

Klickitat County Environmental
Ordinance #121084



Enacted August 23, 1982

Amended:
12/10/84
4/10/95
9/2/03

TABLE OF CONTENTS

KLICKITAT COUNTY ENVIRONMENTAL ORDINANCE

SECTION

1 AUTHORITY 1

2 GENERAL REQUIREMENTS 1

 A. PURPOSE OF THIS PART AND ADOPTION BY REFERENCE 1

 B. ADDITIONAL DEFINITIONS 1

 C. DESIGNATION OF RESPONSIBLE OFFICIAL 2

 D. LEAD AGENCY DETERMINATION AND RESPONSIBILITIES 2

 E. TRANSFER OF LEAD AGENCY STATUS TO A STATE AGENCY 3

 F. ADDITIONAL TIMING CONSIDERATION 4

 G. GENERAL ENVIRONMENT REVIEW PROCEDURE AND
 APPLICANT'S RESPONSIBILITIES 4

3 CATEGORICAL EXEMPTIONS AND THRESHOLD DETERMINATIONS 6

 A. PURPOSE OF THIS PART AND ADOPTION BY REFERENCE 6

 B. USE OF EXEMPTIONS 6

 C. ENVIRONMENTAL CHECKLIST 7

 D. MITIGATED DNS 8

4 ENVIRONMENTAL IMPACT STATEMENT (EIS) 9

 A. PURPOSE OF THIS PART AND ADOPTION BY REFERENCE 9

 B. PREPARATION OF EIS--ADDITIONAL CONSIDERATIONS 10

5 COMMENTING 10

 A. ADOPTION BY REFERENCE 10

 B. PUBLIC NOTICE 11

 C. PUBLIC NOTICE, Amended per Klickitat County Ordinance
 #0031505, March 15, 2005 11

 D. DESIGNATION OF OFFICIAL TO PERFORM CONSULTED AGENCY
 RESPONSIBILITIES FOR THE COUNTY 12

6 USING EXISTING ENVIRONMENTAL DOCUMENTS 12

 A. PURPOSE OF THIS PART AND ADOPTION BY REFERENCE 12

7 SEPA AND AGENCY DECISIONS 13

 A. PURPOSE OF THIS PART AND ADOPTION BY REFERENCE 13

 B. SUBSTANTIVE AUTHORITY 13

 C. APPEALS 14

 D. NOTICE/STATUTE OF LIMITATIONS 16

8 DEFINITIONS 16

 A. PURPOSE OF THIS PART AND ADOPTION BY REFERENCE 16

9 CATEGORICAL EXEMPTIONS 17

 A. ADOPTION BY REFERENCE 17

10 AGENCY COMPLIANCE 17

 A. PURPOSE OF THIS PART AND ADOPTION BY REFERENCE 17

 B. ENVIRONMENTALLY SENSITIVE AREAS 18

 C. FEES 19

 D. EFFECTIVE DATE 19

 E. SEVERABILITY 19

11 FORMS 19

 A. ADOPTION BY REFERENCE 19

12 REPEALER 20

ORDINANCE 121084

SECTION 1
AUTHORITY

A. AUTHORITY

The County of Klickitat adopts this ordinance under the State Environmental Policy Act (SEPA), RCW 43.21C.120, and the SEPA Rules, WAC 197-11-904.

This ordinance contains this County's SEPA procedures and policies.

The SEPA rules, chapter 197-11 WAC, must be used in conjunction with this ordinance.

SECTION 2
GENERAL REQUIREMENTS

A. PURPOSE OF THIS PART AND ADOPTION BY REFERENCE

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

WAC

197-11-040 Definitions.

197-11-050 Leading agency.

197-11-055 Timing of the SEPA process.

197-11-060 Content of environmental review.

197-11-070 Limitations on actions during SEPA process.

197-11-080 Incomplete or unavailable information.

197-11-090 Supporting documents.

197-11-100 Information required of applicants.

197-11-360 Determination of significance (DS)/initiation of scoping.

197-11-390 Effect of threshold determination.

B. ADDITIONAL DEFINITIONS

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

(1) "Department" means any division, subdivision or organizational unit of the County established by ordinance, rule, or order.

(2) "SEPA rules" means chapter 197-11 WAC adopted by the department of ecology.

