.

(xi) *Conservation Easement.*

Definition: Agreement between the property owner and one or more of the following:

- A. The state of Washington (through one of its resource agencies);
- B. A public or private land trust; or
- C. Other appropriate entity (*see* RCW 84.34.210) which permanently transfers development rights for purposes of perpetual, or long-term conservation.

Source: RCW 64.04.030.

Examples: The following list of organizations\* may accept a conservation easement:

Kitsap Land Trust;  
Bainbridge Island Land Trust;  
Hood Canal Land Trust;  
Indianola Land Trust;  
The Nature Conservancy;  
The local Indian tribes; and  
The Kitsap County Open Space Program.

\* It should be noted that there may be other organizations available to accept conservation easements.

(xii) *Land or Interest Acquired for Open Space or Conservation Futures.*

(B) *Medium Priority Resources.*

(i) *"Conservancy" Shoreline Environment.*

Definition: All marine, lake and riverine shorelines and "associated wetlands" identified as a "conservancy environment" under the jurisdiction of the Shoreline Management Act, and not in another shoreline category of this open space tax program priority lands list.

Sources: Shoreline Management Master Program – Kitsap County.

Example: Restoration Point.

Criteria: Eligible lands are all conservancy shoreline environments as identified in the Shoreline Management Master Program for Kitsap County with preference given to the “Shorelines of Statewide Significance.” Area to be included is two hundred feet upland from the ordinary high-water mark, or the associated wetland. Use restrictions may be placed within these areas and all proposed forest practice applications shall be prefiled with the county department of community development to determine if any special cutting restrictions would be appropriate.

(ii) *Secondary Stream Buffers.*

Definition: A streamside buffer at least seventy-five feet in width which is in addition to a primary streamside buffer.

Source: Added to streams identified as high priority resources.

Criteria: Eligible lands are those which qualify for high priority resource by providing a primary streamside buffer and an additional buffer preserved from clearing and intrusion by livestock.

(iii) *Geological and Shoreline Features.*

Definition: Those special features as defined in the Natural Heritage Plan generally including but not limited to special geologic locations (fossils), works of geomorphology (waterfalls), or those unique and undeveloped shoreline features of Puget Sound including spits, lagoons or points.

Source: Natural Heritage Data Base.

Example: Foulweather Bluff.

Criteria: Eligible sites are those which are either: (1) on file in the Natural Heritage database, or (2) verified by an expert in the field as containing the same features as those in the data base and are also acceptable by the state agency for addition to the Natural Heritage data base. Minimum area eligible for enrollment, whether in single or multiple ownerships, is a significant portion of the feature.

(iv) *Public Lands Buffer.*

Definition: Lands lying adjacent to public projects or forests, and lands lying adjacent to public or private wildlife preserves, natural reservations or sanctuaries.

Source: Kitsap County Comprehensive Park and Recreation System Plan, Kitsap County Assessor.

Criteria: Lands being buffered shall be in public ownership or private lands shall be enrolled in the open space program.

(C) *Low Priority Resources.*

(i) *Steep or Unstable Slopes.*

Definition: Steep slopes are those with a slope of fifteen percent or greater. Unstable slopes are those identified as intermediate or unstable by the Slope Stability Atlas.

Source: Kitsap County Slopes Stability Study – Jerry Deeter, 1977.

Criteria: Eligible lands are those meeting the definition above or which are verified by an expert in the field as having unstable slopes and/or slopes of fifteen percent or greater.

(ii) *Private Recreation Area.*

Definition: An area operated and devoted to facilities and equipment for outdoor recreational purposes, including tennis courts, playgrounds, golf courses and other similar uses whether or not the use of such area is open to the public upon the payment of a fee. Shall not include recreational vehicle parks portion of a site.

Source: No county inventory available.

Example: Clover Valley Golf and Country Club.

Criteria: Eligible lands are those meeting the above definition and providing some recreational and/or buffering benefit to properties nearby.

(iii) *“Rural” Shoreline Environments.*

Definition: All marine, lake and riverine shorelines and “associated wetlands” identified as a “mini environment” under the jurisdiction of the Shoreline Management Act, and not in another shoreline category of this open space tax program priority lands list.

Example: Restoration Point.

Criteria: Eligible lands are all rural shoreline environments as identified in the Shoreline Management Master Program for Kitsap County with preference given to the “Shorelines of Statewide Significance.” Area to be included is two hundred feet upland from the ordinary high-water mark, or the associated wetland. Use restrictions may be placed within these areas and all proposed forest practice applications shall be prefiled with the Kitsap County department of community development to determine if any special cutting restrictions would be appropriate.

(iv) *Preservation of Visual Quality.*

Definition: To preserve visual quality along highway, road, and street corridors or scenic vistas.

Source: The Open Space Act, Chapter 84.34 RCW.

Example: Ollala Valley South, Big Valley North.

(4) Ineligible Lands.

(A) Those lands which do not contain a resource identified as either a high, medium, or low priority in Section 18.12.020(2) are not eligible for enrollment in the program.

(B) Open space lands which are associated with a development where maximum development potential has been achieved under land use regulations shall not be eligible for enrollment in the open space program. An example is a planned unit development with clustered dwelling units.

### **18.12.030 Current use valuation.**

The current use value of open space lands shall be determined using the public benefit rating system below. Current use value is expressed as a percentage of the highest and best market value as determined by the county assessor.

(1) Public Benefit Rating System.

#### **Tax Reduction**

(A) A minimum of two priority resources with no more than one in the low priority category. 50%

(B) A minimum of two priority sources with no more than one in the low priority category and with appropriate public access. 60%

(C) A minimum of three prior-

ity resources with no more than one in the low priority category and including a conservation easement. 80%

- (D) A minimum of three priority resources with no more than one in the low priority category and including a conservation easement and appropriate public access. 90%

- (2) Appropriate public access shall include the first of the following which does not conflict with the purposes of the open space classification, and where the landowner is protected from liability for unintentional personal injury to the public pursuant to RCW 4.24.210:
- (A) The public shall be entitled to free access to this property, subject to notification to and consent of the owner. Access is limited to passive forms of recreation or educational pursuits in which the land and its ecological balance remain undisturbed.

Signs shall be posted that state the following:

This property is classified as Open Space pursuant to the State Open Space Act of 1970 (RCW 84.34). Public access permitted subject to notification and consent of land owner.

Property is environmentally sensitive. Hunting, littering, excessive noise, cutting of vegetation or any action which may endanger the animal or plant life on this property is strictly prohibited. Violators will be considered trespassers.

*Example:*

John Doe, Owner  
Address  
Phone Number

- (B) Public access is limited to education and demonstration by example on recreational properties that require user membership.
- (C) Due to sensitivity of the land, access shall be limited to educational and scientific purposes only. Public access may be limited to certain times of the year to avoid disruption of “special animals or plants.”
- (D) Due to environmental sensitivity, as verified by a qualified wetlands expert, biologist or appropriate state agency, public access shall not be required.

