

Ordinance No. 368- 2006

**ORDINANCE REGARDING 10-YEAR COMPREHENSIVE PLAN UPDATE REVISIONS TO
KITSAP COUNTY CODE TITLE 18 (ENVIRONMENT)**

BE IT ORDAINED:

Section 1. **General Findings.** The Kitsap County Board of Commissioners makes the following findings:

1. On May 7, 1998, the Board of County Commissioners (Board) adopted the 1998 Kitsap County Comprehensive Plan. Adoption of the 1998 plan satisfied the requirements set forth in the Growth Management Act (GMA). As part of the GMA requirement to continuously review and, if needed, revise the Comprehensive Plan set forth in RCW 36.70A.130(1), Kitsap County made subsequent amendments in June 2002, December 2003, and October 2004 after extensive review and recommendation by the public and Planning Commission.
2. The GMA, pursuant to RCW 36.70A.130(3), requires Kitsap County to “review, at least every ten years, its designated urban growth area or areas, and the densities permitted within both the incorporated and unincorporated portions of each urban growth area.” Additionally, “[t]he county comprehensive plan designating urban growth areas, and the densities permitted in the urban growth areas by the comprehensive plans of the county and each city located within the urban growth areas, shall be revised to accommodate the urban growth projected to occur in the county for the succeeding twenty-year period.”
3. Kitsap County Code 21.08.040 provides that the Board will establish a schedule for review and possible amendment of the Comprehensive Plan.
4. On June 28, 2005, the Central Puget Sound Growth Management Hearings Board (Hearings Board), in its Final Decision and Order in *1000 Friends of Washington v. Kitsap County*, CPSGMHB 04-3-0031c, determined that Kitsap County was out of compliance with the GMA by not having completed its 10-Year review of its Urban Growth Areas, and the densities permitted within, by 2004. The Hearings Board ordered Kitsap County to take appropriate legislative action by June 30, 2006. The Hearings Board later granted an extension to the deadline of December 31, 2006 in *1000 Friends of Washington v. Kitsap County*, CPSGMHB 04-3-0031c, Order Amending Compliance Schedule (October 14, 2005).
5. On July 26, 2006, the Hearings Board, in its Final Decision and Order in *KCRP v. Kitsap County*, CPSGMHB 06-3-0007, remanded components of the Kingston Sub-Area Plan, adopted December 21, 2005, to the County for review and revision. The components included:
 - a. Allocating population without completing the 10-Year Update to the Kitsap County Comprehensive Plan as required by the Growth Management Act;
 - b. The inclusion of a sewer reduction factor in the Updated Land Capacity Analysis (ULCA) used to size the urban growth area;
 - c. Reasonable measure review and implementation; and

- d. Inadequate capital facilities planning which was unable to ensure the provision of urban services to the urban growth area.

Section 2. General Procedural Findings. The Kitsap County Board of Commissioners makes the following findings regarding the public participation process of the 10-Year Update of the Comprehensive Plan:

1. On February 14, 2006, following timely and effective public notice, the Board held a work-study session to discuss and review the draft public involvement plan for the 10-Year Update to the Comprehensive Plan (10-Year Update).
2. On February 28, 2006, following timely and effective public notice, the Kitsap County Planning Commission (Planning Commission) held a work-study session to review and discuss the 10-Year Update draft schedule, project strategies, task prioritization and public involvement plan.
3. On March 13, 2006, following timely and effective public notice, the Board approved Resolution No. 045-2006. The resolution established an application period for land use reclassification requests, ending on April 10, 2006. The resolution also established screening and evaluation criteria for the reclassification requests, as well as the initial docket for text and area-wide map amendments.
4. On March 15, 2006, following timely and effective notice, the Board held a work-study session to review and discuss the 10-Year Update draft vision review and project strategies.
5. On March 18, 2006, following timely and effective public notice, Kitsap County issued a Determination of Significance and scoping notice and document. The scoping notice solicited comments for consideration in the Environmental Impact Statement. The scoping period closed on April 10, 2006.
6. On March 20, 2006, following timely and effective public notice, the Board held an administration briefing to discuss the format and content of the public workshops on the vision statement and the details of the land use reclassification requests submitted by that date.
7. On March 23, 2006, a Public Involvement Plan was issued by Kitsap County to detail the public involvement program Kitsap County was committed to following during the 10-Year Update.
8. On March 23, 27 and 28, 2006, following timely and effective public notice, Kitsap County held public workshops to review the 1998 Comprehensive Plan vision statement and solicited suggestions and revisions for consideration. The vision workshops were from 6:00 to 9:00PM and located in North, Central and South Kitsap, with approximately two hundred and thirty-seven participants. All three workshops included a brief introduction, a question and answer period, followed by four to eight small group exercises.
9. On March 28, April 11, April 25, May 9 and May 23, 2006, following timely and effective public notice, the Planning Commission held work-study sessions to review and discuss the framework and assumptions of the Updated Land Capacity Analysis (ULCA), land use reclassification requests, population and employment projections, reasonable measures, the integration of sub-area planning, preliminary land use alternatives and other issues related to the 10-Year Update.
10. On May 3, 2006, following timely and effective public notice, the Board held a work-study session to review preliminary draft land use alternatives.