(3) "Ordinance" means the ordinance, resolution, or other procedure used by the County to

adopt regulatory requirements.

(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 (DNS) procedures).

(5) "Board of County Commissioners", hereinafter referred to as "the Board", is the legislative authority of Klickitat County.

(6) "County department" means any administrative office or department of Klickitat County.

(7) "SEPA Guidelines" means Chapter 197-10 WAC adopted by the Council on Environmental Policy, as now or hereafter amended.

(8) "WAC" means Washington Annotated Code.

(9) "RCW" means Revised Code of Washington.

(10) "ERC" means Environmental Review Committee.

C. DESIGNATION OF RESPONSIBLE OFFICIAL

For those proposals for which the County is the lead agency, the responsible official shall be the Director of Planning.

(1) For all proposals for which the County is the lead agency, the responsible official shall make the threshold determination, supervise scoping and preparation of any required environmental impact statement (EIS), and perform any other functions assigned to the "lead agency" or "responsible official" by those sections of the SEPA rules that were adopted by reference in WAC 173-806-020.

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

D. LEAD AGENCY DETERMINATION AND RESPONSIBILITIES

(1) The department within the County receiving an application for or initiating a proposal that involves a nonexempt action shall determine the lead agency for that proposal under WAC 197-11-050 and 197-11-922 through 197-11-940: unless the lead agency has been previously determined or the department is aware that another department or agency is in the process of determining the lead agency.

(2) When the County is the lead agency for a proposal, the department receiving the application shall determine the responsible official who shall supervise compliance with the threshold determination requirements, and if an EIS is necessary, shall supervise preparation of the EIS.

(3) When the County is not the lead agency for a proposal, all departments of the County shall use and consider, as appropriate, either the DNS or the final EIS of the lead agency in making decisions on the proposal. No County department shall prepare or require preparation of a DNS or EIS in addition to that prepared by the lead agency, unless required under WAC 197-11-600. In some cases, the County may conduct supplemental environmental review under WAC 197-11-600.

(4) If the County or any of its departments receives a lead agency determination made by another agency that appears inconsistent with the criteria of WAC 197-11-922 through 197-11-940, it may object to the determination. Any objection must be made to the agency originally making the determination and resolved within fifteen days of receipt of the determination, or the County must petition Department of 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 may be initiated by the responsible official.

(5) Departments of the County are authorized to make agreements as to lead agency status or shared lead agency duties for a proposal under WAC 197-11-942 and 197-11-944: PROVIDED, That the responsible official and any department that will incur responsibilities as the result of such agreement approved the agreement.

(6) Any department making a lead agency determination for a private project shall require sufficient information from the applicant to identify which other agencies have jurisdiction over the proposal (That is: Which agencies require nonexempt licenses?).

E. 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 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.

F. ADDITIONAL TIMING CONSIDERATIONS

(1) For non-exempt proposals, the DNS or final EIS for the proposal shall accompany the County's staff recommendation to any appropriate advisory body, such as the Planning Commission.

(2) 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.

G. GENERAL ENVIRONMENTAL REVIEW PROCEDURE AND APPLICANT'S RESPONSIBILITIES

The following general descriptions of the environmental review process are intended to aid users of this ordinance in understanding the basic procedures, sequence of events, and responsibilities of the applicant and the County in obtaining an environmental threshold

determination and, if required, submitting an environmental impact statement.

(1) Applicant submits a completed environmental checklist to the Planning Department. Applicant need not submit a checklist in cases for which applicant has determined to prepare an environmental impact statement.

(2) Planning Department reviews checklist and either a) accepts it as complete and correct or b) returns it to the applicant for additional information or correction. The Planning Department shall file with the County Auditor the standards used by the Department for determining when an application and supporting documentation are complete.

(3) Upon accepting the checklist as complete and correct, the responsible official will make a threshold determination. The Planning Director shall make a threshold determination on a completed application within ninety days after the application and supporting documentation are complete. The applicant may request an additional thirty days for the threshold determination.

(4) Once a threshold determination is made, the Planning Department will send written notice of such to the applicant, Department of Ecology and Board of County Commissioners.