#### **18.12.040 Classification of land as open space.**

- (a) RCW 84.34.037 stipulates that applications for classification of land as open space be acted upon in the same manner in which an amendment to the Comprehensive Plan is processed. The board of county commissioners, as the legislative authority for the unincorporated area of Kitsap County, acts as the granting authority. The board acts upon the recommendation of the planning agency which consists of the planning commission and the department of community development.

- (b) The task of the granting authority when reviewing an application for open space current use assessment is to assign a public benefit rating (PBR) using the rating system in Section 18.12.030(1).

**18.12.050 Length of time in classification.**

Once land has been classified as open space, it shall not be applied to any other use for a period of not less than ten years. The land shall continue in classification after the ten-year period until a request for withdrawal is made by the owner or until the use of the land has changed or it has been transferred and the new owner has not signed a notice of continuance.

**18.12.060 Owner may request withdrawal from classification.**

After eight years of the initial ten-year period has passed the land owner may request that all or part of his land be withdrawn from the classification. The request shall be made to the assessor and shall be considered a tentative request for a period of one year during which time the request may be withdrawn without penalty. If a portion of a parcel is removed from classification the remaining portion must meet the requirements for original classification.

**18.12.070 Action on withdrawal from classification.**

Upon receipt of a request for withdrawal, the assessor shall notify the granting authority which originally removed the classification, and when two years have elapsed the assessor shall withdraw the land from classification. The land which is removed shall be subject to a tax equal to the difference between the amount of tax paid under the open space classification and the tax at true and fair value for seven years last past, plus the statutory interest rate charged on delinquent property taxes.

**18.12.080 Owner to notify assessor of change in use.**

An owner who changes the use of classified land, must within sixty days after such change in use notify the county assessor of the change. The assessor shall then impose an additional tax equal to the difference between the tax paid on current use value and the tax that would have been paid on that land had it not been so classified, payable for the seven years last past, plus interest on this additional tax at the same rate as charged on delinquent taxes, plus a penalty of twenty percent of the total amount.

**18.12.090 Transfer of classified land.**

When classified land is transferred, the seller or transferor becomes liable at the time of sale for the additional tax, interest and penalty of all or a portion of classified lands, unless the new owner signs the notice of continuance which is attached to or shown on the excise tax affidavit. The county auditor shall not accept for recording an instrument of conveyance on any classified land unless the notice of continuance has been signed or the additional tax has been paid.

**18.12.100 Removal of land classification by county assessor.**

- (a) The assessor may determine, after giving the owner written notice and an opportunity to be heard, that the land classified as open space land no longer qualifies for the purpose for which it was granted classification.
- (b) Within thirty days after the assessor has determined the land no longer qualifies for classification, the assessor shall notify the owner in writing and explain why such action was

taken. The owner may appeal the removal of classification to the county board of equalization.

- (c) At the time land is removed from classification it becomes subject to an additional tax, interest, and penalty thereon.

**18.12.110 When removal of land not subject to additional tax.**

The additional tax, applicable interest, and penalty specified in subsection (c) of Section 18.12.100 shall not be imposed if the removal of classification pursuant to subsection (a) of Section 18.12.100 resulted solely from:

- (a) Transfer to a government entity in exchange for other land located within the state of Washington;
- (b)(i) A taking through the exercise of the power of eminent domain, or (ii) sale or transfer to an entity having the power of eminent domain in anticipation of the exercise of such

power, said entity having manifested its intent in writing or by other official action;

(c) A natural disaster such as a flood, windstorm, earthquake, or other such calamity rather than by virtue of the act of the landowner changing the use of such property;

(d) Official action by an agency of the state of Washington or by the county or city within which the land is located which disallows the present use of such land;

(e) Transfer of land to a church when such land would qualify for exemption pursuant to RCW 84.36.020;

(f) Acquisition of property interests by state agencies or agencies or organizations qualified under RCW 84.34.210 and 64.04.130 for the purposes enumerated in those sections: provided, that at such time as these property interests are not used for the purposes enumerated in RCW 84.34.210 and 64.04.130 the additional tax specified in subsection (c) of Section 18.12.100 shall be imposed;

(g) Removal of land classified as farm and agricultural land under RCW 84.34.020(2)(d);

(h) Removal of land from classification after enactment of a statutory exemption that qualifies the land for exemption and receipt of notice from the owner to remove the land from classification;

(i) The creation, sale, or transfer of forestry riparian easements under RCW 76.13.120; or

(j) The creation, sale, or transfer of a fee interest or a conservation easement for the riparian open space program under RCW 76.09.040.

(Res. 396-1992 § 4 (part), 1992)

#### **18.12.120 Refund of application fee.**

The application fee may be refunded if the open space application is withdrawn, by the owner, prior to the advertisement of the public hearing on the application.

(Res. 396-1992 § 4 (part), 1992)

#### **18.12.130 Disposition of additional tax, interest and penalties.**

All additional taxes, interest and penalties imposed and received because of the removal of land from open space classification shall to the extent permitted by state law, be deposited into the open space conservation futures fund for acquisition of open space.

(Res. 396-1992 § 4 (part). 1992)

### **Chapter 18.16**

#### **TIMBER HARVEST\***

\* **Editor's Note:** Prior Ordinance History: Ordinance 150 (1993) was previously codified in this chapter.

#### **Sections:**

- 18.16.010 Title.
- 18.16.020 Purpose.
- 18.16.030 Definitions.
- 18.16.040 Compliance required.
- 18.16.050 Exclusions.
- 18.16.060 Permit required.

- 18.16.070 Standards.
- 18.16.080 Application for timber harvest permit.
- 18.16.090 Application for conversion option harvest plan.
- 18.16.100 Contents of an application.
- 18.16.110 Map of proposed timber harvest.
- 18.16.120 Application fee.
- 18.16.130 Review by director.
- 18.16.140 (Repealed)
- 18.16.150 Timber harvest permit approval expiration.
- 18.16.160 Appeal.
- 18.16.170 Amendment to approved timber harvest permit.
- 18.16.175 Forestry in Rural Wooded Incentive Program development.
- 18.16.180 Lifting of forest practices six-year development moratorium.
- 18.16.190 Enforcement.
- 18.16.200 Construction.

**18.16.010 Title.**

The ordinance codified in this chapter shall be known as the “Timber Harvest Ordinance.” (Ord. 150-A (2000) § 1, 2000)

**18.16.020 Purpose.**

The purpose of this chapter is to identify and mitigate, minimize or eliminate potential impacts from timber harvest on drainage courses and critical areas. Orderly development and protection of critical areas directly concern the public’s health, safety and welfare. Pursuant to RCW 76.09.0240 and WAC 222-20-040, Kitsap County has limited authority to regulate Class IV forest practices and this chapter is an exercise of that authority. These regulations establish procedures for review of conversion forest practices application(s), conversion option harvest plan and lifting of permit moratoria.

This chapter implements WAC 222-20-040(3) relating to conversion forest practices and is not intended as a separate Forest Practice permit system. This chapter does not affect Class I, II or III forest practices as defined in the Forest Practices Act, Chapter 76.09 RCW. Conditions of issuance of timber harvest permit pursuant to this chapter are intended to be conditions on the forest practices application to the Washington State Department of Natural Resources when that department issues a forest practices application pursuant to WAC 222-020-040. Issuance of a timber harvest permit does not grant authority to begin any forest practice as defined in Chapter 76.09 RCW, as such authority is statutorily vested in the Department of Natural Resources.

