

TITLE XI
LAND DEVELOPMENT STANDARDS

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- 11.02 Clearing and Grading Requirements**
- 11.03 Stormwater and Surface Water**
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Chapter 11.01 ¹Land Development Standards ^{1A}

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¹ **Reviser's Note:** Administration and interpretation of the provisions of this chapter are assigned to the Planning and Community Development Director in place of the Public Works Director. See Res. No. C-03-01, January 8, 2001, vol. 45, p. 157.

^{1A} Appendices "A" through "E" to this ordinance shall be considered a part of this ordinance and shall not be amended except by county ordinance. Copies of Appendices "A" through "E" may be obtained from the Island County Engineer's office or Planning and Community Development Department.

11.01.010 Purpose and Intent

The purpose of these provisions is to minimize nuisances associated with development practices which are dysfunctional to the orderly development of Island County. The provisions of this ordinance are intended to accomplish these purposes:

- A. Facilitate the development of properly designed and constructed public and private roadways so as to provide a safe, durable, and efficient integrated roadway system for Island County;
- B. Protect public rights-of-way, natural resources, scenic and open space from undue degradation due to poor development practices;
- C. Fulfill the objectives of comprehensive planning policies of Island County in promoting the health, safety, and welfare of the general public, as well as fulfilling the county's responsibilities as trustees of the environment as provided by law.

Satisfactory compliance with the provisions of this ordinance shall be consistent with zoning and land use control provisions of Island County, as well as adopted planning policy.

(Ord. PD-82-08, December 13, 1982, vol. 20, p. 435; amended by Ord. C-92-98 [PLG-025-98], September 28, 1998, vol. 42, p. 483; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

11.01.020 Definitions

For the purpose of this chapter:

- A. **Access road** means a public or private road providing vehicular access to the boundary of a parcel of real property being proposed for development.
- B. **All weather road** means a roadway suitable by its construction and design features to be passable during adverse weather conditions.
- C. **Collector road** means a road whose function is to collect traffic from neighborhoods and local streets and which connects to another road of equal or greater classification. A collector arterial also may provide direct access to adjacent properties.
- D. **Commercial access** means a road providing access to commercial properties in business, commercial, manufacturing, and industrial areas.
- E. **Common approach** means a shared approach serving no more than two (2) lots/units. A common approach does not have to straddle a common property line.
- F. **County engineer** shall be defined in chapter 36.75 RCW, or the office or person assigned such duties under a county charter.
- G. **County road** means a road open to the public and maintained for public travel by Island County.

- H. **Cul-de-sac** means a dead-end road of limited length having a primary function of serving adjoining land and constructed with a turnaround at its end (local access road).
- I. **Design engineer** means an individual licensed by the State of Washington to practice civil engineering and who has been retained to design land development improvements.
- J. **Easement** means an interest in land owned by another that entitled its holder to a specific limited use or enjoyment.
- K. **Generalized plan** means a plan delineating the contiguous property within one (1) ownership and properly delineating natural drainage ways and existing roadway systems as well as indicating a conceptual plan for drainage facilities or improvements thereto, and a suitable access plan for the remnant parcel(s) when topography/development and policies could reasonably be expected to limit locations and number of approaches to public roads. It is not to be construed as a binding site plan.
- L. **Internal private road** means that road contained solely within the bounds of a proposed short plat which is not used as a means of access to any adjoining properties.
- M. **Large tract subdivision** means the division of land for the purpose of development, sale, lease, transfer, gift, or other conveyance into five (5) or more lots, tracts, parcels, sites, or divisions, wherein no lot, tract, parcel, site, or division is less than five (5) acres in size.
- N. **Loop road** means a road of limited length forming a loop, having a beginning and ending on the same road, having no other intersecting road, and having as its primary function the provision of direct access to adjoining properties (local access road).
- O. **Major arterial** means a road connecting two (2) or more towns or communities, connecting two (2) highways of equal or greater capacity, or serving as the primary access to a large land area. A major arterial may also serve a large traffic generator (e.g., an industrial area, recreational area) and perform a secondary function of providing local access.
- P. **Neighborhood access** means a road the primary function of which is to provide direct access to adjoining properties, but which also provides for traffic circulation within and/or through a neighborhood (local access road).
- Q. **Potential number of lots or units served** means total possible users of a facility under current and/or contractual zoning, covenant restriction, and extensions to serve adjacent property.
- R. **Primitive road** means a road so designated in accordance with the provisions of RCW 36.75.
- S. **Private road** means a road not maintained by Island County, the Washington State Department of Transportation or any other political subdivision of the state.