(5) Scoping: If a declaration of significance (DS) is made and an EIS is required the responsible official will narrow the scope of the EIS to the probable significant adverse impacts, reasonable alternatives and mitigation measure and will: invite agency and public comment on the DS, identify reasonable alternatives and probable significant impacts that are not significant, work with other agencies to identify and include studies required for other government approvals with the EIS, where feasible.

(6) APPEAL: The applicant, an aggrieved person or agency may appeal the threshold determination made by the planning director to the Board of County Commissioners for reconsideration by filing an appeal with the County Auditor within fifteen (15) days of the issuance of the determination.

This administrative appeal process must be used before anyone may initiate judicial review of any SEPA issue that could have been reviewed under this administrative appeal process.

(7) PREPARATION OF E.I.S.: If an environmental impact statement (E.I.S.) is authorized by the Planning Director to be prepared by the applicant, a draft E.I.S. shall be prepared under the direction of the responsible official within ninety (90) days, unless extension of time is granted. Nothing in this section shall be construed to remove the authority of the responsible official to prepare or manage preparation of an EIS.

Once the draft E.I.S. is submitted the Planning Department will inform the public that the draft E.I.S. is available and of any public hearing and will circulate the E.I.S. to appropriate agencies and individuals. A thirty (30) day review period will be established for the public to comment upon the proposal and the draft E.I.S. The Planning Director shall issue or cause to be issued the FEIS within sixty days of the end of the comment period for the DEIS, unless the proposal is unusually large in scope, the environmental impact associated with the proposal is unusually complex, or extensive modifications are required to respond to public comments.

The applicant will be responsible for all costs incurred in preparing and circulating the draft E.I.S. and in preparing and circulating the final E.I.S., conducting public hearings, and in defense of any appeals arising therefrom. Such costs shall include, but not be limited to, consultant and attorney fees, including fees for prosecuting attorney or special deputy prosecuting attorneys.

SECTION 3

CATEGORICAL EXEMPTIONS AND THRESHOLD DETERMINATIONS

A. PURPOSE OF THIS PART AND ADOPTION BY REFERENCE

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

WAC

- 197-11-300 Purpose of this part.
- 197-11-305 Categorical exemptions.
- 197-11-310 Threshold determinations required.
- 197-11-315 Environmental checklist.
- 197-11-330 Threshold determination process.
- 197-11-335 Additional information.
- 197-11-340 Determination of nonsignificance.
- 197-11-350 Mitigated DNS.
- 197-11-360 Determination of Significance (DS) initiation
of scoping
- 197-11-390 Effect of Threshold Determination

B. USE OF EXEMPTIONS

(1) 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 initially determine whether the license and/or the proposal is exempt. The Planning Department shall confirm in writing a department's determination that a license or proposal is exempt. The Planning Department's determination that a proposal is exempt shall be final and not subject to administrative review. If a proposal is exempt, none or the procedural requirements of this ordinance apply to the proposal. The County shall not require completion of an environmental checklist for an exempt proposal.

(2) 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.

(3) If a proposal includes both exempt and nonexempt actions, the County may authorize exempt actions prior to compliance with procedural requirements of this ordinance, except that:

- (a) The County shall not give authorization for:

- (i) Any nonexempt action;
- (ii) Any action that would have an adverse environmental impact; or
- (iii) Any action that would limit the choice of alternatives.

(b) 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

(c) 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.

C. ENVIRONMENTAL CHECKLIST

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 ordinance; 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.

(1) 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.

(2) 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:

(a) The County has technical information on a question or questions that is unavailable to the private applicant; or

(b) The applicant has provided inaccurate information on previous proposals or on proposals currently under consideration.

D. MITIGATED DNS

(1) As provided in this section and in WAC 197-11-350, the responsible official may issue a DNS based on conditions attached to the proposal by the responsible official or on changes to, or clarifications of, the proposal made by the applicant.

(2) An applicant may request in writing early notice of whether a DNS is likely under WAC 197-11-350. The request must:

(a) Follow submission of a permit application and environmental checklist for a nonexempt proposal for which the department is lead agency; and

(b) Precede the County's actual threshold determination for the proposal.

