

ORDINANCE NO. 0053122

AN ORDINANCE OF KLICKITAT COUNTY, WASHINGTON RELATING TO ENVIRONMENTAL REVIEW; AMENDING ORDINANCE NO. 121084, AS AMENDED; AND, KLICKITAT COUNTY CODE TITLE 20.

**Section 1 Findings.**

1.1 The action being considered is an amendment to the Klickitat County's SEPA procedures and policies (Klickitat County Environmental Ordinance No.121084, as amended, and Klickitat County Code Title 20).

1.2 The objective of the proposal is to improve code clarity by eliminating and/or updating outdated provisions, and by providing additional information on the integration of the SEPA administrative appeal process with Klickitat County's procedure for processing land use applications.

1.3 The State Environmental Policy Act ("SEPA"), Chapter 43.21C RCW, sets forth an environmental policy for Washington State and requires that agencies review the environmental impacts of proposals, and, where appropriate, to mitigate those impacts.

1.4 Chapter 197-11 of the Washington Administrative Code ("WAC") provides SEPA rules to guide agency actions and to implement SEPA.

1.5 Chapter 43.21C RCW authorizes counties to adopt ordinances for environmental review pursuant to SEPA.

1.6 The Klickitat County Board of County Commissioners adopted Ordinance 121084, as amended, and Title 20 of the Klickitat County Code implementing environmental review procedures.

1.7 The adoption of SEPA policies and procedures is categorically exempt from SEPA review pursuant to WAC 197-11-800(19) and WAC 197-11-904(5).

1.8 The County has provided notice and opportunity for public comment and held public hearings on this ordinance on April 26, 2022, May 10, 2022, May 17, 2022 and May 31, 2022.

1.9 After reviewing the record, it is deemed to be in the public interest to adopt the proposed revisions, and amend the County's Environmental Ordinance No. 121084, as amended, and Klickitat County Code Title 20.

**Section 2. Adoption.**

Klickitat County Board of County Commissioners hereby approves and adopts amendments to the County Environmental Ordinance and Title 20 of the Klickitat County Code, as set forth in *Exhibit A*.

**Section 3. Severability.**

The provisions of this ordinance are declared separate and severable. The invalidity of any portion of this ordinance shall not affect the validity of the remainder of the ordinance.

**Section 4. Effective Date.**


This ordinance shall take immediate effect.

ADOPTED this 31<sup>st</sup> day of May, 2022

BOARD OF COUNTY COMMISSIONERS  
Klickitat County, Washington

  
\_\_\_\_\_  
Jacob Anderson, Chairman

  
\_\_\_\_\_  
Dan Christopher, Commissioner


  
\_\_\_\_\_  
David M. Sauter, Commissioner



ATTEST:

  
\_\_\_\_\_  
Deputy Clerk of the Board  
In and for the County of Klickitat,  
State of Washington

APPROVED AS TO FORM:

  
\_\_\_\_\_  
David R. Quesnel  
Klickitat County Prosecuting Attorney

Ordinance 0053122

# EXHIBIT A

---

**ENVIRONMENTAL ORDINANCE 121084, as amended / KLICKITAT COUNTY CODE Title 20  
ENVIRONMENTAL IMPACT**

**SECTION 1 / Chapter 20.04 AUTHORITY**

**A / 20.04.010 Authority.**

- A. The county of Klickitat adopts the ordinance codified in this title under the State Environmental Policy Act (SEPA), RCW 43.21C.120 and the SEPA Rules, WAC 197-11-904.
- B. This title contains this county's SEPA procedures and policies.
- C. The County hereby adopts by reference the SEPA rules, chapter 197-11 WAC. The SEPA Rules, Chapter 197-11 WAC, must be used in conjunction with this title.
- D. This ordinance contains uniform usage and definitions of terms under SEPA and the SEPA rules.

**SECTION 2 / Chapter 20.08 GENERAL REQUIREMENTS**

**A / 20.08.010 Purpose—Adoption by reference.**

This chapter 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:

WAC 197-11-040	Definitions.
WAC 197-11-050	Lead agency.
WAC 197-11-055	Timing of the SEPA process.
WAC 197-11-060	Content of environmental review.
WAC 197-11-070	Limitations on actions during SEPA process.
WAC 197-11-080	Incomplete or unavailable information.
WAC 197-11-090	Supporting documents.
WAC 197-11-100	Information required of applicants.
WAC 197-11-360	Determination of significance (DS)/initiation of scoping.
WAC 197-11-390	Effect of threshold determination.