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- T. **Public road** means a road maintained by the Washington State Department of Transportation or any political subdivision of the state.
- U. **Roadside** means the portion of an easement or right-of-way lying on either side of the roadway, including curbs, sidewalks, and ditches.
- V. **Roadway** means the improved portion of an easement or right-of-way, excluding curbs, sidewalks, and ditches.
- W. **Rural area** means land not located within an urban growth area as designated in the Island County Comprehensive Plan.
- X. **Rural road** means a road located within the rural area of Island County.
- Y. **Scenic route** means a road affording a view of a scenic area and/or retaining natural roadside characteristics.
- Z. **Secondary arterial** means a road connecting two (2) or more roads of equal or greater classification, or connecting two (2) or more communities. A secondary arterial may serve as an alternate route to a higher classified road or a traffic generation of medium importance, and serves an additional function of land service.
- AA. **Sidewalk** means a pedestrian access adjacent to or within the right-of-way of an adjoining public or private road.
- BB. **Special provisions** means construction requirements peculiar to a specific project and which are not otherwise thoroughly or satisfactorily detailed and set forth in the standard specifications.
- CC. **Standard specifications** means those specifications adopted for design and construction of land development improvements in this chapter.
- DD. **Structure** means that which is built or constructed, an edifice or building of any kind or any place of work, artificially built up or composed of parts joined together in some definite manner, but not to include utilities for the purposes of this ordinance.
- EE. **Subject property** means the tract of land which is the subject of the permit and/or approval action.
- FF. **Trail** means an improved but natural path or way set aside for public and private use providing an access route to, from, or between points of interest and intended for use by pedestrians, equestrians, bicycles, and/or other non-motor vehicular users.
- GG. **Urban Growth Area** means lands located within an urban growth area as designated in the Island County Comprehensive Plan.
- HH. **Urban road** means a road located within the urban area of Island County.

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- II. **Utilities** means those services provided for private or public use, including electric power lines, gas lines, telephone lines, television cables, sewer lines, water lines, and drainage facilities.
- JJ. **Walkway** means a pedestrian access which is within the building site envelope, total building complex, or between lots, but not adjacent to or within the right-of-way of a public or private road.

(Ord. PD-82-08, December 13, 1982, vol. 20, p. 435; amended by Ord. PD-84-04, February 6, 1984, effective April 1, 1984, vol. 21, p. 492; amended by Ord. PD-84-21, November 26, 1984, vol. 23, p. 207; amended by Ord. C-92-98 [PLG-025-98], September 28, 1998, vol. 42, p. 483; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

11.01.030 Applicability

This ordinance shall apply to the following land development actions or permits, as applicable:

- A. Subdivisions
- B. Short subdivisions
- C. Condominiums
- D. Planned residential developments
- E. Business and professional parks
- F. Shopping centers
- G. Mobile home parks
- H. Campgrounds and recreational facilities
- I. Industrial parks
- J. All building permits
- K. Construction or development activity related to approval of rezones, zoning amendments, conditional use approvals, site plans, use approvals, shoreline substantial development permits
- L. Access permits sought in connection with or subsequent to any of the above-mentioned land development actions or permits.

(Ord. PD-82-08, December 13, 1982, vol. 20, p. 435; amended by Ord. PD-84-04, February 6, 1984, effective April 1, 1984, vol. 21, p. 492; amended by Ord. PD-84-21, November 26, 1984, vol. 23, p. 207; amended by Ord. C-92-98 [PLG-025-98], September 28, 1998, vol. 42, p. 483; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, p. 43, p. 38)

11.01.040 Master Land Development Application--Optional

Pursuant to the above, Island County may administratively establish a master application procedure to facilitate the processing of permit activities governed by the ordinance. The Island County Permit Center, in coordination with affected departments, shall be responsible for developing such procedures which will fully disclose all Island County required permits within ten (10) days upon completion of an application.

(Ord. PD-82-08, December 13, 1982, vol. 20, p. 435)

11.01.050 General Design and Construction Standards

- A. The standards for design and construction of land development improvements (as applicable) are:
 - 1. **The Standard Specifications for Road and Bridge Construction**, latest edition, as published by the Washington State Department of Transportation, except as amended herein or by variance granted in writing by the county engineer;
 - 2. **The Standard Specifications for Municipal Public Works Construction**, latest edition, as prepared by the Washington State Chapter of the American Public Works Association, except as amended herein or by variance granted in writing by the county engineer;
 - 3. **The Washington State Department of Transportation Design Manual**, latest edition. Modifications to design criteria may be authorized where strict adherence would be counterproductive to the purpose and intent of this ordinance.
 - 4. Those drawings of typical sections for roadway construction and design criteria attached hereto and incorporated herein by this reference as appendix "D." The county engineer shall specify which of the standard specifications will apply to each construction project.
- B. The above standards for construction shall apply to all improvements, whether public or private, and inspection required shall be at the sole expense of the proponent.