11. On May 15, 18, and 24, 2006, following timely and effective public notice, Kitsap County held public workshops to review preliminary draft land use alternatives. The alternative workshops were from 6:00 to 9:00PM and located in North, Central and South Kitsap County, with approximately one hundred and fifty-seven participants. All three workshops included a brief introduction, a question and answer period, followed by six small group exercises. Groups discussed various components of the preliminary land use alternatives, including, but not limited to urban growth area sizing and composition.
12. On May 30, 2006, following timely and effective public notice, the Planning Commission and Board held a joint work-study session to review the preliminary draft alternatives, land use reclassification requests and public comment submitted during the May alternative public workshops. The joint work-study session also included discussion of the range and magnitude of environmental impacts from alternatives one and three for review in the Draft Environmental Impact Statement.
13. On May 31, 2006, following timely and effective public notice, the Board held a work-study session to provide guidance to the Department of Community Development on the range and magnitude of Alternatives one and three for review in the Draft Environmental Impact Statement.
14. On June 27, 2006, following timely and effective public notice, the Planning Commission held a work-study session to review and discuss key components to be analyzed in the Draft Environmental Impact Statement and Capital Facilities Plan.
15. On July 10, 2006, following timely and effective public notice, the Planning Commission and Board held a joint public hearing to consider testimony on the magnitude and range of alternative two for review in the Draft Environmental Impact Statement and Capital Facilities Plan. Over 120 people attended with half testifying on the potential range of sizes and compositions of Kitsap County's urban growth areas.
16. On July 11, 2006, following timely and effective public notice, the Planning Commission held a work-study session to refine the range and magnitude of Alternative two for review in the Draft Environmental Impact Statement and Capital Facilities Plan.
17. On July 12, 2006, following timely and effective public notice, the Board held a work-study session to refine the range and magnitude of Alternative two for review in the Draft Environmental Impact Statement and Capital Facilities Plan.
18. On July 19, 2006, following timely and effective public notice, the Board approved Resolution 129-2006. The Resolution outlined direction to the Department of Community Development for preparation of the Draft Environmental Impact Statement and alternatives one through three, including criteria for considering land use reclassification requests.
19. On August 23, 2006, following a timely and effective public notice, the Board held a work-study session to discuss major components and organization of Volumes I: Comprehensive Plan Policy Document, Volume II: Draft Environmental Impact Statement (DEIS) and Volume III: Proposed Regulations for the 10-Year Update.
20. On August 29, 2006, Kitsap County issued Volume I: Comprehensive Plan Policy Document, Volume II: Draft Environmental Impact Statement (DEIS) and Volume III: Proposed Regulations for the 10-Year Update. These documents were posted on the MyKitsap.org web page and made

available to the public and agencies. Additionally, in mid-August 2006, thirty-two thousand mailings were sent to property owners within and/or adjacent to the land use alternatives. The mailing included information on the document release, comment opportunities, and dates of the open houses and upcoming public hearings.

21. On August 29, 2006, notice of all amendments to the comprehensive plan and development regulations proposed to fulfill the requirements of RCW 36.70A.130 was sent to the Washington State Department of Community, Trade and Economic Development at least sixty days before the amendments were adopted, in accordance with RCW 36.70A.106.
22. On August 30, 2006, Kitsap County published a DEIS Notice of Availability in the legal publication of record.
23. On September 2, 2006, Kitsap County published in the legal publication of record the Notice of Application and Notice of Availability of Volumes I through III of the 10-Year Update, which had been issued on August 29, 2006.
24. On August 29 and September 7 and 14, 2006, following timely and effective public notice, the County held open houses on Volume I: Draft Comprehensive Plan Policy Document, Volume II: Draft Environmental Impact Statement and Volume III: Proposed Regulations. The open houses were from 6:00 to 9:00PM and located in North, Central and South Kitsap County. All three open houses included a brief introduction, a question and answer period, followed by an open house with six informational stations. Each informational station included professional staff available to answer questions regarding all three volumes. Approximately one hundred and sixty-one participants attended.
25. On September 5 and 12, 2006, following timely and effective public notice, the Planning Commission held work-study sessions to review and discuss components of Volume I: Draft Comprehensive Plan Policy Document, Volume II: Draft Environmental Impact Statement and Volume III: Proposed Regulations.
26. On September 11, 2006, following timely and effective public notice, the Board held an administration briefing to review and discuss components of Volume I: Draft Comprehensive Plan Policy Document, Volume II: Draft Environmental Impact Statement and Volume III: Proposed Regulations.
27. On September 13, 2006, following timely and effective public notice, the Board held a work-study session to review and discuss components of Volume I: Draft Comprehensive Plan Policy Document, Volume II: Draft Environmental Impact Statement and Volume III: Proposed Regulations.
28. On September 18, 2006, the Department of Community Development presented errata sheets for Volumes I through III to the Planning Commission and Board and posted them on the MyKitsap.org web page. These errata sheets included omissions and corrections to improve the accuracy, clarity and consistency of the documents.
29. On September 18, 20 and 21, 2006, following timely and effective public notice, the Planning Commission and Board held joint public hearings to consider testimony on Volume I: Draft Comprehensive Plan Policy Document, Volume II: Draft Environmental Impact Statement and Volume III: Proposed Regulations. Approximately 100 residents and interested parties testified,

with the majority of testimony relating to selection of a preferred land use alternative and urban growth area composition and sizing.

30. On September 26 and 27 and October 3 and 6, 2006, following timely and effective public notice, the Planning Commission held public meetings to deliberate on the proposed recommendations for Volume I: Draft Comprehensive Plan Policy Document, Volume II: Draft Environmental Impact Statement and Volume III: Proposed Regulations.
31. On October 4, 2006, following timely and effective public notice, the Board held a work-study session to review and discuss the Department of Community Development's recommendations and the Planning Commission deliberations for the 10-Year Update.
32. On October 6, 2006, following timely and effective public notice, the Planning Commission approved Findings of Fact and Recommendations for Volume I: Draft Comprehensive Plan Policy Document, Volume II: Draft Environmental Impact Statement and Volume III: Proposed Regulations to be forwarded to the Board.
33. On October 11, 2006, following timely and effective public notice, the Board held a work-study session to review the Planning Commission's Findings of Fact and Recommendations for the 10-Year Update.
34. On October 23, 2006, following timely and effective public notice, the Board held a public hearing to consider testimony on the Planning Commission's recommendations. The public hearing was then continued to October 25, 2006 for further public testimony, with written comments allowed through October 30, 2006. Approximately forty-eight citizens and interested parties testified.
35. On October 25, 2006, following timely and effective public notice, the Board held a work-study session to review and discuss the Department's and Planning Commission's recommendations and to review and discuss components of Volume I: Draft Comprehensive Plan Policy Document, Volume II: Draft Environmental Impact Statement and Volume III: Proposed Regulations.
36. On October 30, 2006, following timely and effective public notice, the Board held an administration briefing to review and discuss the Department's and Planning Commission's recommendations and to review and discuss components of Volume I: Draft Comprehensive Plan Policy Document, Volume II: Draft Environmental Impact Statement and Volume III: Proposed Regulations.
37. On October 30, 2006, at 4:30PM, the 60-day comment period on the Volume I: Draft Comprehensive Plan Policy Document, Volume II: Draft Environmental Impact Statement and Volume III: Proposed Regulations closed.
38. On November 1 and 6, 2006, following timely and effective public notice, the Board began deliberations and approved a preferred land use alternative, plan policy document, and associated development regulations.