This chapter implements WAC 222-20-050 relating to conversion option harvest plan and RCW 76.09.060 relating to the six-year permit moratorium.

This chapter will be supplemented with a memorandum of agreement between the Department of Natural Resources and Kitsap County.

(Ord. 150-A (2000) § 2, 2000)

**18.16.030 Definitions.**

For the purpose of this chapter, unless otherwise specifically provided, certain words, terms, and phrases are defined as follows:

1. “Applicant” means the person, party, firm, corporation or legal entity that proposes a timber harvest of property in Kitsap County or agent thereof.
2. “Board” means the legislative authority of Kitsap County.
3. “Buffer” means a strip of land that provides visual screening, and/or protection of critical areas by preserving existing natural vegetation to the greatest extent possible.
4. “Comprehensive Plan” means the current Comprehensive Plan of Kitsap County approved by the board pursuant to state law.
5. Conversion. “Conversion to a use other than commercial timber operation” means a bona fide conversion to an active use that is incompatible with timber growing.
6. “Conversion option harvest plan” means a plan for landowners who want to harvest their land but wish to maintain the option for conversion pursuant to WAC 222-20-050.
7. “County” means Kitsap County.
8. Critical Areas. Pursuant to the Critical Areas Ordinance (Title 19 of this code), and as hereafter amended, “critical areas” include the following areas and ecosystems:
  - (a) Wetlands;
  - (b) Areas with a critical recharging effect on aquifers used for potable water;
  - (c) Fish and wildlife habitat conservation areas;
  - (d) Frequently flooded areas; and
  - (e) Geologically hazardous areas.
9. “Critical areas buffer” means an area of protection around a critical area.
10. Danger Trees. Pursuant to the Critical Areas Ordinance (Title 19 of this code), and as hereafter amended, “danger trees” means any tree of any height, dead or alive, that presents a hazard to the public because of rot, root system or limb damage, lean or any other observable condition created by natural process or man-made activity consistent with WAC 296-54-529(290).
11. “Department” means the Kitsap County department of community development.
12. “Director” means the director of the county’s department of community development or an assigned designee.
13. “Engineer” means the county’s engineer.
14. Essential Public Facility. An “essential public facility” (“EPF”) may be any facility which provides a public service as its primary mission; the facility may be owned or operated by a unit of local or state government or by a privately owned entity. EPF’s include, but are not limited to, the following examples: state education facilities; publicly supported education facilities; state or regional transportation facilities; prisons, jails and other correctional facilities; solid waste handling facilities; airports; in-patient facilities (including substance abuse and mental health institutions and group homes); and communications towers and antennas used exclusively for governmental purposes.
15. “Forest land” as defined in RCW 76.09.020, shall mean all land which is capable of supporting a merchantable stand of timber and is not being actively used for a use which is incompatible with timber growing.
16. “Forest practice” means any activity conducted on or directly pertaining to forestland and relating to growing, harvesting or processing timber, including but not limited to:
  - (a) Road and trail construction;
  - (b) Harvesting, final and intermediate;
  - (c) Precommercial thinning;

- (d) Reforestation;
- (e) Fertilization;
- (f) Prevention and suppression of diseases and insects;
- (g) Salvage of trees; and
- (h) Brush control.

17. "Forest practices application" means the application required to be submitted to the Washington State Department of Natural Resources (DNR) for the harvest of forest products.

18. "Hearing examiner" means a person appointed to hear or review certain land use applications and appeals pursuant to Title 21 of this code, the Land Use and Development Procedures Ordinance.

19. "Non-forestry use" means an active use of land that is incompatible with timber growing.

20. "Owner" means any person or persons having a legal or equitable property right or interest, whether it be legal or equitable in character, including a fee owner, contract purchaser or seller, mortgagor or mortgagee, optionor or optionee, and beneficiary or grantor of a trust and deed of trust.

21. "Public resources" means water, fish and wildlife, and in addition shall mean capital improvements of the state or its political subdivisions.

22. Primary Development. Primary development shall include:

- (a) All short plats, large lots, long plats;
- (b) Site plan review;
- (c) Planned unit developments or performance based development;
- (d) Shoreline development permits;
- (e) Unclassified use permits; and
- (f) Conditional use permits.

23. "Shoreline Management Program" means RCW 90.58.030, the Shoreline Management Act, and the Kitsap County Shoreline Management Master Program.

24. "Timber harvest" means the activity pertaining to the cutting and/or removal of forest product, but shall not include fertilization, prevention and suppression of diseases and insects and brush control.

25. "Timber harvest permit" shall apply to Class IV general forest practices on land which is proposed for conversion to a use other than commercial timber production or land which has been platted after January 1, 1960, as set forth in RCW 76.90.050.

26. "Vegetation" means all the plants or plant life on a specific parcel.  
(Ord. 150-A (2000) § 3, 2000)

#### **18.16.040 Compliance required.**

All timber harvest permits shall comply with this chapter.  
(Ord. 150-A (2000) § 4, 2000)

#### **18.16.050 Exclusions.**

This chapter shall not apply to timber harvest operations, other than Class IV general forest practices on land proposed for conversion to a use other than commercial timber production or land, which has been platted after January 1, 1960, as, set forth in RCW 76.90.050.  
(Ord. 150-A (2000) § 5, 2000)

**18.16.060 Permit required.**

A timber harvest permit shall be required for applications involving Class IV general forest practices on land proposed for conversion to a use other than commercial timber production or land, which has been platted after January 1, 1960, as, set forth in RCW 76.90.050 and WAC 222-20-010.

(Ord. 150-A (2000) § 6, 2000)

**18.16.070 Standards.**

The following standards shall apply to land being converted to a non-forestry use, except where these standards conflict with the provisions of an approved primary development, in which case the primary development requirements will take precedence:

- (a) Compliance with any other applicable Kitsap County Ordinances.
- (b) In the event that thinning or topping is necessary the director may require replanting of the buffer area.
- (c) Required erosion control measures shall be implemented and maintained to the current Kitsap County silt and erosion control policies.
- (d) When a project is phased, the timber harvest may also be phased.
- (e) It is the applicant's responsibility to arrange for on-site inspection of the project as may be outlined in the conditions of the timber harvest permit.

(Ord. 150-A (2000) § 7, 2000)

**18.16.080 Application for timber harvest permit.**

(a) All timber harvest applications shall be made to the Kitsap County department of community development prior to submittal of the forest practices application to the Department of Natural Resources.

(b) All timber harvest applications shall declare the type, scale and schedule of future development plans. If primary development approval is required, a timber harvest permit will not be granted until the primary development application is approved by the county.

(Ord. 150-A (2000) § 8, 2000)

**18.16.090 Application for conversion option harvest plan.**

(a) The purpose of the conversion option harvest plan is to allow limited selective logging prior to final primary development approval. Each conversion option harvest plan shall be reviewed by the director on an individual basis.