(Ord. PD-82-08, December 13, 1982, vol. 20, p. 435)

11.01.060 Standards for Private Roads

- A. **Private roads--general requirements applicable to all private roads.**
 - 1. Private roads shall be allowed only for such roads that have no public interest for traffic circulation and are to be built in accordance with the standards adopted herein. Private roads are not allowed when in conflict with the adopted road circulation plans or studies.

2. The face of any recorded plat, short plat, planned residential development, or site plan containing a private road shall bear the following language: "Island County has no responsibility to improve or maintain the private roads contained within, or private roads providing access to, the property described in this development."
3. A private maintenance agreement shall be required for all private roads serving three (3) or more lots/units.
4. The approach to a public road of a private road serving nine (9) or more lots shall be paved to the right-of-way line or to such distance so that the drive wheels of a common user vehicle will be upon the paved surface in accordance with the appropriate approach specifications, except that private roads already constructed and serving more than nine (9) lots are exempt from this provision.
5. Private roadway street name and stop signs shall be privately installed and maintained at the intersection of private roads serving nine (9) or more lots with public roads. Such signs shall meet the adopted standards of Island County. The county shall not maintain roads or signs within private rights-of-way.
6. Private roads, except as modified in paragraph D.1.c) of this section, are the responsibility of the developer to construct in accordance with the criteria of this section.
7. Private road rights-of-way may be required to be located within "future public rights-of-way tracts" as provided in this chapter.
8. In situations wherein developments are to be served by private roads serving three (3) or more lots/units, the developer shall file for record, after review by the Island County Engineer, a declaration of covenants in general compliance with those set forth in appendix "A" of this ordinance, which shall run with the land. The seller of any property encumbered by the covenant set forth in appendix "A" of this ordinance shall obtain from the purchaser and record with the auditor the purchaser's acknowledgment of the private road maintenance responsibilities and restrictions, as set forth in appendix "B" of this ordinance.

B. Private roads--reduced private road requirements when permitted.

1. The right-of-way width requirements for existing private roads may be reduced in accordance with the provisions of this chapter, so long as the following is found:
 - a) No traffic hazard will result;
 - b) No additional extensions will be necessary or permitted;
 - c) There is no public road access alternative available to serve the additional lots; and

- d) The right-of-way of the existing private road cannot be expanded.
- 2. The limitation on the number of lots/units which may be served by a private road may be modified in accordance with the provisions of this chapter when extending private roads or when subdividing property which abuts such a road, provided:
 - a) The road would be consistent with required findings in subsection B.1 set forth above; and
 - b) The right-of-way will be improved consistent with county standards and specifications to the maximum extent practicable.

C. **Private roads--units served--determination of**

- 1. The potential number of lots or units used for determination of applicable standards shall be based on the potential number of lots or units that could reasonably be served, using the comprehensive plan and existing zoning to calculate density.
- 2. Lots abutting and having a legal right of access to a private road, but gaining access to another private road or a public road, shall be included in the calculation of lots or units being served by each abutting private road.
- 3. Where potential additional lots/units are planned to be served by the private road, there shall be established on the plat an easement for roadway and utility installations which provides for future extensions of the private road to serve the remainder of the potential lots/units for which the road is designed.
- 4. Potential number of lots/units may be reduced wherein existing or proposed restrictive covenants, contractual zoning, or use approval, limits/specifies density. A suitable restriction upon a short plat, plat, planned residential development, or site plan, approved by the Island County Engineer, is acceptable.
- 5. The actual number of lots/units used for determination of applicable standards shall be based on the number of lots along the private road, as shown in the records of Island County and shall include those lots/units within a proposed development. All lots/units shown having access to the private road shall be counted, regardless of size or date of creation.

D. **Private roads--general specifications--design and construction standards.** Private roads serving developments, when allowed, shall conform to the following minimum standards:

- 1. Short subdivision and planned residential development standards.
 - a) Easement requirements:

- (i) Private road easement width shall depend on the potential number of lots or units that may be served, in accordance with the following schedule:

Potential No. of Lots/ Units to be served	Minimum Required Easement Width (When Applicable)
1-2 (common road approach)	30' x 30'
1-4 (all lots 15,000 sq.ft. or less)	20'
1-4	30'
5 or more	40' ²