Section 3. **Substantive Findings.** The Board of County Commissioners makes the following findings with respect to the amendments to Title 18 of the Kitsap County Code:

1. These amendments were developed in consideration of the goals of the GMA for the development of local comprehensive plans, as codified at RCW 36.70A.020, and reflect a careful balancing these goals within the local conditions of Kitsap County.
2. These amendments were developed according to and are found to comply with the requirements of the GMA, RCW 36.70A.
3. The amendments adopted by this ordinance are within the range of the alternatives analyzed in the Draft Environmental Impact Statement (DEIS) and within the scope of additional analysis contained within the Final environmental Impact Statement (FEIS). This FEIS also provides update responses to the integrated Port Orchard/South Kitsap Sub-Area Plan Draft EIS consistent with the 10-Year Update. The County prepared a Preliminary Final Sub-Area Plan EIS that addressed comments prior to final decisions on the 10-Year Update. This 10-Year Update FEIS completes the Port Orchard/South Kitsap Sub-Area Plan environmental review process.
4. There has been early and continuous public participation in the review of the proposed amendments, as required by the GMA, and consistent with KCC 21.08 and the State Environmental Policy Act.
5. The Board bases its findings and conclusions on the entire record of the planning commission, the findings and conclusions of the Planning Commission, and all of the testimony, oral or written, and exhibits submitted to the Board. Any finding that should be deemed a conclusion, and any conclusion that should be deemed a finding, is hereby adopted as such.
6. The Board has considered the following criteria consistent with Kitsap County Code Sections 21.08.160 and 21.08.170, and makes the following findings:
 - a. Circumstances in Kitsap County have substantially changed since the adoption of the 1998 Comprehensive Plan and/or subsequent amendments;
 - b. New information is available that was not considered in the adoption of the 1998 Comprehensive Plan and/or subsequent amendments;
 - c. The proposed amendments are consistent with or support other plan elements and/or development regulations;
 - d. The proposed amendments reflect the goals, objectives and policies of the Comprehensive Plan;
 - e. The proposed amendments are consistent with the Countywide Planning Policies; and
 - f. The proposed amendments are compliant with the requirements of the Growth Management Act.
7. The Board has reviewed the Central Puget Sound Growth Management Hearings Board Decision in *1000 Friends v. Kitsap County*, CPSGMHB 04-3-0031c regarding the completion of the 10-Year Comprehensive Plan Update and finds that the remand issue has been addressed and resolved in the 10-Year Update.

Section 4. _____ Kitsap County Code Chapter 18.04 Table of Contents is amended as follows:

Chapter 18.04
STATE ENVIRONMENTAL POLICY ACT

Sections:

ARTICLE 1—PART ONE

AUTHORITY

18.04.010 Authority.

ARTICLE 2— PART TWO

GENERAL REQUIREMENTS

18.04.020 Purpose of ~~this part article—A~~ and adoption by reference.
18.04.030 Additional definitions.
18.04.040 Designation of responsible official.
18.04.050 Lead agency – ~~D~~determination and – ~~R~~responsibilities.
18.04.060 ~~Lead agency—~~ Transfer of lead agency status to state agency.
~~18.04.070—Processing time limits—Additional considerations.~~
18.04.0870 ~~Proposal action—~~ Additional timing considerations.

ARTICLE 3— PART THREE

CATEGORICAL EXEMPTIONS —AND THRESHOLD DETERMINATIONS

18.04.0890 Purpose of ~~this part article—A~~ and adoption by reference.
~~18.04.090 Flexible thresholds for categorical exemptions.~~
~~18.04.100 Categorical exemptions for infill development.~~
18.04.1100 Use of exemptions.
18.04.1105 Environmental checklist.
18.04.120 Mitigated DNS.

ARTICLE 4— PART FOUR

ENVIRONMENTAL IMPACT STATEMENT (EIS)

18.04.125 Purpose of ~~this part article—A~~ and adoption by reference.
18.04.130 Preparation of EIS – Additional considerations.
18.04.140 Additional elements to be covered in EIS.

ARTICLE 5— PART FIVE

COMMENTING RULES

18.04.150 Adoption by reference.
18.04.160 Public notice.
18.04.170 ~~Consulted agency—~~ Designation of responsible official to perform consulted agency responsibilities for the county.

~~ARTICLE 6 – PART SIX~~

USING EXISTING ENVIRONMENTAL DOCUMENTS

18.04.180 Purpose of ~~this part article A~~ and adoption by reference.

~~ARTICLE 7 – PART SEVEN~~

SEPA AND AGENCY DECISIONS

18.04.190 Purpose of ~~this part article A~~ and adoption by reference.
18.04.200 Substantive authority.
18.04.210 Appeals.
18.04.220 Notice/~~statute of limitations of action.~~

~~ARTICLE 8 – PART EIGHT~~

DEFINITIONS

18.04.230 Purpose of ~~this part article A~~ and adoption by reference.

~~ARTICLE 9 – PART NINE~~

CATEGORICAL EXEMPTIONS

18.04.240 Adoption by reference.

~~ARTICLE 10 – PART TEN~~

AGENCY COMPLIANCE

18.04.250 Purpose of ~~this part article A~~ and adoption by reference.
~~18.04.260 Environmentally sensitive areas.~~
~~18.04.270 Fees. (Repealed)~~
18.04.280 Administrative guidelines.
~~18.04.280 Severability.~~

~~ARTICLE 11 – PART ELEVEN~~

FORMS

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

Section 5. Kitsap County Code Section 18.04.010 last amended by Ordinance No. 99-A-1991 is amended as follows:

~~PART ONE ARTICLE 1 – AUTHORITY~~

18.04.010 Authority.

- ~~A.~~ ~~(a)~~ The county of Kitsap adopts this chapter under the State Environmental Policy Act (SEPA), RCW 43.21C.120, and the SEPA ~~procedures~~ Rules, WAC 197-11-904.
- ~~B.~~ ~~(b)~~ This chapter contains this county’s SEPA procedures and policies.
- ~~C.~~ ~~(c)~~ The SEPA Rules, Chapter 197-11 WAC, must be used in conjunction with this chapter.