(b) A conversion option harvest plan shall be submitted to the Kitsap County department of community development pursuant to WAC 222-20-050 prior to application for primary development and/or timber harvest activities on the project site.

(c) Approval of a conversion option plan shall be reduced to a written contract between Kitsap County and the applicant that shall be recorded with the Kitsap County auditor.

(d) The conversion option harvest plan shall expire upon expiration of the forest practices application/notification.

(Ord. 150-A (2000) § 9, 2000)

**18.16.100 Contents of an application.**

A timber harvest application or conversion option harvest plan shall contain the following:

- (a) Name, address and telephone number of the owner of record of the real property;

(b) A legal description of the real property to be divided;

- (c) Two copies of the map of proposed timber harvest area as described in Section 18.16.110;
  - (d) The signature of the owner of record of the real property;
  - (e) Assessor's account number;
  - (f) A statement declaring the type and scale and schedule of future development plans;
  - (g) An environmental checklist; and
  - (h) A completed Department of Natural Resources forest practices application.
- (Ord. 150-A (2000) § 10, 2000)

**18.16.110 Map of proposed timber harvest.**

The map of the proposed timber harvest or conversion option harvest plan shall contain the following:

- (a) Map drawn to scale no less than one inch to two hundred feet, which scale shall be shown on the drawing;
  - (b) The map shall show areas to be cut, buffers, drainage ways and culverts;
  - (c) A temporary silt and erosion control plan and any other proposed mitigation efforts;
  - (d) North point;
  - (e) The approximate location of structures;
  - (f) The location of all existing and proposed streets, right-of-way, easements, skid roads, haul roads and landings within the proposal and, where possible, labeling each of the foregoing by width; and
  - (g) The approximate location of any lakes, ponds, wetlands, streams, creeks, shorelines, marshes, and slopes approximately thirty percent or greater.
- (Ord. 150-A (2000) § 11, 2000)

**18.16.120 Application fee.**

An application fee per the Kitsap County Development Permit Fee Schedule (Section 21.06.100) shall be submitted to the department of community development.  
(Ord. 291 (2002) § 14, 2002; Ord. 150-A (2000) § 12, 2000)

**18.16.130 Review by director.**

- (a) The director shall consider the following to assure the application meets the guideline of WAC 222-20-040:
  - (1) Zoning, Title 17 Kitsap County Code;
  - (2) Comprehensive Plan and subarea plans;
  - (3) Shoreline Management Master Program, Title 22 Kitsap County Code;
  - (4) Flood Hazard Areas, Title 15 Kitsap County Code;
  - (5) Environment, Title 18 Kitsap County Code;
  - (6) Critical Areas Ordinance, Title 19 Kitsap County Code;
  - (7) Storm Water Drainage, Title 12 Kitsap County Code;
  - (8) Construction of Approaches to County Roads, Chapter 11.24 Kitsap County Code;
  - (9) Location and design of roads;
  - (10) Other applicable ordinances and regulations.
- (b) The director shall determine if the application conforms to the requirements of this chapter.

(c) If the director approves of the timber harvest permit or conversion option harvest plan, he or she shall signify his or her approval by providing a letter to the owner within thirty calendar days of the application submittal.

(d) If the director disapproves or finds the application incomplete, he or she shall provide a written explanation thereof within 30 calendar days of the application submittal to the owner. (Ord. 290 (2002) § 12, 2002: Ord. 150-A (2000) § 13, 2000)

**18.16.140 (Repealed)\***

\* Editor's Note: Former Section 18.16.140, "Review by engineer," was repealed by Section 13 of Ord. 290 (2002). This section was originally derived from Ord. 150-A (2000) § 14.

**18.16.150 Timber harvest permit approval expiration.**

Approval shall be valid for two years following approval and shall expire thereafter. (Ord. 150-A (2000) § 15, 2000)

**18.16.160 Appeal.**

Any person wishing to appeal the granting, denial or conditions of approved timber harvest permit or conversion option harvest plan shall follow the appeal procedure for a departmental ruling as set forth in the Land Use and Development and Procedures Ordinance (Title 21 of this code) and subsequent amendments.

(Ord. 150-A (2000) § 16, 2000)

**18.16.170 Amendment to approved timber harvest permit.**

A timber harvest permit, which has been approved, may be amended by the applicant. The contents and procedure for an amended application shall be the same as Sections 18.16.080, 18.16.090 and 18.16.100. The application fee shall be per the Kitsap County Development Permit Fee Schedule (Section 21.06.100). Amended applications shall be forwarded to the Department of Natural Resources on approval.

(Ord. 291 (2002) § 15, 2002: Ord. 150-A (2000) § 17, 2000)

**18.16.175 Forestry in Rural Wooded Incentive Program development.**

Forestry activities in the Wooded Reserve and Permanent Open Space tracts of a Rural Wooded Incentive Program development shall be reviewed by the Department for consistency with Washington State Department of Natural Resources timber harvest standards. Forestry activities within these tracts will not be considered Class IV general applications for conversion.

**18.16.180 Lifting of forest practices six-year development moratorium.**

The purpose of this section is to provide criteria and a process for lifting a forest practices six-year development moratorium under certain circumstances. It establishes a public notification process, with criteria and standards by which the board of county commissioners may lift a six-year development moratorium.

A. Process For Lifting A Forest Practices Six-Year Development Moratorium. Any person who intends to convert property which has been logged pursuant to a Class II, III or IV special

non-conversion forest practices application or notification, or without any such application or notification, from forestry use to another use, shall notify the director in writing of such an intent.

Upon receipt of a written intention for conversion of a non-conversion forest practices application/notification, the director shall insure that the property owner causes notice of intention thereof to be published at least once a week on the same day of the week for two consecutive weeks in a newspaper of general circulation within the area in which the property is located. In addition, the director shall insure that the property owner provides additional notice of such intention by the following methods:

(1) Mailing to the latest recorded real property owners as shown by the county assessor within at least four hundred feet of the boundary of the property upon which the conversion is proposed. If the applicant owns property adjoining or across a right-of-way or easement from the property that is the subject of the request, notice shall be mailed to owners of property within a four hundred foot radius, as provided in this subsection, of the edge of the property owned by the applicant adjoining or across a right-of-way or easement from the property that is the subject of the request.

(2) Posting in a conspicuous manner on the property upon which the conversion is requested.

An affidavit that the notice has been properly published, the property posted and notice letters deposited in the U.S. Mail pursuant to this section shall be affixed to the request. Such notices shall include a statement that within fifteen days of the final publication, any interested person may submit his or her written views upon the conversion request to the director or to notify the director of his or her desire to receive a copy of the action taken upon the request. All persons who notify the director of their desire to receive a copy of the final order shall be notified in a timely manner of the action taken upon request. Notice of a hearing shall include a statement that any person may submit oral or written comments on an application at such hearing. All notices of conversion request shall be submitted on the county-approved notice application form and be approved by the director prior to publication.