**B / 20.08.020 Additional definitions.**

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

"Board of county commissioners," hereinafter referred to as "the board," is the legislative authority of Klickitat County.

"County department" means any administrative office or department of Klickitat County.

"Department" means any division, subdivision or organizational unit of the county established by ordinance, rule or order.

"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).

"Procedural determination" means the County's decision concerning the adequacy of a determination of significance/non-significance or of a final environmental impact statement.

---

"RCW" means Revised Code of Washington.

"SEPA rules" means Chapter 197-11 WAC adopted by the Department of Ecology.

"Substantive determination" means any decision to require particular measures or to deny a proposal based on this Chapter.

"WAC" means Washington Administrative Code.

### **C / 20.08.030 Designation of responsible official.**

- A. For those proposals for which the county is the lead agency, the responsible official shall be the director of planning.
- 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.

### **D / 20.08.040 Lead agency determination and responsibilities.**

- A. The department within the county receiving an application for or initiating a proposal that involves a nonexempt action shall determine the lead agency for that proposal under WAC 197-11-050 and 197-11-922 through 197-11-940, unless the lead agency has been previously determined or the department is aware that another department or agency is in the process of determining the lead agency. However, for energy resource operations requiring review under Chapter 19.39 of this code, the Klickitat County planning department shall be the lead agency, unless otherwise decided by the county.
- B. When the County is the lead agency for a proposal, the responsible official shall determine which county department shall supervise compliance with the threshold determination requirements, and if an EIS is necessary, shall supervise preparation of the EIS.
- 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. 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.
- 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 197-11-922 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.
- E. 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.
- F. 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.

### **E / 20.08.050 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 / 20.08.060 Additional timing considerations.**

For nonexempt 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.

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 / 20.08.070 General environmental review procedure and applicant's responsibilities.**

The following general descriptions of the environmental review process are intended to aid users of this title 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.

- A. 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.
- B. 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.
- C. Upon accepting the checklist as complete and correct, the responsible official will make a threshold determination. The responsible official 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.
- D. 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, and shall provide public notice as provided in Section 20.20.020 of this title.
- E. Scoping. If a determination 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 measures, and will invite agency and public comment on the DS, identify reasonable alternatives and probable significant impacts, eliminate from study those impacts that are not probable or significant, and work with other agencies to identify and include studies required for other government approvals with the EIS, where feasible.
- F. Appeal. The administrative appeal process must be used before anyone may initiate judicial review of any SEPA issue that could have been reviewed under the administrative appeal process.

**H / 20.08.080 Public notice requirements.**

- A. When an MDNS is issued for an energy resource operation permitted under Chapter 19.39 of this code, except for projects listed under Section 19.39. 2(E), the following notice requirements apply:
  - 1. The applicant shall promptly mail notice of MDNS issuance to property owners within three hundred feet of the project. If the applicant follows the notice requirements in good faith and documents notice provided under this subsection, no property owner's failure to receive notification will constitute appealable error.

- 
2. The county shall promptly post notice of MDNS issuance on its website.
  3. Electronic Mail Notification.
    - a. The county shall promptly send notice of MDNS issuance by electronic mail ("e-mail") to individuals who have notified the county that they wish to be on the county's energy resource operation e-mail notification list.
    - b. The county will place an affidavit in the record stating that it has e-mailed notice to individuals on the county's energy resource e-mail notification list, and will attach a copy of the current list to the affidavit.
    - c. If the county follows the notice requirements in good faith and documents e-mail notification as described in this section, no individual's failure to receive e-mail notification will constitute appealable error.
    - d. The county may omit e-mail addresses from its notification list, if after e-mailing a notice asking for confirmation that the party wishes to remain on the list, no response is received within two weeks, or the e-mail is returned as undeliverable.