Section 6. Kitsap County Code Section 18.04.020 last amended by Ordinance No. 99-A-1991 is amended as follows:

PART TWO ARTICLE 2 – GENERAL REQUIREMENTS

18.04.020 Purpose of this part article—A and adoption by reference.

This article part contains the basic requirements that apply to the SEPA process. The county 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 197-11-040 Definitions.
- 050 Lead agency.
- ~~-055 Timing of the SEPA process.~~
- 060 Content of environmental review.
- 070 Limitations on actions during SEPA process.
- 080 Incomplete or unavailable information.
- 090 Supporting documents.
- 100 Information required of applicants.
- ~~-158 GMA project review- Reliance on existing plans, laws, and regulations.~~
- ~~-164 Planned actions – Definitions and criteria.~~
- ~~-168 Ordinances or resolutions designating planned actions – Procedures for adoption.~~
- ~~-172 Planned actions – Project review.-210 SEPA/GMA integration.~~
- ~~-220 SEPA/GMA definitions.~~
- ~~-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.~~

Section 7. Kitsap County Code Section 18.04.030 last amended by Ordinance No. 99-A-1991 is amended as follows:

18.04.030 Additional definitions.

In addition to those definitions contained within WAC 197-11-700 through 197-11-799 and 197-11-220, adopted by reference in Article 8, when used in this chapter, the following terms shall have the following meanings, unless the context indicates otherwise:

- A. ~~(+)~~ —“Department” means any division, subdivision or organizational unit of the county established by ordinance, rule, or order.
- B. ~~“Development units” means the proposed quantity of development measured by dwelling units for residential development and square feet for specific nonresidential use categories.~~
- C. ~~(-2)~~ “SEPA rules” means Chapter 197-11 WAC adopted by the Department of Ecology.

- D. ~~(3)~~ “Ordinance” means the ordinance, resolution, or other procedure used by the county to adopt regulatory requirements.
- E. ~~(4)~~ “Early notice” means the county’s response to an applicant stating whether it considers issuance of a determination of significance likely for the applicant’s proposal (mitigated determination of nonsignificance (MDNS) procedures).

Section 8. Kitsap County Code Section 18.04.040 last amended by Ordinance No. 99-A-1991 is amended as follows:

18.04.040 Designation of responsible official.

- A. ~~(a)~~ For those proposals for which the county is the lead agency, the responsible official shall be the director of the department of community development or his appointed designee.
- B. ~~(b)~~ For all proposals for which the county is the lead agency, the responsible official shall make the threshold determination, supervise scoping and preparation of any required environmental impact statement (EIS), and perform any other functions assigned to the “lead agency” or “responsible official” by those sections of the SEPA rules that were adopted by reference in Section 18.04.020.
- C. ~~(c)~~ The 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.

Section 9. Kitsap County Code Section 18.04.050 last amended by Ordinance No. 99-A-1991 is amended as follows:

18.04.050 Lead agency ~~D~~ determination ~~R~~ and responsibilities.

- A. ~~(a)~~ The department within the county receiving an application for or initiating a proposal that involves a nonexempt action shall ~~refer the proposal to the responsible official to~~ 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 department is aware that another department or agency is in the process of determining the lead agency.
- B. ~~(b)~~ When the county is the lead agency for a proposal, the department receiving the application shall determine ~~refer the proposal to~~ the responsible official who shall supervise compliance with the threshold determination requirements, and if ~~if~~ an EIS is necessary, ~~the responsible official~~ shall supervise preparation of the EIS.
- C. ~~(c)~~ When the county is not the lead agency for a proposal, all departments of the county shall use and consider, as appropriate, either the DNS or the final EIS of the lead agency in making decisions on the proposal. ~~The No~~ county department shall ~~not~~ prepare or require preparation of a DNS or EIS in addition to that prepared by the lead agency, unless required under WAC 197-11-600. In some cases, the county may conduct supplemental environmental review under WAC 197-11-600.
- D. ~~(d)~~ If the county or any of its departments receives a lead agency determination made by another agency that appears inconsistent with the criteria of WAC 197-11-253 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 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 county must be initiated by the responsible official.

- E. ~~(e)~~ Departments of the The county is-are authorized to make agreements as to lead agency status or shared lead agency duties for a proposal under WAC 197-11-942 and 197-11-944: Provided, That the responsible official and any department that will incur responsibilities as the result of such agreement approve the agreement.
- F. ~~(f)~~ In Any department making a lead agency determination for a private project ~~the county~~ shall require sufficient information from the applicant to identify which other agencies have jurisdiction over the proposal.
- G. When the county is lead agency for a MTCA remedial action, the department of ecology 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 county shall decide jointly with ecology who receives the comment letters and how copies of the comment letters will be distributed to the other agency.

Section 10. Kitsap County Code Section 18.04.060 last amended by Ordinance No. 99-A-1991 is amended as follows:

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

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

Section 11. Kitsap County Code Section 18.04.070 last amended by Ordinance No. 99-A-1991 is hereby repealed:

~~**18.04.070 — Processing time limits— Additional considerations.**~~

~~The following time limits (expressed in calendar days) shall apply when the county processes licenses for all private projects and those governmental proposals submitted to the county by other agencies:~~

- ~~(1) — Categorical Exemptions. The county should identify whether an action is categorically exempt within seven days of receiving a completed application.~~
- ~~(2) — Threshold Determinations. When the responsible official requires further information from the applicant or consultation with other agencies with jurisdiction:~~
 - ~~(A) — The county shall wait no longer than thirty days for a consulted agency to respond;~~
 - ~~(B) — The responsible official should complete the threshold determination within fifteen days of receiving the requested information from the applicant or the consulted agency.~~

Section 12. Kitsap County Code Section 18.04.080 last amended by Ordinance No. 99-A-1991 is renumbered and amended as follows:

18.04.0780 ~~Proposal action—~~ Additional timing considerations.

- A. ~~(a)~~ For nonexempt proposals, the DNS or the final EIS for the proposal shall accompany the county’s staff recommendation to any appropriate advisory decision-making body, such as the planning commission.