The director shall review the request for conversion, any comments received, standards of Sections 18.16.130, 18.16.140 and subsection (B) of this section, and inspect the property prior to setting a public hearing before the board of county commissioners. At least seven days before the date of the first hearing on the request for conversion the director shall issue a written staff report and recommendation. The director shall make a copy of the staff report available to the public for review and inspection, mail a copy of the consolidated report and recommendation to the review authority, and mail or provide copies to other parties who request it.

B. Criteria. The board of county commissioners may lift a six-year development moratorium only upon finding that each of the following criteria has been met:

(1) Lifting the moratorium will not be detrimental to the public health, safety, and general welfare.

(2) Lifting the moratorium will not be injurious to the property or improvements adjacent to and in the vicinity of the proposal.

(3) Lifting the moratorium will be neutral or more beneficial as to environmental effects.

(4) Lifting the moratorium is consistent with the goals, objectives and policies of the Kitsap County Comprehensive Plan.

(5) One of the following has occurred:

(a) The site has been designated for an essential public facility as defined in this chapter or has been designated as a public facility on the Comprehensive Plan Map; or

(b) Is a capital facility of the state or its political subdivision necessary for the protection of a natural resource; or

(c) The landowner has provided evidence that a theft of timber or a fraudulent forest practice application has been submitted without his or her knowledge or consent.

(6) The logging activities conducted on the site complied with requirements of the Forest Practices Act, including but not limited to replanting requirements.

(7) Lifting of the moratorium would meet the review requirements of Sections 18.16.130 and 18.16.140 or could be mitigated to do so.

(8) There has been no intentional circumvention of the requirements of this chapter (timber harvest) rendering the property ineligible for lifting a moratorium for its entire term.

C. Performance Requirements. The lifting of the six-year moratorium shall be conditioned upon compliance with the following requirements:

(1) All corrective actions necessary to bring the site into compliance with Sections 18.16.130 and 18.16.140 must be completed or adequately bonded prior to final land use and/or building permit approval.

(2) Where forest practice activity has encroached upon or damaged, removed or altered buffers, critical areas or critical areas buffers, the board shall require mitigation, enhancement, or increased buffers as necessary for compliance with current Kitsap County land use ordinances.

(3) Provision of any performance bonds for mitigation measures not completed.

(4) Lifting of the development moratorium is valid only for the specific land use proposed and that land use is subject to the applicable implementing regulations of the Comprehensive Plan.

(Ord. 150-A (2000) § 18, 2000)

**18.16.190 Enforcement.**

(a) The director is authorized to enforce this chapter and to authorize county employees to represent the department to investigate suspected violations of this chapter, issue orders to correct violations and issue notices of infractions.

(b) Kitsap County Civil Enforcement Ordinance (Chapter 2.116 of this code), and as hereafter amended, applies to violations of this chapter. Any person, firm or corporation who fails to obtain a timber harvest permit when required to do so under this ordinance, or who violates any condition of a timber harvest permit shall have committed a Class I civil infraction. Each and every day or portion thereof during which harvesting that occurs without a timber harvest permit shall constitute a separate infraction. Each and every day or portion thereof during which a violation of a condition of a timber harvest permit is committed, continued or permitted, shall constitute a separate violation.

(Ord. 150-A (2000) § 19, 2000)

**18.16.200 Construction.**

This chapter shall be liberally interpreted and construed to secure the public health, safety, morals and welfare and the rule of strict construction shall have no application.

(Ord. 150-A (2000) § 20, 2000)

## Chapter 18.18

### WATERSHED PROTECTION DISTRICTS – BURLEY LAGOON SHELLFISH CLOSURE RESPONSE STRATEGY AND PROTECTION PROGRAM

#### Sections:

- 18.18.010 Executive summary and introduction.
- 18.18.020 Goal.
- 18.18.030 Strategy and protection program.
- 18.18.040 Background.
- 18.18.050 Shellfish closure response team – Burley Lagoon watershed district team.
- 18.18.060 Existing programs and actions to date.
- 18.18.070 Burley Lagoon closure response strategy – Program objectives.

#### **18.18.010 Executive summary and introduction.**

Burley Lagoon, a 10,000 acre picturesque watershed located on the Key Peninsula in both Pierce and Kitsap Counties, was downgraded in February 1999 from a “conditionally approved” to a “restricted” shellfish growing area – the second downgrade in eighteen years. The pollution sources appear to be failing on-site sewage systems, livestock and pet waste, and storm water runoff. Concerned local and state officials started meeting in January 1999 to discuss the problems, actions already being taken, development of a shellfish closure response strategy and formation of a shellfish protection district. A shellfish closure response team started meeting in February 1999 and has met monthly since. The team consists of several representatives from Kitsap and Pierce Counties, the shellfish industry, and the three lead state agencies – the state Departments of Ecology and Health, and the Puget Sound Water Quality Action Team. This strategy will subsequently evolve

into the implementation program for the Burley Watershed Protection District. (Ord. 238 (1999) § 3 (Exh. B, part), 1999)

#### **18.18.020 Goal.**

The overall goal of this strategy and protection program is to restore and protect the water quality and beneficial uses of water in the Burley Lagoon watershed. Beneficial uses of water include issues related to public health, recreational use, property values, and natural resources including shellfish and salmon.

The short-term objectives are (a) to continue identifying and correcting the causes of degraded water quality and habitat; and (b) to create a watershed protection district for the lagoon in both counties by mid-August 1999.

The long-term objectives are (a) to restore the shellfish classification for Burley Lagoon to “approved” by the end of the year 2000; and (b) to maintain the watershed’s health for the benefit of the public and natural resources.

(Ord. 238 (1999) § 3 (Exh. B, part), 1999)

#### **18.18.030 Strategy and protection program.**

Pollution in Burley Lagoon will be reduced by a combination of voluntary, inspection and enforcement actions, supported by technical assistance and education. The strategy and program contain actions for reducing and preventing pollution from on-site sewage, agriculture, and storm water runoff, as well as a monitoring and evaluation program. Effective implementation of the actions will depend upon adequate funding.

(Ord. 238 (1999) § 3 (Exh. B, part), 1999)

#### **18.18.040 Background.**

Burley Lagoon is a picturesque 10,000 acre watershed located on the Key Peninsula in both Pierce and Kitsap counties. Approximately sixty percent of the lagoon (marine waters) is in Pierce County and forty percent in Kitsap County. The percentages in each county are reversed for the watershed uplands. All of the commercial shellfish acreage, which is owned by Western Oyster Company, is in Pierce County. Historically rural, the lagoon is experiencing rapid growth as more people move to the area.

Burley Lagoon was an officially “approved” commercial shellfish growing area until the summer of 1981, when high concentrations of fecal coliform bacteria were detected in the tissue of shellfish grown in this embayment. A shoreline survey and an assessment of the water quality showed that Burley Lagoon no longer qualified for an “approved” classification; the area was downgraded to the “restricted” classification in October of 1981. The pollution sources which caused the degradation in water quality at that time were considered to be failing on-site sewage systems situated along the waterfront properties, livestock and pet wastes from small farms and homes in the watersheds of Purdy and Burley Creeks, and storm water runoff.