## **SECTION 3 / Chapter 20.12 CATEGORICAL EXEMPTIONS AND THRESHOLD DETERMINATIONS**

### **A / 20.12.010 Purpose—Adoption by reference.**

This chapter 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 chapter 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:

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

### **B / 20.12.020 Use of exemptions.**

- A. The responsible official will determine the applicability of a categorical exemption. The determination by the responsible official that a proposal is exempt from SEPA shall be final and not subject to administrative review. If a proposal is exempt, none of the procedural requirements of this title apply to an exempt proposal. The county shall not require completion of an environmental checklist for an exempt proposal.
- B. In determining whether or not a proposal is exempt, the 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 responsible official shall determine the lead agency, even if the license application that triggers the department's consideration is exempt.
- C. If a proposal includes both exempt and nonexempt actions, the county may authorize exempt actions prior to compliance with procedural requirements of this title, except that:

- 
1. The county shall not give authorization for:
    - a. Any nonexempt action,
    - b. Any action that would have an adverse environmental impact, or
    - c. Any action that would limit the choice of alternatives;
  2. A department may withhold approval of an exempt action that would lead to modification of the physical environment, when such modification would serve no purpose if nonexempt action(s) were not approved; and
  3. A department may withhold approval of exempt actions that would lead to substantial financial expenditures by a private applicant when the expenditures would serve no purpose if nonexempt action(s) were not approved.

### **C / 20.12.030 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 title; 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 to make the threshold determination.

- A. The applicant shall complete the environmental checklist. For county proposal, the department initiating the proposal shall complete the environmental checklist for that proposal.
- B. The county may require that it, and not the private applicant, will complete all or part of the environmental checklist, if either of the following occurs:
  1. The county has technical information on a question or questions that is unavailable to the private applicant; or
  2. The applicant has provided inaccurate information on previous proposals or on proposals currently under consideration.

### **D / 20.12.040 Mitigated DNS.**

- A. As provided in this section and in WAC 197-11-350, the responsible official may issue a DNS based on conditions attached to the proposal by the responsible official or on changes to, or clarifications of, the proposal made by the applicant.
  - B. An applicant may request in writing early notice of whether a DNS is likely under WAC 197-11-350. The request must:
    1. Follow submission of a permit application and environmental checklist for a nonexempt proposal for which the department is lead agency; and
    2. Precede the county's actual threshold determination for the proposal.
  - C. The responsible official should respond to the request for early notice within ten (10) working days. The response shall:
    1. Be written;
    2. State whether the county currently considers issuance of a DS likely and, if so, indicate the general or specific area(s) of concern that is/are leading the county to consider a DS; and
-



- 
3. State that the applicant may change or clarify the proposal to mitigate the indicated impacts, revising the environmental checklist and/or permit application as necessary to reflect the changes or clarifications.
- D. As much as possible, the county should assist the applicant with identification of impacts to the extent necessary to formulate mitigation measures.
  - E. When an applicant submits a changed or clarified proposal, along with a revised or amended environmental checklist, the county shall base its threshold determination on the changed or clarified proposal and should make the determination within fifteen days of receiving the changed or clarified proposal, but in no event longer than the period specified in RCW 43.21C.033.
    1. If the county indicated specific mitigation measures in its response to the request for early notice, and the applicant changed or clarified the proposal to include those specific mitigation measures, the county shall issue and circulate a DNS under WAC 197-11-340(2).
    2. If the county indicated areas of concern, but did not indicate specific mitigation measures that would allow it to issue a DNS, the county shall make the threshold determination, issuing a DNS or DS as appropriate.
    3. The applicant's proposed mitigation measures (clarifications, changes or conditions) must be in writing and must be specific. For example, proposals to "control noise" or "prevent stormwater runoff" are inadequate, whereas proposals to "muffle machinery to X decibel" or "construct 200-foot stormwater retention pond at Y location" are adequate.
    4. Mitigation measures which justify issuance of a mitigated DNS may be incorporated in the DNS by reference to agency staff reports, studies or other documents.
  - F. A mitigated DNS is issued under WAC 197-11-340(2), requiring a fourteen-day comment period and public notice.
  - 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.
  - 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).
  - I. The county's written response under subsection (B) 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 / Chapter 20.16 ENVIRONMENTAL IMPACT STATEMENT (EIS)**