~~(b) — If the county’s only action on a proposal is a decision on a building permit or other license that requires detailed project plans and specifications, the applicant may request in writing that the county conduct environmental review prior to submission of the detailed plans and specifications. The point at which environmental review may be initiated for specific permits or other licenses requiring detailed project plans and specifications is site plan review.~~

Section 13. Kitsap County Code Section 18.04.090 last amended by Ordinance No. 99-A-1991 is renumbered and amended as follows:

PART THREE ARTICLE 3 – CATEGORICAL EXEMPTIONS AND – THRESHOLD DETERMINATIONS

18.04.0890 Purpose of this part article—A and adoption by reference.

This part article contains the rules for deciding whether a proposal has a “probable significant, adverse environmental impact” requiring an environmental impact statement (EIS) to be prepared. This part also contains rules for evaluating the impacts of proposals not requiring an EIS. The county adopts the following sections ~~of Chapter 197-11 of the Washington Administrative Code~~ 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.

- A.** The county establishes the following exempt levels for minor new construction under WAC 197-11-800(1)(b) based on local conditions:
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 county 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).

NEW SECTION. Section 14. A new section is hereby added to Kitsap County Code Chapter 18.04 as follows:

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 county establishes the following exempt levels for construction of residential developments and mixed use developments under RCW 43.21C.229:
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 department 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.

Section 15. Kitsap County Code Section 18.04.100 last amended by Ordinance No. 99-A-1991 is renumbered and amended as follows:

18.04.1100 Use of exemptions.

- A.** ~~(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 ~~refer the proposal to the responsible official to~~ determine whether the license and/or the proposal is exempt. The ~~department's responsible official'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.** ~~(b)~~ In determining whether or not a proposal is exempt, the ~~department responsible official~~ 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 responsible official~~ shall determine the lead agency, even if the license application that triggers the department's consideration is exempt.
- C.** ~~(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.** ~~(1)~~ The county shall not give authorization for:
 - a.** ~~(A)~~ Any nonexempt action;
 - b.** ~~(B)~~ Any action that would have an adverse environmental impact; or
 - c.** ~~(C)~~ Any action that would limit the choice of alternatives.
 - 2.** ~~(2)~~ The ~~A department responsible official~~ 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.** ~~(3)~~ The ~~A department responsible official~~ 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.

Section 16. Kitsap County Code Section 18.04.110 last amended by Ordinance No. 99-A-1991 is renumbered and amended as follows:

18.04.1150 Environmental checklist.

- A.** ~~(a)~~ Except as provided in subsection (D) of this section, a ~~A~~ completed environmental checklist (or a copy), in the form provided in WAC 197-11-960, shall be filed at the same time as an application for a permit, license, certificate, or other approval not specifically exempted in this chapter; except, a checklist is not needed if the county and applicant agree an EIS is required, SEPA compliance has been completed, or SEPA compliance has been initiated by another agency. The county shall use the environmental checklist to determine the lead agency, and if ~~if~~ the county is the lead agency, for determining the responsible official and ~~it shall use the environmental checklist~~ for making the threshold determination.
- B.** ~~(b)~~ For private proposals, the county will require the applicant to complete the environmental checklist, providing assistance as necessary. For county proposals, the department initiating the proposal shall complete the environmental checklist for that proposal.
- C.** ~~(c)~~ The county 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.** ~~(1)~~ The county has technical information on a question or questions that is unavailable to the private applicant; or

2. ~~(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 county 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 department of ecology to allow at least a thirty-day review prior to use.

Section 17. Kitsap County Code Section 18.04.120 last amended by Ordinance No. 99-A-1991 is amended as follows:

18.04.120 Mitigated DNS.

- A. ~~(a)~~ As provided in this section and WAC 197-11-350, the responsible official may issue a DNS based on conditions attached to the proposal by the responsible official or on changes to, or clarifications of, the proposal made by the applicant.
- B. ~~(b)~~ An applicant may request in writing early notice of whether a DS is likely under WAC 197-11-350. The request must:
1. ~~(1)~~ Follow submission of a permit application and environmental checklist for a nonexempt proposal for which the department is lead agency; and
 2. ~~(2)~~ Precede the county's actual threshold determination for the proposal.
 - ~~(c)~~ 3. The responsible official should respond to the request for early notice within ~~ten~~ thirty working days. The response shall:
 - a. ~~(1)~~ Be written;
 - b. ~~(2)~~ State whether the county currently considers issuance of a DS likely and, if so, indicate the general or specific area(s) of concern that is/are leading the county to consider a DS; and
 - c. ~~(3)~~ State that the applicant may change or clarify the proposal to mitigate the indicated impacts, revising the environmental checklist and/or permit application as necessary to reflect the changes or clarifications.
 - ~~(d)~~ 4. As much as possible, the county should assist the applicant with identification of impacts to the extent necessary to formulate mitigation measures.
 - ~~(e)~~ 5. When an applicant submits a changed or clarified proposal, along with a revised or amended environmental checklist, the county shall base its threshold determination on the changed or clarified proposal and should make the determination within fifteen days of receiving the changed or clarified proposal:
 - a. ~~(1)~~ If the county indicated specific mitigation measures in its response to the request for early notice, and the applicant changed or clarified the proposal to include those specific mitigation measures, the county shall issue and circulate a DNS under WAC 197-11-340(2).
 - b. ~~(2)~~ If the county indicated areas of concern, but did not indicate specific mitigation measures that would allow it to issue a DNS, the county shall make the threshold determination, issuing a DNS or DS as appropriate.
 - c. ~~(3)~~ The applicant's proposed mitigation measures (clarifications, changes or conditions) must be in writing and must be specific. For example, proposals to "control noise" or "prevent 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. ~~(4)~~ Mitigation measures which justify issuance of a mitigated DNS may be incorporated in the DNS by reference to agency staff reports, studies or other documents.
- C. ~~(f)~~ A mitigated DNS is issued under WAC 197-11-340(2), requiring a ~~fourteen~~ fifteen-day comment period and public notice.
- D. ~~(g)~~ 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 county.
- E. ~~(h)~~ If the county’s tentative decision on a permit or approval does not include mitigation measures that were incorporated in a mitigated DNS for the proposal, the county should evaluate the threshold determination to assure consistency with WAC 197-11-340(3)(a) (withdrawal of DNS).
- F. ~~(i)~~ The county’s written response under subsection ~~(b2)~~ of this section shall not be construed as a determination of significance. In addition, preliminary discussion of clarifications or changes to a proposal, as opposed to a written request for early notice, shall not bind the county to consider the clarifications or changes in its threshold determination.