County and state agencies and local residents spent twelve years working together in intensive restoration efforts. The last significant source of pollution was removed when Pierce County connected the Purdy shopping center to a new sewer line tied into the Gig Harbor sewer district – the failed septic system had been discharging into Purdy Creek. The state Department of Health then upgraded Burley Lagoon in October of 1993, and the community hosted a celebration.

The upgrade was to a “conditionally approved” classification rather than “approved,” though, due to a strong correlation between rainfall and fecal coliform concentration (based on a twenty-

four-hour rainfall of 0.5 inch or more which closes an area to shellfish harvest for a period of five days).

However, the slowly circulating, shallow lagoon waters revealed a vulnerability to increasing population growth. Water quality gradually deteriorated again over the next five years until the standards for the “conditionally approved” classification could no longer be met. Burley Lagoon was downgraded to a “restricted” classification in February 1999. The pollution sources still appear to be failing on-site sewage systems, livestock and pet wastes, and storm water runoff; the building of second and third tier houses above the original waterfront properties has exacerbated the storm water runoff and increased the number of on-site systems.

State law requires the formation of a local shellfish protection district and protection program within 180 days after the official notification of the downgrade. The Puget Sound Water Quality Management Plan’s shellfish program calls for the development of a shellfish closure response strategy after a shellfish growing area is officially downgraded. Under the terms of a joint memorandum of agreement, the Puget Sound Water Quality Action Team, and the state Departments of Health and Ecology are to lead the development of the strategy in partnership with the affected local jurisdictions.

(Ord. 238 (1999) § 3 (Exh. B, part), 1999)

#### **18.18.050 Shellfish closure response team – Burley Lagoon watershed district team.**

The first official Burley Lagoon closure response strategy meeting was convened on February 4, 1999, bringing together representatives from state and local agencies concerned with public health, surface water management, agricultural management practices, and the larger issues of growth, land use, and development.

The Burley Lagoon shellfish closure response team consists of key agencies at the local and state level responsible for managing, controlling and preventing pollution into Burley Lagoon, as well as the shellfish grower and Pacific Coast Shellfish Growers Association (PCSGA). The team met monthly beginning in February and jointly developed this strategy. The team also discussed longer-term solutions including the formation of a watershed protection district to address the closure.

The team includes representatives from:

- Pierce County Council
- Tacoma-Pierce County Health Department (TPCHD)
- Bremerton-Kitsap County Health District (BKCHD)
- Pierce County Water Programs
- Kitsap County Surface and Storm Water Management (KCSSWM)
- Pierce County Conservation District (PCD)
- Kitsap Conservation District (KCD)
- Pierce County Planning and Land Services (PALS)
- Kitsap County Planning and Community Development
- Western Oyster Company
- Pacific Coast Shellfish Growers Association (PCSGA)
- Department of Ecology Southwest Regional Office

- Department of Ecology Northwest Regional Office
- State Department of Health (DOH)
- Puget Sound Water Quality Action Team (PSWQAT)
- Washington Sea Grant Program, University of Washington (WSGP)

Upon the team's request, the Puget Sound Water Quality Action Team assumed the lead for coordinating the development of this strategy. The two counties will assume the lead for formation and implementation of the Burley Lagoon Watershed Protection District. The shellfish closure response team will then become the Burley Lagoon Watershed District team. (Ord. 238 (1999) § 3 (Exh. B, part), 1999)

#### **18.18.060 Existing programs and actions to date.**

Both counties have invested significant resources in addressing water quality problems in Burley Lagoon over the years. Following is a brief summary of what each county has accomplished so far:

##### ***Kitsap County.***

In October 1998, after learning of the potential for a downgrade, Kitsap County redirected resources through its surface and storm water management program (SSWM) towards aggressive identification, inspection, and correction. The Bremerton-Kitsap County Health District (the "health district") obtained a special grant to conduct pollution identification and correction work on the lower Burley Creek Basin and Kitsap County portion of the Burley Lagoon shoreline. The health district will have completed over 200 parcel inspections by July, 1999.

The Kitsap Conservation District (the "KCD") conducted an in-vehicle farm survey and prioritized 19 of 98 existing farms as high priority. The KCD and health district have contacted all the priority farms, including checking their on-site sewage systems. The KCD conducted workshops for livestock owners in the watershed in the spring of 1999. These were focused on livestock waste management and farm planning. The KCD submitted a Centennial Clean Water Fund grant proposal for \$250,000 and received a draft offer for funding in June 1999.

Kitsap County is applying the lessons learned in the Port Gamble Bay closure response process. A critical aspect of the program is the use of the county's solid waste ordinance to address animal waste problems. When the KCD's technical support approach does not work – such as when property owners refuse to voluntarily work with the district or when it otherwise hits a snag – the county can apply the ordinance codified in this chapter and proceed with enforcement based on observations of mishandled solid waste. This reduces the reliance on the Department of Ecology for enforcement based on water-quality issues which are difficult to prove. The health district has issued six notice of order to correct violation letters.

Washington Sea Grant, through funding from the Puget Sound Action Team's PIE funds, in June conducted on-site sewage operation and maintenance workshops in Pierce and Kitsap counties. The Kitsap Conservation District, through the same funding source, held two workshops for property owners of both counties in the Burley watershed on farm best management practices.

The upper Burley Lagoon Watershed is largely rural in character and produces relatively little storm water runoff. Most of the land is wooded and consists of stands of second and third growth Douglas fir, western hemlock and red alder. The land use is rural residential with homes and small farms on parcels ranging from one to twenty acres. The most recent Kitsap County Comprehensive Plan has the watershed zoned at one unit per five acres, but the predominant existing

lot size is 2.5 acres. Storm water from the Kitsap County portion of the watershed is unlikely to be a critical factor in shellfish protection efforts in the near future.

***Pierce County.***

The TPCHD is an active participant in the multi-agency team working to improve water quality in Burley Lagoon and, if possible, bring about an upgrade in the shellfish growing area classification. The county has an operation and maintenance program, through which on-site sewage systems in the watershed have been permitted. The TPCHD has been conducting water quality monitoring and on-site sewage system inspections through the auspices of several grants over the past several years, and in May, 1999 hired an environmental technician to conduct sanitary surveys and monitoring studies. The TPCHD also has grant funds to help people repair their on-site systems. TPCHD staff have attended all of the closure response meetings and will be working closely with the other agencies to implement the closure response strategy.

The Pierce Conservation District conducted a “windshield” survey of the lower watershed and identified twelve farms. The Pierce Conservation District has contacted all the livestock farm owners identified in the inventory and has offered assistance in the form of technical recommendations, site-visits, farm plans, and cost-share assistance. The Pierce Conservation District has also conducted a farm management workshop on the Key Peninsula and notified the identified livestock farm owners in the watershed prior to the workshop.

Pierce County Water Programs has just completed a draft watershed plan for the entire Key Peninsula, including the Burley Lagoon Watershed. Kitsap County also participated in the watershed plan development, along with a management committee of citizens and agencies. (Ord. 238 (1999) § 3 (Exh. B, part), 1999)

**18.18.070 Burley Lagoon closure response strategy – Program objectives.**

1. ***Program Objective 1 – Establish a Coordinated Response Program.*** This involves setting up a closure response team, identifying the lead agency, developing the strategy, coordinating among agencies, and identifying the lead agencies to create a watershed protection district and implement the protection district program. PSWQAT led the development of the strategy.