### **A / 20.16.010 Purpose—Adoption by reference.**

This chapter 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.
WAC 197-11-402	General requirements.
WAC 197-11-405	EIS types.
WAC 197-11-406	EIS timing.
WAC 197-11-408	Scoping.
WAC 197-11-410	Expanded scoping. (Optional)

---

WAC 197-11-420	EIS preparation.
WAC 197-11-425	Style and size.
WAC 197-11-430	Format.
WAC 197-11-435	Cover letter or memo.
WAC 197-11-440	EIS contents.
WAC 197-11-442	Contents of EIS on nonproject proposals.
WAC 197-11-443	EIS contents when prior nonproject EIS.
WAC 197-11-444	Elements of the environment.
WAC 197-11-448	Relationship of EIS to other considerations.
WAC 197-11-450	Cost-benefit analysis.
WAC 197-11-455	Issuance of DEIS.
WAC 197-11-460	Issuance of FEIS.

**B / 20.16.020 Preparation of EIS—Additional considerations.**

- A. Preparation of draft and final EIS's (DEIS and FEIS) and draft and final supplemental EIS's (DSEIS and FSEIS) 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 title and Chapter 197-11 WAC.
- B. 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 to distribution.
- 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 title or that is being requested from another agency. (This does not apply to information the county may request under another ordinance or statute.)
- D. If an environmental impact statement (EIS) is authorized by the responsible official to be prepared by the applicant, a draft EIS shall be prepared under the direction of the responsible official. Nothing in this section shall be construed to remove the authority of the responsible official to prepare or manage preparation of an EIS.
- E. If a consultant is preparing an EIS, the responsible official shall assure the EIS is prepared in a responsible manner. The County shall:
  - 1. Initiate and coordinate scoping and ensure that the consultant received all substantive information submitted through the scoping process;
  - 2. Assist the consultant in obtaining information from applicants; and
  - 3. Direct the content and organization of the EIS.
- F. Once the draft EIS is submitted, the planning department will inform the public that the draft EIS is available and will circulate the EIS to appropriate agencies and individuals. A thirty-day review period will be established for the public to comment upon the proposal and the draft EIS. The responsible official 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 extension modifications are required in response to public comments.

- 
- G. The applicant will be responsible for all costs incurred in preparing and circulating the draft EIS and in preparing and circulating the final EIS, conducting public hearings, and in defense of any appeals arising therefrom. Such costs shall include, but not be limited to, consultant and attorney fees.

## **SECTION 5 / Chapter 20.20 COMMENTING**

### **A / 20.20.010 Purpose—Adoption by reference.**

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

### **B / 20.20.020 Public notice.**

- A. 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 general circulation in the county where the proposal is located.
1. The notice shall state whether a DS or DNS has been issued and when comments are due.
  2. 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.
- 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 indicating the availability of the DEIS in any public notice required for a nonexempt license and by publishing notice in a newspaper of general circulation in the county where the proposal is located
- 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.
- D. The county may require an applicant to complete the public notice requirements for the applicant's proposal at his or her expense.

### **C / 20.20.030 Designation of official to perform consulted agency responsibilities for the county.**

- A. The responsible official shall be responsible for preparation of written comments for the county in response to a consultant request prior to a threshold determination, participation in scoping, and reviewing a DEIS.
- B. The responsible official 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 / Chapter 20.24 USING EXISTING ENVIRONMENTAL DOCUMENTS

### A / 20.24.010 Purpose—Adoption by reference.

This chapter 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.
WAC 197-11-610	Use of NEPA documents.
WAC 197-11-620	Supplemental environmental impact statement-Procedures.
WAC 197-11-625	Addenda-Procedures.
WAC 197-11-630	Adoption-Procedures.
WAC 197-11-635	Incorporation by reference-Procedures.
WAC 197-11-640	Combining documents.