- (ii) A cul-de-sac easement with a radius of forty (40) feet or an equivalent turnaround such as a hammerhead shall be required at the terminus of dead end easements longer than 150 feet and may be temporary in nature where extension to serve adjoining properties is planned.
 - (iii) Access easements shall extend at least thirty (30) feet into the interior lot(s) when deemed necessary by the Island County Engineer.
- b) Joint Residential Driveway Standard: For access to two (2) lots, a minimum useable all weather driveway width of twelve (12) feet is recommended to assure safe ingress and egress of emergency response vehicles. To avoid environmental impact, minimize cut or fill volumes, or if topography makes this width impractical, a narrower width, may be acceptable if the road design is demonstrated to be otherwise safe and maintainable. The minimum acceptable width in these cases is ten (10) feet. Any driveway longer than 150 feet shall provide a turnaround for emergency vehicles.
 - c) Dead End Road Standards: Any dead end road or driveway longer than 150 feet shall provide a turnaround at the terminus. The turnaround shall be a constructed cul-de-sac with a radius of thirty (30) feet, or an equivalent turnaround such as a hammerhead. Any dead end road or driveway longer than 150 feet and narrower than eighteen (18) feet shall provide turn-outs or turnarounds at a spacing not to exceed 300 feet. Turn-out and turnaround locations shall be approved by the Engineer and located such that opposing vehicles can see each other and pull out to pass.

² Refer to section 11.01.090.C for limitations on future public dedications, if less than sixty (60) feet is used.

- d) Roadway construction requirements:
 - (i) Private roadway construction shall depend on the actual number of lots or units to be served, in accordance with the following schedule:

Actual Number of Lots/Units	Minimum Traveled Surface Width
3-4	14'
5-8	18'
9 or more	22 ³

- (ii) All short subdivision roads shall require a minimum of 6" of gravel base consistent with the general requirements of this ordinance. Suitability of in-place material to fulfill all or part of this requirement is subject to the approval of the county engineer.

Planned residential development roads shall require a minimum of 2" of top course in addition to this gravel base.

The intent is to provide an “all-weather roadway” capable of supporting the traffic characteristics for which the road is proposed.

- (iii) Private short plat and planned residential development roads shall be constructed in accordance with the applicable typical section adopted as part of this ordinance.
 - (iv) For graveled private roads the maximum permitted grade shall be twelve percent (12%). Steeper grades shall be asphalt concrete, paved consistent with the public road construction requirements to assure all-weather accessibility to a maximum grade of twenty percent (20%). The above-stated grade of twelve percent (12%) may, however, be exceeded for distances one-hundred (100) feet or less.

- e) Exemption of roadway construction:
 - (i) Two-lot short plats and site plan segregations are exempted from the requirement of constructing the “internal private road” serving the interior lot.
 - (ii) Planned residential developments in the agricultural or forest management classified lands are exempted from the requirement of constructing private roads providing access to individual parcels, sites, or buildings.

2. **Developments requiring site plans wherein no segregations are proposed.** Except where public circulation requires otherwise, roads within subject developments

³ Refer to section 11.01.090.C for limitations on future public dedications, if less than thirty (30) feet is used.

providing access to individual parcels, sites, or buildings may be private roads, but shall be constructed in alignment and width to provide safe and convenient access in accordance with an approved site plan.

3. **Site plan segregations, large tract subdivisions, subdivisions, mobile home parks, condominiums not within a planned residential development.** Except where public circulation requires otherwise, roads within subject developments providing access to individual parcels, sites, or buildings may be private roads. In such circumstances, roadways shall be built in accordance with the provisions specified in this chapter for county roads except as follows:

Private roads serving eight (8) or less total lots/units may meet the easement and roadway widths/standards for short plats/ planned residential developments, except that asphalt paving is required.

(Ord. PD-82-08, December 12, 1982, vol. 20, p. 435; amended by Ord. PD-84-04, February 6, 1984, effective April 1, 1984, vol. 21, p. 492; amended by Ord. PD-84-21, November 26, 1984, vol. 23, p. 207; amended by Ord. C-92-98 [PLG-025-98], September 28, 1998, vol. 42, p. 483; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38; amended by Ord. C-43-04 (PLG-032-03), April 12, 2004, vol. 2004, p. 107)

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11.01.070 Standards for County Roads**A. General roadway and right-of-way standards**