Section 18. Kitsap County Code Section 18.04.125 last amended by Ordinance No. 99-A-1991 is amended as follows:

PART FOUR ARTICLE 4 – ENVIRONMENTAL IMPACT STATEMENT (EIS)

18.04.125 Purpose of this part article—~~A~~ and adoption by reference.

This part article contains the rules for preparing environmental impact statements. The county adopts the following sections ~~of Chapter 197-11 of the Washington Administrative Code~~ 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.

Section 19. Kitsap County Code Section 18.04.130 last amended by Ordinance No. 99-A-1991 is amended as follows:

18.04.130 Preparation of EIS – Additional considerations.

- A.** ~~(a)~~ Preparation of draft and final EIS’s (DEIS and FEIS) and draft and final supplemental EIS’s (SEIS) is the responsibility of the ~~responsible official of the department of~~ community development under the direction of the responsible official. Before the county issues an EIS, the responsible official shall be satisfied that it complies with this chapter and WAC Chapter 197-11.
- B.** ~~(b)~~ The DEIS and FEIS or draft and final SEIS may be “prepared” by county ~~staff~~ or by a consultant ~~selected by~~ of the ~~county or the~~ applicant ~~as determined by the responsible official. If the applicant is required to prepare the EIS, the applicant shall select an individual or firm with demonstrated expertise relevant to the information required for the EIS, subject to approval of the responsible official.~~ If the responsible official requires an EIS for a proposal and determines that someone other than the county will prepare the EIS, the responsible official shall notify the applicant ~~immediately after within five working days of~~ completion of the threshold determination. The responsible official shall also notify the applicant of the county’s procedure for EIS preparation, including approval of the DEIS and FEIS prior to distribution.
- C.** ~~(c)~~ The county may require an applicant to provide information the county does not possess, including specific investigations. However, the applicant is not required to supply information that is not required under this chapter or that is being requested from another agency. (This does not apply to information the county may request under another ordinance or statutes).

Section 20. Kitsap County Code Section 18.04.140 last amended by Ordinance No. 99-A-1991 is amended as follows:

18.04.140 Additional elements to be covered in EIS.

- A.** ~~(a)~~ The ~~analysis of the~~ following additional elements ~~are~~ 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 chapter:

 - 1. ~~(1)~~ Economy;
 - 2. ~~(2)~~ Social policy analysis;
 - 3. ~~(3)~~ Cost-benefit analysis;
 - 4. ~~(4)~~ Any other element that may be dictated by special circumstances associated with the proposal.
- B.** ~~(b)~~ Inclusion of these elements in an EIS will be at the discretion of the responsible official as determined by the scoping process.

Section 21. Kitsap County Code Section 18.04.150 last amended by Ordinance No. 99-A-1991 is amended as follows:

PART FIVE ARTICLE 5 – COMMENTING RULES

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 county adopts the following sections ~~of Chapter 197-11 of the Washington Administrative Code~~ 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.

Section 22. Kitsap County Code Section 18.04.160 last amended by Ordinance No. 99-A-1991 is amended as follows:

18.04.160 Public notice.

- ~~A.~~ Whenever possible, the county shall integrate the public notice required under this section with existing notice procedures for the county's nonexempt permit(s) or approval(s) required for the proposal.
- ~~B.~~ ~~(a)~~ Whenever Kitsap County issues a DNS under WAC 197-11-340(2) or a DS under WAC 197-11-360(3) the county shall give public notice as follows:
 - ~~1.~~ ~~(1)~~ If public notice is required for the nonexempt ~~license, the proposal, that~~ 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.~~ ~~(2)~~ If no public notice is ~~otherwise~~ required for the ~~nonexempt proposal-permit or approval~~, the county shall give notice of the DNS or DS by:
 - ~~a.~~ Posting the property, for site-specific proposals
 - ~~b.~~ ~~P~~ublishing 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.~~ ~~(3)~~ Whenever the county issues a DS under WAC 197-11-360(3), the county 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.~~ ~~(b)~~ Whenever the county issues a DEIS under WAC 197-11-455(5) or a SEIS under WAC 197-11-620, notice of the availability of those documents shall be given by:
 - ~~1.~~ ~~(1)~~ Indicating the availability of the DEIS in any public notice required for a nonexempt ~~proposal license; and~~
 - ~~2.~~ Posting the property, for site-specific proposals;
 - ~~3.~~ ~~(2)~~ 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.
- ~~(c)~~ ~~Whenever possible, the county shall integrate the public notice required under this section with existing notice procedures for the county's nonexempt permit(s) or approval(s) required for the proposal.~~
- ~~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. ~~(d)~~ The county may require an applicant to complete the public notice requirements for the applicant's proposal at his or her expense.

Section 23. Kitsap County Code Section 18.04.170 last amended by Ordinance No. 99-A-1991 is amended as follows:

18.04.170 ~~Consulted agency—~~ **Designation of responsible official to perform consulted agency responsibilities for the county.**

A. ~~(a)~~ The ~~director of the department of community development or his/her appointed designee responsible official~~ shall be responsible for preparation of written comments for the county in response to a consultation request prior to a threshold determination, participation in scoping, and reviewing a DEIS.

B. ~~(b)~~ The ~~department of community development responsible official~~ shall be responsible for the county's compliance with WAC 197-11-550 whenever the county is a consulted agency. ~~The department of community development and~~ is authorized to develop operating procedures that will ensure that responses to consultation requests are prepared in a timely fashion and include data from all appropriate departments of the county.

Section 24. Kitsap County Code Section 18.04.180 last amended by Ordinance No. 99-A-1991 is amended as follows:

PART SIX ARTICLE 6 – USING EXISTING ENVIRONMENTAL DOCUMENTS

18.04.180 Purpose of ~~this part article—A and~~ adoption by reference.

This ~~part article~~ contains rules for using and supplementing existing environmental documents prepared under SEPA or National Environmental Policy Act (NEPA) for the county's own environmental compliance. The county adopts the following sections of Chapter 197-11 of the ~~Washington Administrative Code~~ 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.

Section 25. Kitsap County Code Section 18.04.190 last amended by Ordinance No. 99-A-1991 is amended as follows:

PART SEVEN ARTICLE 7 – SEPA AND AGENCY DECISIONS

18.04.190 Purpose of ~~this part article—A and~~ adoption by reference.

This ~~part article~~ contains rules (and policies) for SEPA's substantive authority, such as decisions to mitigate or reject proposals as a result of SEPA. This article also contains procedures for appealing SEPA determinations to agencies or the courts. The county adopts the following sections ~~of Chapter 197-11 of the Washington Administrative Code~~ by reference:

- WAC 197-11-650 Purpose of this part.
- 655 Implementation.
- 660 Substantive authority and mitigation.
- 680 Appeals.