2. ***Program Objective 2 – Establish and Implement Watershed Protection District and Program.*** Pierce and Kitsap Counties will establish a joint “Burley Lagoon Watershed Protection District” and protection program. Currently the counties are drafting ordinances which will be presented to their respective legislative bodies during the summer of 1999, and enacted no later than August 28, 1999. The shellfish closure response team will evolve into the Burley Lagoon Watershed District team, and continue coordination of actions to restore and protect water quality to meet the goals of the program. The team will also support implementation of relevant actions in the Key Peninsula/Gig Harbor/Island Watershed Plan, and ensure consistency of local land and water regulations and programs with the protection program.

3. ***Program Objective 3 – Identify Pollution Sources.*** The TPCHD will conduct a sanitary survey of shoreline properties in the Pierce County portion of Burley Lagoon and Purdy Creek to identify and correct failing on-site sewage systems. The survey will include other sources of water quality problems, such as improper agricultural practices or solid waste violations; violators will be reported to the proper authorities. A letter will be sent to property owners in the survey area, requesting their participation in the survey. All cooperating properties will be dye tested, utilizing charcoal packets, to identify failing on-site sewage systems. Non-participating proper-

ties will be examined, from the road and the beach, for probable cause that the on-site sewage system is failing. If probable cause is found, an administrative search warrant will be pursued and, if obtained, the property will be dye tested utilizing charcoal packets. If there is no standing or flowing water on or adjacent to the property, then charcoal packets will not be used and instead the site will be visited each day for two days following the dye test for signs of surfacing dye.

The BKCHD will continue the inspection and evaluation of land parcels in the Kitsap County portion of the watershed for fecal coliform contamination. Specifically, the BKCHD will conduct parcel inspections in the Kitsap County portion of the Burley Creek Basin according to its *Fecal Coliform Pollution Identification and Correction Protocol* (PIC – 8th Edition, BKCHD, January 1999).

The Kitsap Conservation District will coordinate with BKCHD to evaluate agricultural sites within the watershed. This will be on a parcel-by-parcel basis and will be implemented according to the BKCHD's protocol referred to above. The Kitsap Conservation District has identified all farm properties in the Burley watershed. These sites have been entered into a geographic information system (GIS) format database for mapping and statistical management. The Kitsap Conservation District will contact farm owners per the BKCHD/KCD cooperative agreement, to offer technical assistance and development of farm plans. As of May 1999 all farms were contacted.

The Pierce Conservation District finished the inventory of small farms in Pierce County's part of the watershed in March. The Pierce Conservation District has contacted all the livestock farm owners identified in the inventory and will offer assistance as needed in the form of technical recommendations, site-visits, farm plans, and cost-share assistance.

The Kitsap County surface and storm water management program (SSWM) will conduct an investigation into potential storm water contamination sources and will perform corrective actions where needed. SSWM's water quality specialist will review water quality data developed by the Bremerton-Kitsap County health district and will coordinate with the BKCHD and the Kitsap Conservation District in the identification of possible sources of contamination.

Pierce County Water Programs' storm water technicians have located and inspected sixteen storm water outfall points. Those facilities requiring maintenance were referred to the local maintenance shop. Water Programs' GIS technician has created maps of the watershed including this data and an address list developed from the assessor's database.

DOH, TPCHD and BKCHD will identify possible other sources of contamination, such as from wildlife, primarily through the water quality sampling efforts and sanitary surveys.

4. ***Program Objective 4 – Control On-Site Sewage Sources.*** The BKCHD will enforce the correction of failing on-site sewage systems pursuant to local regulations and the PIC protocols (BKCHD, January 1999). The TPCHD will enforce the correction of failing on-site sewage systems through their local regulations.

When a failing on-site sewage system has been identified, the TPCHD has grant moneys available to assist in funding the repair. Until June 2000 or until the grant moneys have been expended, the TPCHD will pay up to seventy percent of the repair cost for a failing on-site sewage system that is adversely impacting water quality in Burley Lagoon.

The state Department of Ecology will provide technical assistance as needed.

5. ***Program Objective 5 – Correct Agricultural Sources.*** Both conservation districts will provide technical assistance with farm plans, design of best management practices (BMP's), im-

plementation, and cost-share funding of BMP's. They will also provide assistance with operation, maintenance and inspection of best management practices. The BKCHD will enforce the correction of animal-related solid waste handling violations pursuant to local regulations and the pollution identification and correction protocols (BKCHD, January 1999).

The KCD will be available to assist owners of all farm sites in the Burley watershed in developing and implementing farm plans that protect the water quality of the watershed. This will include but not be limited to design of best management practices (BMP), application for cost-share funding for projects, installation of BMP's and follow-up operations and maintenance of installed BMP's. Priority will be focused on sites identified through previous site inspections and fecal coliform sampling data results. Those sites that are in nonconformance with state standards for water quality will be given the highest priority.

The state Department of Ecology will take the actions discussed in the Memorandum of Understanding with the conservation districts and enforce as needed. Ecology will also provide technical assistance as needed.

6. ***Program Objective 6 – Control Storm Water Sources.*** Pierce County will install BMP's as warranted and where feasible to control unidentified sources of fecal contamination.

Maintenance of residential systems in the Kitsap portion of the watershed will be performed by Kitsap County's SSWM, while the owners of commercial systems will be required by SSWM to perform maintenance as needed. Any retrofit BMP's identified for potential water quality improvements will be evaluated for inclusion in the county's capital improvement plan (CIP). The CIP is developed with a priority rating system favoring projects that are in response to state or federal mandates such as the shellfish closure response and the NPDES requirements.

7. ***Program Objective 7 – Educate and Involve Public.*** The BKCHD will provide technical assistance and education to property owners through community workshops, parcel inspections (*see* Tasks 3.2, 4.1, and 5.3), and as requested or needed throughout the project. The TPCHD will provide ongoing technical assistance and education to homeowners for their on-site sewage systems during surveys and dye tests.

The Kitsap Conservation District will dedicate funding and personnel to provide education to the landowners and realtors in the Burley community. Education and information on natural resources, waste management and water quality will be highlights in these programs. Education may be in the form of seminars, field days, fairs, newsletters, public meetings, personal contact with farmers, and media contact. The Pierce County Conservation District will continue educating small farm owners on BMP's during the farm planning process.

All the team members will coordinate on targeted press releases about progress in Burley Lagoon. Washington Sea Grant will produce a regular newsletter on the Burley Lagoon effort for the community. All the team members will also work to promote watershed education programs in the local school districts.

Pierce County will work with homeowners to expand the Adopt-a-Beach program into beaches in Burley Lagoon. The TPCHD and PCSGA will develop an education program for employees of the shellfish growers.