1. The minimum right-of-way and roadway widths for all county urban and rural roads shall be as shown on the design criteria adopted by reference in this chapter as standard specifications. Additional right-of-way or private easement may be required where necessary to accommodate slopes, associated roadway improvements, and utilities. Modifications to roadway and right-of-way standards may be considered in support of the County's affordable housing goals and the low-impact site development goals of chapter 11.03 ICC.
2. Scenic route design shall allow reduced design speed and modified roadway and right-of-way widths to preserve naturally-occurring scenic beauty unique to the location of the route. When possible, existing alignment and roadway section shall be used. Special features, such as vehicle turnouts for vista areas for bicycle/ pedestrian facilities, may be provided.
3. The roadway section(s) shall be detailed on the construction plans submitted for each new roadway or improvement to an existing roadway in accordance with the typical cross sections of appendix "D."
4. Surfacing. The depth and type of materials shall be as shown on the typical sections for roadway construction attached hereto unless modified as follows:
 - a) The county engineer, after conducting soil tests in the area, determines a heavier section is required; or,
 - b) The developer provides a soil test report to the county engineer, prepared by a qualified soils engineer, indicating a lesser depth is satisfactory, and the county engineer approves the lesser depth. Any modification approved by the county engineer under this subsection shall be based upon the standard specifications, taking into consideration anticipated traffic loading characteristics, soils types, surfacing materials, and other relevant factors.

- B. County roads--plans for construction of roads, utilities, and drainage structures.** The designing engineer shall submit to the county engineer plans and specifications for street, utility, and drainage structures for the proposed development. The plans and specifications shall include a vicinity map and a plan and profile. The plan and profile of the proposed road construction shall be submitted to the county engineer for approval prior to construction and shall include:

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Plan:

1. Road alignment in stations of one-hundred (100) foot intervals
2. Bearing on road centerline (may be specified on final plat)
3. Radius of horizontal curves
4. Proposed right-of-way width limits
5. Label all sheets and adjoining subdivisions
6. Typical roadway section(s), including utility locations
7. Existing and proposed drainage structures, showing type and size of culverts, with direction of flow indicated
8. Suggested scales: 1 inch equals 50 feet, or 1 inch equals 100 feet

Profile:

1. Original ground line. The ground lines for roads extending to the perimeter of any developments shall be extended a sufficient distance beyond the perimeter to include any change in contours which would affect the profile of the proposed road, which extension shall in no event be less than two-hundred (200) feet;
2. Stationing in intervals of one-hundred (100) feet;
3. Proposed grade line showing percent grade and vertical curves;
4. Elevation datum; and
5. Horizontal scale shall be the same as the plan; vertical scale shall be at the ratio of 10 to 1 with horizontal scale.

The above plan and profile requirements may be waived by the county engineer in the case of existing private roads petitioned for establishment as county roads.

- C. **County roads--inspection.** The following inspections may be conducted of all road construction covered by these standards. In accordance with the standard specifications, the county engineer may stop or delay construction when, in his opinion, the weather or other conditions indicate that suitable results cannot be obtained. The county engineer's actions do not absolve the contractor's responsibilities should subsequent failure occur.
 1. **Inspection No. 1** shall be required following installation of the drainage system, underground utilities, and completion of roadway grading to a suitable subgrade.

2. **Inspection No. 2** shall be required following placement of gravel base, if required, and compaction; oversized material and debris to be removed from the right-of-way.
3. **Inspection No. 3** shall be required following placing of crushed surfacing top course and construction of curbing, if required. Island County reserves the right to conduct tests on all materials.
4. **Inspection No. 4 (final)** shall be required following surfacing, cleaning of drainage systems, monumentation, installation of traffic control signing or devices, seeding of slopes as presented, and all necessary trimming and cleanup has been accomplished.

It shall be the responsibility of the applicant or his representative to notify the county engineer at least one (1) working day in advance of the required inspection. Failure to comply may necessitate appropriate testing of construction materials by a materials lab at the developer's expense. In the event this action is necessary, no further work will be permitted until test results are received.

- D. **County roads--acceptance by county.** Roads may be accepted for provisional maintenance by Island County upon recommendation of the county engineer. Final acceptance shall not be made for one (1) year from the date of provisional acceptance, and the owner and/or his contractor must repair any failure within the one (1) year period at the expense of the owner or his contractor; provided, prior to such acceptance, a bond in an amount and with surety acceptable to the county engineer, or other secure method, shall be required providing for and securing to Island County the satisfactory performance and maintenance of such road improvements for a one (1) year period.

(Ord. PD-82-08, December 13, 1982, vol. 20, p. 435; amended by Ord. C-92-98 [PLG-025-98], September 28, 1998, vol. 42, p. 483; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

11.01.080 Utilities

- A. Domestic water, sewer, and drainage systems shall be designed and constructed in accordance with the applicable state and county regulations.
- B. Utility locations are to be shown on the typical street sections. Any deviations from the standardized locations are to be approved by the county engineer. Waterlines are to be located on the north and east side of streets. The preferred location for waterlines parallel to the road is within six (6) feet of the right-of-way at a minimum cover of thirty (30) inches.
- C. Underground power, telephone and TV lines to be located on the south and west sides in a joint utility area, as provided in appendix "D," at a minimum depth of thirty (30) inches; sanitary sewer and gas lines as directed by the county engineer. Overhead utilities shall be placed as near as practical to the right-of-way line, no greater than seven (7) feet therefrom, with appropriate utility easements being provided contiguous to the right-of-way line for any resultant overhang.