## SECTION 7 / Chapter 20.28 SEPA AND AGENCY DECISIONS<sup>1</sup>

### A / 20.28.010 Purpose—Adoption by reference.

This chapter contains rules (and policies) for SEPA's substantive authority, such as decisions to mitigate or reject proposals as a result of SEPA. This chapter 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.
WAC 197-11-655	Implementation.
WAC 197-11-660	Substantive authority and mitigation.
WAC 197-11-680	Appeals

### B / 20.28.020 Substantive authority.

- A. The policies and goals set forth in this title are supplementary to those in the existing authorization of Klickitat 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 significant adverse environmental impacts identified in environmental documents prepared pursuant to this title;
  - 2. Such conditions are in writing;
  - 3. The mitigation measures included in such conditions are reasonable and capable of being accomplished;
  - 4. The county has considered whether other local, state, or federal mitigation measures applied to the proposal are sufficient to mitigate the identified impacts; and
  - 5. Such conditions are based on one or more policies in subsection (D) of this section and cited in the license or other decision document.

---

<sup>1</sup> Prior ordinance history: Ord. 121084, Ord. 041095, Ord. 090203.

- 
- C. The county may deny a permit or approval for a proposal on the basis of SEPA so long as:
1. A finding is made that approving the proposal would result in probable significant adverse environmental impacts that are identified in a FEIS or final SEIS prepared pursuant to this title;
  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 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.
  2. The county recognizes that each person has a fundamental and inalienable right to a healthful environment and that each person has a responsibility to contribute to the preservation and enhancement of the environment.
  3. The county adopts by reference the policies in the county codes, ordinances, resolutions, and plans, including but not limited to building codes, mobile home and mobile home park ordinance, recreational park standards, zoning ordinance, subdivision and short platting ordinance, flood damage prevention ordinance, critical areas ordinance, comprehensive plan, shorelines master plan, park plan, paths and trails plan, transportation standards and six-year road program.

### **C / 20.28.030 Appeals.**

- A. Klickitat County establishes the following administrative appeal procedures under RCW 43.21C.075 and WAC 197-11-680.
1. Appeals of the intermediate steps under SEPA (e.g., lead agency determination, scoping, and draft EIS adequacy) shall not be allowed.
  2. Appeals of environmental threshold determinations on ministerial decisions shall not be allowed. Ministerial decisions are those decisions based on compliance with specific, nondiscretionary and/or technical standards that are clearly enumerated, for example, building permits.
  3. Appeals of SEPA mitigation measures pertaining to projects subject to Chapter 90.58 RCW shall be made to the shoreline hearings board along with the appeal of the county's shoreline decision, as further set forth in 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.
  4. The applicant, an aggrieved person or agency may appeal the decision of the responsible official making a threshold determination, issues relating to the adequacy of a FEIS, approving a proposal subject to conditions or denying a proposal under SEPA's substantive authority. An allowed SEPA-related appeal may be appealed to the board by filing an appeal with the County Auditor. Any such appeal must be filed within twenty-one (21) calendar days after the threshold determination is issued. An allowed SEPA-related administrative appeal shall be consolidated with the hearing on the underlying project application.
    - a. Appeal of an environmental threshold determination on an administrative decision. Any such appeal must be consolidated with any appeal on the underlying permit decision for an open record appeal hearing. The consolidated hearing shall be before the board unless the board elects to designate a hearing examiner to hear the appeal. Examples of these permit decisions include short plats and energy overlay zone permits.
-

Title 20 - ENVIRONMENTAL IMPACT  
Chapter 20.32 DEFINITIONS

---

- b. Appeal of an environmental threshold determination on a project action before the planning commission, with planning commission recommendation to the board for final decision. Any such appeal must be consolidated with any appeal to the rulings of the planning commission for a closed record appeal. Examples of these permit decisions include long plats, rezone applications and comprehensive plan amendments.
  - c. Appeal of an environmental threshold determination on a project action subject to an open record hearing before the Board of Adjustment. Any such appeal must be consolidated with the decision hearing on the underlying project. The open record public hearing on the SEPA appeal shall be before the board unless the board elects to designate a hearing examiner to hear the appeal. The hearing body shall consider the SEPA appeal together with the decision on the underlying project action in a single, consolidated hearing. Examples of these permit decisions include conditional use permits and variance applications.
  - 5. 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 the applicable fees.
  - 6. The board or the designated hearing examiner shall affirm, modify or reverse the responsible official's decision, and shall enter findings and/or conclusions into the record to support the decision. In making the decision, the board or the hearing examiner shall give deference to and afford substantial weight to the decision of the responsible official.
  - 7. Judicial Appeals. Any petition for superior court review of the board or the hearing examiner decision under this section must be filed within twenty-one (21) days of the date the hearing body enters its written findings and conclusions on the appeal. Consistent with RCW 43.21C.075, judicial review of final decision under this section shall be together with the underlying action.
  - 8. For any appeal to superior court under this subsection, the county shall provide for a record that shall consist of the following:
    - a. Written findings and conclusions; and
    - b. A recorded or written transcript. The cost for preparation of the record on review shall be borne by the party seeking review.
  - 9. 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, other than this title, establishes a time limit for commencing judicial appeal.