Section 26. Kitsap County Code Section 18.04.200 last amended by Ordinance No. 99-B-1992 is amended as follows:

18.04.200 Substantive authority.

- ~~A.~~ ~~(+)~~ The policies and goals set forth in this chapter are supplementary to those in the existing authorization of Kitsap County.
- ~~B.~~ ~~(+)~~ The county 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 chapter; ~~and~~
 - ~~2.~~ ~~(+)~~ Such conditions are in writing; ~~and~~
 - ~~3.~~ ~~(+)~~ The mitigation measures included in such conditions are reasonable and capable of being accomplished; ~~and~~
 - ~~4.~~ ~~(+)~~ The county has considered whether other local, state, or federal mitigation measures applied to the proposal are sufficient to mitigate the identified impacts; and
 - ~~5.~~ ~~(+)~~ Such conditions are based on one or more policies in subsection (D) of this section and cited in the license or other decision document.
- ~~C.~~ ~~(+)~~ The county may deny a permit or approval for a proposal on the basis of SEPA so long as:
 - ~~1.~~ ~~(+)~~ A finding is made that approving the proposal would result in probable significant adverse environmental impacts that are identified in a FEIS or final SEIS pursuant to this chapter; ~~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 county designates and adopts by reference the following policies as the basis for the county's exercise of authority pursuant to this section:
 - ~~1.~~ ~~(+)~~ The 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.~~ ~~(A)~~ Fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;
 - ~~b.~~ ~~(B)~~ Assure for all people of Washington safe, healthful, productive, and aesthetically and culturally pleasing surroundings;
 - ~~c.~~ ~~(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.~~ ~~(D)~~ Preserve important historical, cultural, and natural aspects of our national heritage;
 - ~~e.~~ ~~(E)~~ Maintain, wherever possible, an environment which supports diversity and variety of individual choice;
 - ~~f.~~ ~~(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. (G) Enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.
- 2. (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. (3) The county adopts by reference the policies in the following county ordinances, plans, rules, and regulations by reference:
 - a. (A) The Kitsap County water and sewer plan;
 - b. (B) The Kitsap County Shoreline Management Master Program, Title 22 of this code, as may hereafter be amended;
 - c. (C) The Kitsap County Comprehensive Plan adopted May 7, 1998 August, 1977, as may hereafter be amended;
 - ~~(D) The South Kitsap subarea plan adopted August 1982, as may hereafter be amended;~~
 - ~~(E) The Central Kitsap subarea plan adopted October 23, 1983, as may hereafter be amended;~~
 - ~~(F) The North Kitsap subarea plan adopted April, 1984, as may hereafter be amended;~~
 - d. (G) The Kitsap County View Blockage Resolution, Chapter 17.450 of this code, as may hereafter be amended;
 - e. (H) Kitsap County Noise Ordinance, Chapter 10.28 of this code;
 - f. (I) Kitsap County Zoning Ordinance, Title 178 of this code, as may hereafter be amended;
 - g. (J) The Kitsap County Building Code, Chapter 14.04 of this code, as may hereafter be amended;
 - h. (K) The Kitsap County Flood Damage Prevention Ordinance, Title 15 of this code, as may hereafter be amended;
 - i. (L) The park and recreation plan, as may hereafter be amended;
 - j. (M) The bicycle plan;
 - k. (N) The Bremerton-Kitsap County board of health regulations;
 - l. (O) Kitsap County Subdivision Ordinance, Chapters 16.04 through 16.44 of this code, as may hereafter be amended;
 - m. (P) The Kitsap County Short Subdivision Ordinance, Chapter 16.48 of this code, as may hereafter be amended;
 - n. (Q) The Kitsap County Storm Water Management Ordinance, Title 12 Chapters 12.04 through 12.36 of this code, as may hereafter be amended;
 - o. (R) The Kitsap County Critical Areas Ordinance, Title 19 of this code, as may hereafter be amended ~~Strategies for critical area designations and interim regulations;~~
 - ~~(S) Strategies for resource lands designations and interim development regulations;~~
 - p. (F) Kitsap County-wide planning policy, adopted November 22, 2004 August 10, 1992, as may hereafter be amended.

Section 27. Kitsap County Code Section 18.04.210 last amended by Ordinance No. 99-A-1991 is amended as follows:

18.04.210 Appeals.

- A. (a) The county establishes the following administrative appeal procedures under RCW 43.21C.075 and WAC 197-11-680:

1. ~~(1)~~ An administrative appeal relating to a FEIS or DNS for a nonexempt action that does not require a public hearing shall be heard by the Hearing Examiner. Administrative appeals relating to the adequacy of an FEIS shall be consolidated in all cases with the public hearing on the merits of the proposal. If no public hearing process exists for a proposal, review of the final FEIS shall be heard and determined by the hearing examiner. The procedures for perfecting such an appeal to the hearing examiner shall be those procedures specified for an appeal, as set forth in Title 21, as may hereafter be amended.
2. ~~(2)~~ An administrative appeal relating to a FEIS or DNS for a nonexempt action that requires a public hearing shall be combined with and heard by the reviewing body for the underlying action. Administrative appeals relating to decisions conditioning or denying a proposal shall be consolidated in all cases with a public hearing on the merits of the proposal. If no public hearing process exists for a proposal, review of the decision to condition or deny a proposal shall be heard and determined by the hearing examiner. The procedures for perfecting such an appeal to the hearing examiner shall be those procedures specified for an appeal as set forth in Title 21, as may hereafter be amended.
3. ~~(3)~~ Administrative appeals relating to a DS or a DNS shall be heard by the hearing examiner. The procedures for perfecting such an appeal shall be those procedures specified for an appeal as set forth in Title 21, as may hereafter be amended.
- ~~(b)~~ The procedural determination by the county's responsible official shall carry substantial weight in any appeal proceeding.
4. ~~(e)~~ For any appeal under this subsection, the county shall provide for a record that shall consist of the following:
 - a. ~~(1)~~ Findings and conclusions;
 - b. ~~(2)~~ Testimony under oath; and
 - c. ~~(3)~~ A taped or written transcript, the cost of which may be borne by the appellant.
- ~~5.~~ The county may require the appellant to provide an electronic transcript.
- ~~6.~~ The procedural determination by the county's responsible official shall carry substantial weight in any appeal proceeding.
- ~~B.~~ The county 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.