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- D. Wherever feasible, underground utilities, together with service crossing, shall be installed after sub-grade has been completed, but before surfacing has been placed. Backfill of trenches shall be in accordance with approved methods as required by the county engineer. Pipe encasements may be installed under the roadbed for future utility pipe installations.
- E. Franchises for utilities are required to construct, operate, and maintain utilities in county right-of-way. All utilities installed in proposed county right-of-way prior to the approval of a subdivision, condominium, planned unit development, or other similar development shall be covered by an application for a franchise which would be subject to the approval by the Board of County Commissioners subsequent to the approval of the development.
- F. The minimum easement width for utilities is fifteen (15) feet, unless subject easement is contiguous to a private or public right-of-way. In such case, the minimum easement width shall be seven and one-half (7-1/2) feet.
- G. Utilities shall be located in recognition of the potential for future expansion of the existing roadway beyond current use.

(Ord. PD-82-08, December 13, 1982, vol. 20, p. 435; amended by Ord. C-92-98 [PLG-025-98], September 28, 1998, vol. 42, p. 483; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

11.01.090 Development Standards

General requirements and improvements.

- A. Additional building setbacks to accommodate future right-of-way requires a development restriction which imposes a sufficient building setback to guarantee that future right-of-way expansion could be accomplished without infringing on the yard requirements of the zone. When the setback requirements of the Island County Zoning Ordinance are insufficient to protect the future use or function of the roadway, additional setbacks may be imposed consistent with the functional roadway requirements of appendix "D."
- B. When only a portion of land having the same ownership, including contiguous property, is being developed by a subdivision or site planning process, a generalized plan for the entire ownership shall be required at the time of application to indicate that the roadways, drainage, and general design can be coordinated with the entire ownership when fully developed.
- C. Roadway systems shall be planned and designed to facilitate the development of an integrated public roadway network. Any subdivision containing forty (40) lots or more should contain at least two (2) developed/planned ingress-egress routes. Any right-of-way of less than county standards for public road shall be retained permanently as privately-owned and maintained; except when subsequently the street is developed to adopted county standards and specifications and established as a county road in accordance with the provisions of law.

- D. Maintenance responsibilities and the method of financing said maintenance for all privately-owned and operated facilities (e.g., water, sewer, drainage, and road systems), shall be established prior to approval of development actions.
- E. Nothing herein shall be construed to preclude the imposition of additional requirements for off-site access road improvements as a condition of approving a preliminary plat, preliminary short plat, rezone, zoning amendment, site plan, use approval, conditional use, or other discretionary land use permit or approval, where such additional improvements are found by the county approving authority to be necessary in order to either provide adequate road access to the proposed development, to maintain the adopted level of service standards, or to mitigate traffic hazards caused or aggravated by the proposed development.
- F. Future public right-of-way tracts or trail systems. The setting aside of sufficient future right-of-way may be required when it is necessary, consistent with the Island County Comprehensive Plan, to provide for future public street or trail system right-of-way to assure the orderly development of neighborhood circulation. When required, the form set forth in appendix "C" of this ordinance shall be used as a condition of approving a preliminary plat, preliminary short plat, rezone, zoning amendment, site plan, use approval, or conditional use. The dimensions of such tract, when required, shall be consistent with the adopted standards and plans for public streets, roads, and tracts attached. Such tracts may contain a private road consistent with the requirements of this ordinance.
- G. Every development applicable in this chapter shall be provided with an adequate public or private access complying with construction standards applicable to the development action. Where any abutting county road has insufficient right-of-way to conform to the provisions of appendix "D," sufficient additional right-of-way shall be deeded and/or dedicated to Island County to conform the abutting half to such standards.

If the access road serving and/or adjoining a development is a state road or highway, required dedication and/or improvements thereto shall be governed by the provisions of this ordinance as they relate to county roads, unless specified otherwise by the Washington State Department of Transportation.
- H. In order to protect and preserve the function and character of adjoining public roadways, access to adjoining public roads may be restricted or denied by Island County. In such circumstances, the developer shall be required to fulfill the access road requirements herein stated.
- I. The county engineer may require the construction of individual or common lot accesses concurrent with roadway construction when said access requires excessive excavation, filling, or clearing to meet the county's standard requirements.