8. ***Program Objective 8 – Establish a Coordinated Monitoring and Evaluation Program.*** The marine waters, streams and shoreline of Burley Lagoon and the watershed are being monitored, as well as storm water runoff. The BKCHD began monitoring streams in November 1998. The BKCHD will continue to monitor established stream stations in the Burley Creek basin pursuant to the county-wide monitoring program. Stream stations will be monitored monthly for fe-

cal coliform bacteria, flow, and conventional parameters (temperature, pH, DO, conductivity, and turbidity).

The state Department of Health, Shellfish Office (DOH) has been monitoring the marine water quality on at least a monthly basis, and will continue to do so.

The TPCHD began monitoring the Pierce County shoreline in May. To assess water quality changes over time and to identify fecal coliform sources, the TPCHD will assist DOH staff until June 2000 with their monthly sampling of the marine waters in the lagoon and several of the major tributaries. In addition, the TPCHD will collect water samples from the key tributaries during the third week of every month until June 2000 to provide greater temporal data coverage. The water samples will be analyzed either by the DOH laboratory or by a contract laboratory. In addition to fecal coliform concentrations, the tributary sampling will include an estimate of stream flow, water temperature, pH, and conductivity.

All three agencies will periodically evaluate the data and track trends to measure progress in restoring water quality in the lagoon. The BKCHD will provide DOH, TPCHD, and the shellfish closure response team with Kitsap County stream data summary reports on a quarterly basis. The data reports will evaluate and present monitoring information with respect to state water quality standards and observed trends with respect to the shellfish closure response plan. Pierce County may sample storm water outfalls if future sampling by DOH and TPCHD indicates a possible problem. DOH will compile reports from the implementing agencies. DOH and TPCHD will coordinate the monitoring schedule and quality assurance/quality control. (Ord. 238 (1999) § 3 (Exh. B, part), 1999)

## Chapter 18.20 NOXIOUS WEEDS

### Sections:

- 18.20.010 Purpose and need.
- 18.20.020 Land classification.
- 18.20.030 Rate.
- 18.20.040 Billing.
- 18.20.050 Lien for delinquent special assessments and foreclosures.
- 18.20.060 Special fund.
- 18.20.070 Effective date.

### **18.20.010 Purpose and need.**

(a) The Kitsap County noxious weed control board is organized under RCW 17.10 to control the spread of noxious weeds in order to protect human health, livestock, wildlife, native habitat, and ecosystem functioning. “Noxious weeds” are those plants which are highly destructive, competitive, or difficult to control by cultural or chemical practices and which are regulated by the State of Washington under RCW 17.10 and listed under Chapter 16-750 WAC.

(b) The Kitsap County noxious weed control board states that the need for noxious weed control exists in Kitsap County. RCW 17.10.240 authorizes the Kitsap County board of commissioners to levy an assessment against all benefiting land for noxious weed control purposes. (Ord. 330 (2004) § 1 (part), 2004; Ord. 316 (2004) § 1 (part), 2004)

### **18.20.020 Land classification.**

The Kitsap County noxious weed control board has classified land in Kitsap County pursuant to the requirements outlined in RCW 17.10.240. The classifications of land subject to assessment are defined as *forest* and *nonforest* as provided in Attachment A which by this reference is incorporated herein. The Kitsap County board of commissioners finds that the public interest will be served by the imposition of the special assessments made under this legislation, and that the special assessments to be imposed on any land will not exceed the special benefit that the land receives or will receive from the activities of the Kitsap County noxious weed control board. (Ord. 330 (2004) § 1 (part), 2004; Ord. 316 (2004) § 1 (part), 2004)

### **18.20.030 Rate.**

An assessment for the Kitsap County noxious weed control program of \$1.00 per parcel and \$0.08 per acre on all property not classified as forest land shall be imposed annually. Under RCW 17.10.240 forest lands may be subject to an annual noxious weed assessment that does not exceed one-tenth of the weighted average of the per acre and per parcel rate levied on other lands that are subject to the weed assessment. Property classified as forest land, as defined in RCW 84.33.035, which is used solely for the planting, growing or harvesting of trees and which is typical, except for a single five year period following clear-cut logging, by canopies so dense as to prohibit the growth of an understory shall be assessed at the rate of \$0.10 per parcel and \$0.008 per acre. Said assessment shall be levied against all benefiting lands in Kitsap County in 2004 and collection of such assessments shall commence in 2005 and thereafter. Parcels issued a

property tax statement with a taxable value of zero shall be exempt from the noxious weed control assessment.

(Ord. 330 (2004) § 1 (part), 2004; Ord. 316 (2004) § 1 (part), 2004)

#### **18.20.040 Billing.**

(a) All property subject to rates and special assessments pursuant to this chapter shall be assessed annually. Billing statements shall be included on the annual property tax statements. Properties which do not receive a property tax statement will receive a separate rate and special assessment billing statement.

(b) The total amount of the special assessment shall be due and payable on or before the thirtieth day of April, and shall be delinquent after that date; however, if one-half of such special assessment is paid on or before the thirtieth day of April, the remainder shall be due and payable on or before the thirty-first day of October and shall be delinquent after that date.

(Ord. 330 (2004) § 1 (part), 2004)

#### **18.20.050 Lien for delinquent special assessment charges and foreclosures.**

(a) The amount of such assessment shall constitute a lien against any property for which the assessment has not been paid by the date it is due, as provided in RCW 17.10.240. A notice of lien shall be sent to each owner of such property.

(b) All liens created shall be collected by the Kitsap County treasurer in the same manner as delinquent real property tax pursuant to RCW 17.10.240(1), if within thirty days from the date of when the owner is sent notice of the lien, including the amount thereof, the lien remains unpaid and an appeal has not been made pursuant to RCW 17.10.180.

(c) Delinquent special assessments shall bear interest as provided in RCW 17.10.240 at the rate of twelve percent per annum, or such rate as may hereafter be authorized by law, computed on a monthly basis from the date of delinquency until paid. Interest shall be calculated at the rate in effect at the time of payment of the charges regardless of when the assessments were first delinquent.

(d) The county shall have a lien for delinquent special assessments, including interest thereon, against any property subject to special assessments; the lien shall be superior to all other liens and encumbrances except general taxes and local and special assessments. Such liens shall be effective and shall be enforced and foreclosed in the manner provided by RCW 17.10.240.

(Ord. 330 (2004) § 1 (part), 2004; Ord. 316 (2004) § 1 (part), 2004)

#### **18.20.060 Special fund.**

There is hereby created in the treasury of Kitsap County, the noxious weed control fund in which all taxes collected from the assessment herein levied shall be deposited and which shall only be used to support the activities of the Kitsap County noxious weed control board. In the interest of maintaining the best possible service at the lowest possible cost, the county will reduce program overhead by providing without charge, basic support for the noxious weed control program. This support includes, but is not limited to, fiscal administration, office space, computer and phone service, and technical assistance as available and exact accountability of funding.

(Ord. 330 (2004) § 1 (part), 2004; Ord. 316 (2004) § 1 (part), 2004)

#### **18.20.070 Effective date.**

This assessment herein levied shall take effect as of January 1, 2005.

(Ord. 330 (2004) § 1 (part), 2004; Ord. 316 (2004) § 1 (part), 2004)