(3) The responsible official should respond to the request for early notice within five (5) working days. The response shall:

(a) Be written:

(b) 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) 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 County 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 County shall base its threshold determination on the changed or clarified proposal and should make the determination within fifteen (15) days of receiving the changed or clarified proposal, but in no event longer than the period specific in RCW 43.21C.033:

(a) 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) 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) The applicant's proposed mitigation measures (clarifications, changes or conditions) must be in writing and must be specific. For example, proposals to "control noise" or "prevent stormwater runoff" are inadequate, whereas proposals to "muffle machinery to X decibel" or "construct 200-foot stormwater retention pond at Y location" are adequate.

(d) Mitigation measures which justify issuance of a mitigated DNS may be incorporated in the DNS by reference to agency staff reports, studies of other documents.

(6) Mitigation measures 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.

(7) 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).

(8) The County'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 County to consider the clarifications or changes in its threshold determination.

SECTION 4 ENVIRONMENTAL IMPACT STATEMENT (EIS)

A. PURPOSE OF THIS PART AND ADOPTION BY REFERENCE

This part contains the rules for preparing environmental impact statements. The

County adopts the following sections by reference, as supplemented by this part:

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

B. PREPARATION OF EIS--ADDITIONAL CONSIDERATIONS

(1) Preparation of draft and final EIS's (DEIS and FEIS) and draft and final supplemental EIS's (SEIS) is the responsibility of the planning department under the direction of the responsible official. Before the County issues an EIS, the responsible official shall be satisfied that it complies with this ordinance and chapter 197-11 WAC.

(2) The DEIS and FEIS or draft and final SEIS shall be prepared by County staff, the applicant, or by a consultant selected by the County or the applicant. 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 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 the distribution.

(3) 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 ordinance or that is being requested from another agency. (This does not apply to information the County may request under another ordinance or statute.)

**SECTION 5
COMMENTING**

A. ADOPTION BY REFERENCE

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

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

B. PUBLIC NOTICE

(1) Whenever Klickitat 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 by publishing notice in a newspaper of the County.

(a) The notice shall state whether a DS or DNS has been issued and when comments are due.

(b) Whenever the County issues a DS under WAC 197-11-360(3), the County shall state the scoping procedure for proposal in the DS as required in WAC 197-11-408 and in that public notice.

(2) 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:

- (a) Indicating the availability of the DEIS in any public notice required for a nonexempt license;
- (b) Notifying the news media; and
- (c) Sending a copy to the Goldendale Public Library, or to the library in the community where the proposal is located.

(3) 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.

(4) The County may require a applicant to complete the public notice requirements for the applicant's proposal at his or her expense.

C. DESIGNATION OF OFFICIAL TO PERFORM CONSULTED AGENCY RESPONSIBILITIES FOR THE COUNTY

(1) The responsible official (director of planning) 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.

(2) This person, shall be responsible for the County's compliance with WAC 197-11-550 whenever the County is a consulted agency and is authorized to develop operating procedures that will ensure that responses to consultation requests are prepared in a timely fashion and include data from all appropriate departments of the County.

SECTION 6
USING EXISTING ENVIRONMENTAL DOCUMENTS

A. PURPOSE OF THIS PART AND ADOPTION BY REFERENCE

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

- WAC 197-11-600 When to use existing environmental documents.
- 197-11-610 Use of NEPA documents.
- 197-11-620 Supplemental environmental impact statement--
Procedures.
- 197-11-625 Addenda--Procedures.
- 197-11-630 Adoption--Procedures.
- 197-11-635 Incorporation by reference--Procedures.
- 197-11-640 Combining documents.

SECTION 7
SEPA AND AGENCY DECISIONS

A. PURPOSE OF THIS PART AND ADOPTION BY REFERENCE

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

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

B. SUBSTANTIVE AUTHORITY

(1) The policies and goals set forth in this ordinance are supplementary to those in the

existing authorization of Klickitat County.

(2) The County may attach conditions to a permit or approval for a proposal so long as:

(a) Such conditions are necessary to mitigate specific probable adverse environmental impacts identified in environmental documents prepared pursuant to this ordinance; and

(b) Such conditions are in writing; and

(c) The mitigation measures included in such conditions are reasonable and capable of being accomplished; and

(d) The County has considered whether other local, state, or federal mitigation measures applied to the proposal are sufficient to mitigate the identified impacts; and

(e) Such conditions are based on one or more policies in subsection (4) of this section and cited in the license or other decision document.