Section 28. Kitsap County Code Section 18.04.220 last amended by Ordinance No. 99-A-1991 is amended as follows:

18.04.220 Notice/statute of limitation of action.

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

Section 29. Kitsap County Code Section 18.04.230 last amended by Ordinance No. 99-A-1991 is amended as follows:

PART EIGHT ARTICLE 8 – DEFINITIONS

18.04.230 Purpose of ~~this part article~~ A and adoption by reference.

This ~~article part~~ contains uniform usage and definitions of terms under SEPA. The county adopts the following sections ~~of Chapter 197-11 of the Washington Administrative Code~~ 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.
- ~~-748 Environmentally sensitive area.~~
- 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.~~
- ~~WAC 197-11~~ -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.

Section 30. Kitsap County Code Section 18.04.240 last amended by Ordinance No. 99-A-1991 is amended as follows:

PART NINE ARTICLE 9 – CATEGORICAL EXEMPTIONS

18.04.240 Adoption by reference.

The County adopts by reference the ~~following sections of Chapter 197-11 of the Washington Administrative Code,~~ rules for categorical exemptions, as supplemented in this ordinance, including ~~Section B (Use of exemptions), and WAC 173-806-190 (Environmentally sensitive areas)~~ 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.

Section 31. Kitsap County Code Section 18.04.250 last amended by Ordinance No. 99-A-1991 is amended as follows:

PART TEN ARTICLE 10 – AGENCY COMPLIANCE

18.04.250 Purpose of ~~this part article A~~ and adoption by reference.

This ~~article part~~ contains rules for agency compliance with SEPA, including rules for charging fees under the SEPA process, designating ~~environmentally sensitive~~ 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 ~~of Chapter 197-11 of the Washington Administrative Code~~ 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 ~~purposes proposals.~~
- 928 Lead agency for public and private ~~purposes 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.
- 94~~87~~ Assumption of lead agency status.

Section 32. Kitsap County Code Section 18.04.260 last amended by Ordinance No. 99-A-1991 is hereby repealed:

~~18.04.260 — Environmentally sensitive areas.~~

- ~~(a) Kitsap County shall designate environmentally sensitive areas under the standards of WAC 197-11-908 and shall file maps designating such areas, together with the exemptions from the list in WAC 197-11-908 that are inapplicable in such areas, with the Department of Community Development and the Department of Ecology, Headquarters Office, Olympia, Washington. The environmentally sensitive area designations shall have full force and effect of law as of the date of filing.~~
- ~~(b) Among other areas which may be designated as environmentally sensitive, the county hereby designates areas with a critical recharging effect on aquifers used for potable water in which the aquifer is uniquely susceptible to the introduction of pollutants. A map designating such areas is attached to and adopted as part of the ordinance codified in this chapter. The following categorical exemptions at WAC 197-11-800 shall not apply to proposed actions located within these environmentally sensitive areas: (1), (2)(e) transportation corridor landscaping as it relates to application of Washington state agriculture approved herbicides by licensed personnel for right of way weed control; (d) for septic tank installations, (6)(a), (24)(a), (d), (f) and (g), and (25)(i).~~
- ~~(c) The county shall treat proposals located wholly or partially within an environmentally sensitive area no differently than other proposals under this chapter, making a threshold determination for all such proposals. The county shall not automatically require an EIS for a proposal merely because it is proposed for location in an environmentally sensitive area.~~
- ~~(d) Certain exemptions do not apply on lands covered by water, and this remains true regardless of whether or not lands covered by water are mapped.~~

Section 33. Kitsap County Code Section 18.04.270 last amended by Ordinance No. 99-A-1991 is renumbered and amended as follows:

~~18.04.270 — Fees. (Repealed)*~~

~~—* Editor’s Note: Former Section 18.04.270, “Fees,” was repealed by Section 18 of Ord. 291 (2002). This section was originally derived from Section 10(C) of Ord. 99-A (1991). Fees are now codified in Section 21.06.100 of this code.~~

- ~~A. The county shall require the applicable fees listed in KCC 21.06.100.~~
- ~~B. The county 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 county may charge any person for copies of any document prepared under this ordinance, and for mailing the document, in a manner provided by chapter 42.17 RCW.~~

Section 34. Kitsap County Code Section 18.04.280 last amended by Ordinance No. 99-A-1991 is renumbered as follows:

18.04.2780 Administrative guidelines.

The responsible official 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 department of community development.

NEW SECTION. Section 35. A new section is hereby added to Kitsap County Code Title 18 as follows:

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.

Section 36. Kitsap County Code Section 18.04.290 last amended by Ordinance No. 99-A-1991 is amended as follows:

PART ELEVEN ARTICLE 11 – FORMS

18.04.290 Adoption by reference.

The county adopts the following forms and sections ~~of Chapter 197-11 of the Washington Administrative Code~~ 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.

NEW SECTION. Section 37. A new chapter is hereby added to Kitsap County Code Title 18 as follows:

Chapter 18.16

TIMBER HARVEST

18.16.175 Forestry in Rural Wooded Incentive Program development.

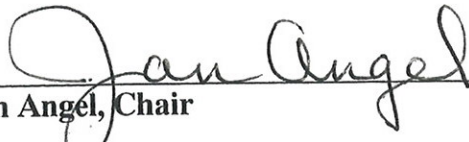
Forestry activities in the Wooded Reserve and Permanent Open Space tracts of a Rural Wooded Incentive Program development shall be reviewed by the Department for consistency with Washington State Department of Natural Resources timber harvest standards. Forestry activities within these tracts will not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

Effective Date: This Ordinance shall take effect immediately.

Severability: If any sentence, section, provision, or clause of this ordinance or its application to any person, entity or circumstance is for any reason held invalid or unconstitutional, the remainder of the ordinance, or the application of the provision to other persons, entities, or circumstances is not affected.

Dated: December 11, 2006

**KITSAP COUNTY BOARD OF
COMMISSIONERS**




Jan Angel, Chair



Patty Lent, Commissioner

ATTEST:




Opal Robertson
Clerk of the Board



Chris Endresen, Commissioner

Approved as to Form:



Lisa J. Nickel
Deputy Prosecuting Attorney