- J. The deed/dedication of right-of-way to the county per this chapter shall only be required when an individualized determination shows that the deed/dedication requirement is reasonably calculated to prevent or compensate for the adverse public impacts of the proposed development and the deed/dedication requirement is roughly proportional to the nature and extent of the adverse impacts of the proposed development.
- K. **Pedestrian circulation.**
1. **Requirements.** Sidewalks and/or surfaced walkways shall be constructed adjacent to and/or within a parcel being “developed” in an urban growth area and in a rural area of intensive development where subcommunity plans have been adopted and so dictate, as provided for below:
 - a) All commercial/industrial development contiguous to highway, arterial, and collector streets.
 - b) Residential development--contiguous to external highway, arterial, and collector streets. Internal pedestrian ways shall be provided in accordance with an approved plan to separate pedestrian and motor vehicular traffic.
 2. **Trail and bikeway systems.** Consistent with the Island County Comprehensive Plan, trail and bicycle systems may be required to implement adopted plans.
 3. **Construction standards.** Material and construction for sidewalks, trails, and bikeways adjacent to county roads shall conform with the standard specifications or approved alternatives.
 4. **Construction.** Unless earlier installation is required by the Island County Engineer, required sidewalks shall be installed in conjunction with either the construction of an adjacent road or the construction of a building structure. That portion of any required sidewalks adjacent to any lot shall be constructed prior to issuance of a certificate of occupancy for a building constructed on such lot.
- L. **Lighting.** Illumination of intersections adjoining highway, arterial, and collector roads shall be required for residential development generating in excess of two-hundred-fifty (250) average daily traffic as per the Institute of Traffic Engineer’s data. All lighting shall be low intensity (200-watt sodium vapor or equivalent) and shielded to reflect downward towards the street.
- M. **Fire protection.** All new subdivisions, including site plan segregations, developments, and buildings, shall be required to provide fire protection in accordance with requirements specified in ICC 13.03⁴, in addition to those required by the Uniform Building and Fire Code as adopted by Island County.

⁴ **Reviser’s Note:** The reference to ICC 13.03 in this ordinance appears to be incorrect. ICC 13.03A was apparently intended as ICC 13.03 was repealed

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N. Direct access driveway/road approach requirements shall meet the following criteria:

- 1. Direct access driveway/roadway placement must be such that an exiting vehicle has an unobstructed sight distance according to the following schedule:

Posted Speed Limit (mph)	Minimum Sight Distance (feet)
25	250-275
30	300-330
35	350-385
40	400-440
45	450-495
50	500-550
The longer distances reflect heavy truck traffic.	

- 2. Driveway/roadway spacing on arterial and collector roads will be determined as a function of posted operating speeds. Spacing will be determined according to the following schedule:

Posted Speed Limit (mph)	Minimum Spacing (feet)
25	105
30	125
35	150
40	180
45	230
50	275

- a) These spacings are based on average vehicle acceleration and deceleration rates and are considered necessary to maintain safe traffic operation.
- b) Spacing will be measured from the midpoint of each driveway/roadway.
- c) In the event that a particular parcel lacks minimum sight distance by the above criteria, but safe sight distance is available, the Island County Engineer may grant an administrative variance.

(Ord. PD-82-08, December 13, 1982, vol. 20, p. 435; amended by Ord. PD-84-04, February 6, 1984, effective April 1, 1984, vol. 21, p. 492, except subsection M approved February 21, 1984, vol. 22, p. 9; amended by Ord. PD-84-21, November 26, 1984, vol. 23, p. 207; amended by Ord. C-172-91, vol. 33, p. 265; amended by Ord. C-66-93, February 7, 1994, vol. 36, p. 472,

amendment reviewed and approved by Washington State Department of Health per letter of March 14, 1994; amended by Ord. C-58-96, November 25, 1996, vol. 40, p. 199; amended by Ord. C-92-98 [PLG-025-98], September 28, 1998, vol. 42, p. 483; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

11.01.100 Performance and Construction Bonds

In lieu of the completion of any required public or private improvements prior to approval of a final plat, condominium, or planned residential development, or other facility required by this ordinance for projects of similar scope, or to secure the successful operation and maintenance of said facilities, the Island County Engineer may recommend acceptance of a bond in an amount and with surety and conditions satisfactory to him, or other secure method as Island County may require, providing for and securing to Island County the actual construction and installation and operation of such improvements within a period specified by Island County and specified in the bond or other agreement, and to be enforced by Island County by appropriate legal and equitable remedies.