(3) The County may deny a permit or approval for a proposal on the basis of SEPA so long as:

(a) A finding is made that approving the proposal would result in probable significant adverse environmental impacts that are identified in a FEIS or final SEIS prepared pursuant to this ordinance; and

(b) A finding is made that there are no reasonable mitigation measures capable of being accomplished that are sufficient to mitigate the identified impact; and

(c) The denial is based on one or more policies identified in writing in the decision document.

(4) The County adopts by reference the following policies as the basis for the County's exercise of authority pursuant to this section:

(a) The County shall use all practicable means, consistent with other essential considerations of state policy, to improve and coordinate plans, functions, programs, and resources.

(b) 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.

(c) The County adopts by reference the policies in the following County codes, ordinances, resolutions, and plans, building codes, mobile home and mobile home park ordinances, zoning ordinance, subdivision and short platting ordinance, flood plain ordinance, comprehensive plan, shorelines master plan, park plan, paths and trails plan, and six year road program.

(5) County licenses, permits or approvals may be conditioned or denied on the basis of SEPA substantive authority by a County non-elected official under this and other County ordinances. The decision to condition or deny a license, permit or approval on the basis of SEPA substantive authority may be appealed to the Board of Commissioners, except for licenses, permits and approvals issued by the Board of Adjustment or the Board of County Commissioners, which shall be final. Such appeal shall only be perfected by the proponent or any aggrieved party by giving written notice to the County Auditor within ten (10) days of the decision being appealed. Review by the Board shall be on a de novo basis.

C. APPEALS

Klickitat County establishes the following administrative appeal procedures under RCW 43.21C.075 and WAC 197-11-680:

(a) Any agency or person may appeal the County's compliance with chapter 197-11 WAC and Chapter 43.21C RCW for issuance of the following:

- (i) A final DNS: Appeal of the DNS must be made to the Board within fifteen (15) days of the date the DNS is issued (see WAC 197-11-390(2) (a).
- (ii) A DS: The appeal must be made to the Board within fifteen (15) days of the date the DS is issued.
- (iii) An EIS: Appeal of an FEIS must be made to the Board within twenty-one days of the date of EIS issuance.
- (i) Appeals shall be in writing and filed with the County Auditor. Appeals shall state with specificity the basis for the appeal and the errors to be asserted to the Board. Appeals shall not be deemed complete without payment of the applicable fees.
- (iv) (ii) In the case of an appeal that is also the subject of an appeal to the shorelines hearing board under Chapter 90.58 RCW, the shorelines hearing board shall have sole jurisdiction over both the appeal under this section and under Chapter 90.58 RCW.
- (v) (iii) Except as provided by RCW 43.21C.075(3)(b), where a county public hearing is required on the action which is the subject of the SEPA appeal, then the SEPA appeal hearing shall be combined with that public hearing. If more than one public hearing is provided or available, then the SEPA hearing shall be before the board or to such hearing officer as may be designated by the board.
- (vi) (iv) Procedural determinations made by the responsible official shall be entitled to substantial weight.

(b) Any petition for superior court review of a Board decision under this section must be filed within twenty-one days of the date the Board enters its written findings and conclusions on the appeal. Consistent with RCW 43.21C.075, judicial review of Board decisions under this section shall be together with the underlying action.

(c) For any appeal to superior court under this subsection, the County shall provide for a record that shall consist of the following:

- (i) Written findings and conclusions; and
- (ii) A taped or written transcript. The cost for preparation of the record on review shall be borne by the party seeking review.

(d) The procedural determination by the County's responsible official shall carry substantial weight in any appeal proceeding.

(1) The County shall give official notice under WAC 197-11-680 (5) whenever it issues a

license, permit or approval for which a statute or ordinance, other than this ordinance, establishes a time limit for commencing judicial appeal.

(Amended 9/02/03 per Ordinance #0090203, Klickitat County Board of Commissioners)

D. NOTICE/STATUTE OF LIMITATIONS

(1) The County, applicant for, or proponent of an action may publish a notice of action pursuant to RCW 43.21C.080 for any action.

(2) The form of the notice shall be substantially in the form provided in WAC 197-11-990. The notice shall be published by the City Clerk or County Auditor, applicant or proponent pursuant to RCW 43.21C.080.