**SECTION 8 / Chapter 20.32 DEFINITIONS**

**A / 20.32.010 Purpose—Adoption by reference.**

This chapter 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.
WAC 197-11-702	Act.
WAC 197-11-704	Action.
WAC 197-11-706	Addendum.
WAC 197-11-708	Adoption.
WAC 197-11-710	Affected tribe.
WAC 197-11-712	Affecting.

---

WAC 197-11-714	Agency.
WAC 197-11-716	Applicant.
WAC 197-11-718	Built environment.
WAC 197-11-720	Categorical exemption.
WAC 197-11-721	Closed record appeal
WAC 197-11-722	Consolidated appeal.
WAC 197-11-724	Consulted agency.
WAC 197-11-726	Cost-benefit analysis.
WAC 197-11-728	County/City.
WAC 197-11-730	Decision maker.
WAC 197-11-732	Department.
WAC 197-11-734	Determination of nonsignificance (DNS).
WAC 197-11-736	Determination of significance (DS).
WAC 197-11-738	EIS.
WAC 197-11-740	Environment.
WAC 197-11-742	Environmental checklist.
WAC 197-11-744	Environmental document.
WAC 197-11-746	Environmental review.
WAC 197-11-750	Expanded scoping.
WAC 197-11-752	Impacts.
WAC 197-11-754	Incorporation by reference.
WAC 197-11-756	Lands covered by water.
WAC 197-11-758	Lead agency.
WAC 197-11-760	License.
WAC 197-11-762	Local agency.
WAC 197-11-764	Major action.
WAC 197-11-766	Mitigated DNS.
WAC 197-11-768	Mitigation.
WAC 197-11-770	Natural environment.
WAC 197-11-772	NEPA.
WAC 197-11-774	Nonproject.
WAC 197-11-775	Open record hearing
WAC 197-11-776	Phased review.
WAC 197-11-778	Preparation.
WAC 197-11-780	Private project.
WAC 197-11-782	Probable.
WAC 197-11-784	Proposal.
WAC 197-11-786	Reasonable alternative.
WAC 197-11-788	Responsible official.
WAC 197-11-790	SEPA.
WAC 197-11-792	Scope.
WAC 197-11-793	Scoping.
WAC 197-11-794	Significant.
WAC 197-11-796	State agency.
WAC 197-11-797	Threshold determination.
WAC 197-11-799	Underlying governmental action.

---

## SECTION 9 / Chapter 20.36 CATEGORICAL EXEMPTIONS

### A / 20.36.010 Adoption by reference.

The county adopts by reference the following rules for categorical exemptions, as supplemented in this title:

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

## SECTION 10 / Chapter 20.40 AGENCY COMPLIANCE

### A / 20.40.010 Purpose—Adoption by reference.

This chapter contains rules for agency compliance with SEPA, including rules for charging under the SEPA process, designating categorical exemptions that do not apply within critical areas, listing agencies with environmental expertise, selecting the lead agency, and applying these rules to current agency activities. The county adopts the following sections by reference.

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

### B / 20.40.020 Critical areas.

- A. Klickitat County adopts and incorporates by reference the categorical exemption levels set forth in WAC 197-11-800. Project actions identified as categorically exempt under SEPA shall remain exempt even when located in one or more of the critical areas classified, designated and mapped under the county's critical areas ordinance. A threshold determination shall not be required for actions identified as categorically exempt.