SECTION 8 DEFINITIONS

A. PURPOSE OF THIS PART AND ADOPTION BY REFERENCE

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

- WAC 197-11-700 Definitions.
- 197-11-702 Act.
- 197-11-704 Action.
- 197-11-706 Addendum.
- 197-11-708 Adoption.
- 197-11-710 Affected tribe.
- 197-11-712 Affecting.
- 197-11-714 Agency.
- 197-11-716 Applicant.
- 197-11-718 Built environment.
- 197-11-720 Categorical exemption.
- 197-11-722 Consolidated appeal.
- 197-11-724 Consulted agency.
- 197-11-726 Cost-benefit analysis.
- 197-11-728 County/City.
- 197-11-730 Decision maker.
- 197-11-732 Department.
- 197-11-734 Determination of nonsignificance (DNS).
- 197-11-736 Determination of significance (DS).
- 197-11-738 EIS.
- 197-11-740 Environment.

197-11-742 Environmental checklist.
197-11-744 Environmental document.
197-11-746 Environmental review.
197-11-748 Environmentally sensitive area.
197-11-750 Expand scoping.
197-11-752 Impacts.
197-11-754 Incorporation by reference.
197-11-756 Lands covered by water.
197-11-758 Lead agency.
197-11-760 License.
197-11-762 Local agency.
197-11-764 Major action.
197-11-766 Mitigated DNS.
197-11-768 Mitigation.
197-11-770 Natural environment.
197-11-772 NEPA.
197-11-774 Nonproject.
197-11-776 Phased review.
197-11-778 Preparation.
197-11-780 Private project.
197-11-782 Probable.
197-11-784 Proposal.
197-11-786 Reasonable alternative.
197-11-788 Responsible official.
197-11-790 SEPA.
197-11-792 Scope.
197-11-793 Scoping.
197-11-794 Significant.
197-11-799 Underlying governmental action.

SECTION 9 CATEGORICAL EXEMPTIONS

A. ADOPTION BY REFERENCE

The County adopts by reference the following rules for categorical exemptions, as supplemented in this ordinance, including WAC 173-806-070 (flexible thresholds), WAC 173-806-080 (use of exemptions), and WAC 173-806-190 (environmentally sensitive areas):

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

SECTION 10
AGENCY COMPLIANCE

A. PURPOSE OF THIS PART AND ADOPTION BY REFERENCE

This part contains rules for agency compliance with SEPA, including rules for charging under the SEPA process, designating environmentally sensitive 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, as supplemented by WAC 173-806-045 through 173-806-043 and this part:

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

B. ENVIRONMENTALLY SENSITIVE AREAS

Klickitat County shall designate environmentally sensitive areas under the standards of WAC 197-11-908 and shall file maps designating such areas, together with exemptions from the list in

WAC 197-11-908 that are inapplicable in such areas, with the County Auditor, County Planning Office 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.

(1) The County shall treat proposals located wholly or partially within an environmentally sensitive area no differently than other proposals under this ordinance, 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.

(2) 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.

C. FEES

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

(1) 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.

(2) 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.

D. EFFECTIVE DATE

The effective date of this ordinance is October 1, 1984.

E. 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 11
FORMS

A. ADOPTION BY REFERENCE

The County adopts the following forms and sections by reference:

WAC 197-11-960 Environmental checklist.

197-11-965 Adoption notice.

197-11-970 Determination of nonsignificance (DNS).

197-11-980 Determination of significance and scoping
notice (DS).

197-11-985 Notice of assumption of lead agency status.

197-11-990 Notice of action.

SECTION 12
REPEALER

A. Ordinance number 82J82 is repealed as of the effective date of this ordinance.

SIGNED this 10 day of December, 1984.

BOARD OF COMMISSIONERS FOR
Klickitat County, Washington

/s/ Fred Holly FRED HOLLY,
Chairman

ATTEST:

/s/ Glenn M. Claussen
/s/ Nancy J. Evans Glenn M. Claussen, Member
Ex-Official Clerk of the
Board /s/ Daryl C. Spalding
Daryl C. Spalding, Member

APPROVED AS TO FORM:

/s/ L. Eugene Hanson
Prosecuting Attorney