- 
- B. The county shall treat proposals located wholly or partially within a critical area no different than other proposals under this title, 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 a critical area.
  - C. 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 / 20.40.030 Severability.**

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

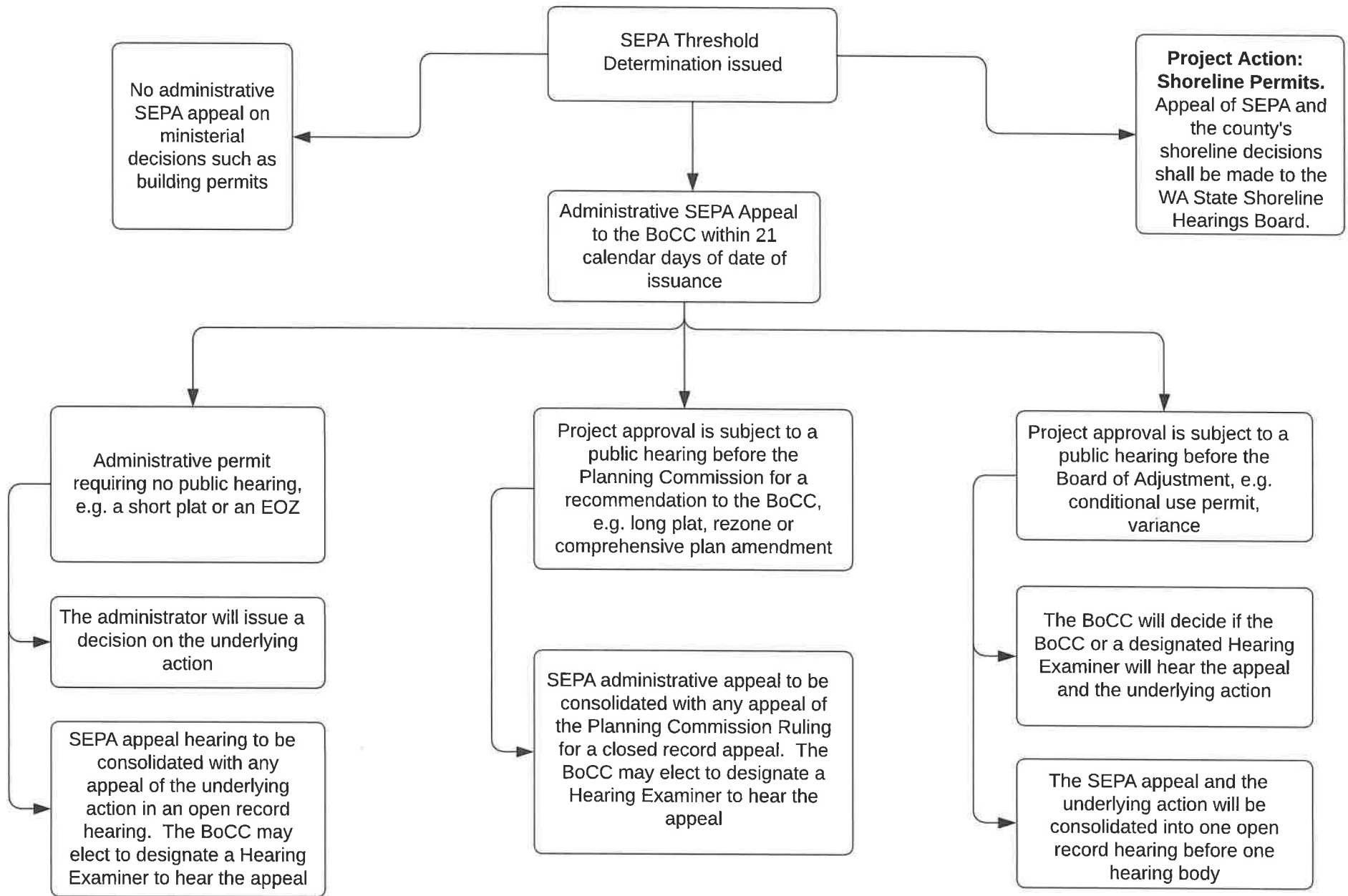
**SECTION 11 / Chapter 20.44 FORMS**

**A / 20.44.010 Adoption by reference.**

The county adopts the following forms and sections by reference:

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

# SEPA Administrative Appeal Process



\*See RCW 36.70B.020 for definitions for "Closed record appeal" and "Open record"