(Ord. PD-82-08, December 13, 1982, vol. 20, p. 435; amended by Ord. PD-84-04, February 6, 1984, effective April 1, 1984, vol. 21, p. 492)

11.01.110 Modifications

In cases where unusual topographic conditions, nature of existing construction, unique development design, or similar factors would make adherence to the width, design, or alignment standards of this ordinance undesirable or impracticable, the requirements may be modified, if not otherwise provided herein, upon written request as follows:

- A. Up to ten percent (10%) variation from any numerical standard contained within this ordinance by the Public Works Director^{4A}/County Engineer or the short plat administrator in cases involving short subdivisions;
- B. In the case of roads, the Public Works Director^{4B}/Island County Engineer may modify the requirements specified herein upon the written finding, consistent with the conditions specified in this chapter or to support the County’s affordable housing and/or low-impact site development goals;
- C. By final approval of the hearing examiner in approving any development actions or permits listed in this chapter over which the hearing examiner has final approval authority. Conditions may be attached to a modification approval which are necessary to protect the public interest and carry out the purpose of this ordinance; and

^{4A} **Reviser’s Note:** See Reviser’s Note 1 at page 454

^{4B} **Reviser’s Note:** See Reviser’s Note 1 at page 454

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D. By the Board of County Commissioners in approving any development actions or permits listed in this chapter over which the Board of County Commissioners has final approval authority.

(Ord. PD-82-08, December 13, 1982, vol. 20, p. 435; amended by Ord. PD-84-04, February 6, 1984, effective April 1, 1984, vol. 21, p. 492; amended by Ord. PD-84-21, November 26, 1984, vol. 23, p. 207; amended by Ord. C-92-98 [PLG-025-98], September 28, 1998, vol. 42, p. 483; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

11.01.120 Caveat and Disclaimer

It is the specific intent of this ordinance to place the obligation of complying with its requirements upon the owner of the property of land within its scope, and no provision or term used in this ordinance is intended to impose any duty whatsoever upon the county or any of its officers or employees running to any specific person or entity. Nothing contained in this ordinance shall be construed as a guarantee or warranty on the part of the county that site development has been or will be accomplished in accordance with the provisions of this ordinance, nor shall it be construed to create or form the basis for any liability on the part of the county or its officers, employees, or agents for any injury or damage resulting from the failure of an owner of property or land to comply with the provisions of this ordinance, or by reason or in consequence of any inspection notice, order, certificate, permission, or approval authorized or issued or done in connection with the implementation or enforcement of this ordinance, or by reason of any action or inaction on the part of the county related in any manner to the enforcement of this ordinance by its officers, employees, or agents.

(Ord. PD-82-08, December 13, 1982, vol. 20, p. 435)

11.01.130 Appendices⁵

Appendices “A” through “E” to this ordinance shall be considered a part of this ordinance and shall not be amended except by county ordinance.

(Ord. PD-82-08, December 13, 1982, vol. 20, p. 435)

11.01.140 Penalties and Enforcement

Any violation of Chapter 11.01 shall be enforced by the Planning and Community Development Director and shall be subject to the enforcement provisions of Chapter 17.03 ICC. The County Engineer shall provide support and technical guidance to the Planning and Community Development Director on all 11.01 violations.

(Ord. PD-82-08, December 13, 1984, vol. 20, p. 435; amended by Ord. C-06-97, PLG-002-97, February 3, 1997, vol. 40 p. 286; amended by Ord. C-160-01 [PLG-020-01], January 7, 2002, vol. 46, p. 83)

⁵ Copies of appendices “A” through “E” may be obtained from the Island County Engineer’s Office or Planning Department.

11.01.150 Abatement

In addition to any other remedy provided herein or by law, the Island County Public Works Director^{5A} may require any person, who creates or maintains a violation of this chapter, to commence corrective work and to complete the work within such time as the Island County Public Works Director determines reasonable under the circumstances. If the required corrective work is not commenced or completed within the time specified, the Island County Public Works Director may proceed to abate the violation and cause the work to be done. The cost thereof will be charged as a lien against the property and as a joint and separate personal obligation of each person who is in violation. The cost of abatement may include administrative costs.

(Ord. C-06-97, PLG-002-97, February 3, 1997, vol. 40, p. 286)

11.01.160 Repealer

The following parts of the Island County Code are hereby repealed:

- A. Resolution 876, October 5, 1970, vol. 13, p. 358, of the Commissioners' Proceedings
- B. Resolution 877, October 5, 1970, vol. 13, p. 359, of Commissioners' Proceedings, section 16.01.060 of the Island County Code
- C. Ordinance 709, September 8, 1969, vol. 13, p. 215, of Commissioners' Proceedings, section 16.01.050.2 through 6 of the Island County Code
- D. That portion of Resolution, September 13, 1965, vol. 12, p. 371, of Commissioners' Proceedings, codified as section 16.01.004.I.1 through 7 and 9(e) of the Island County Code
- E. That portion of Ordinance PW-1-80, June 5, 1980, codified as section 13.03.060.G and H of the Island County Code.
- F. That portion of the Short Plat Ordinance, August 22, 1983, codified as ICC 16.04A.090.G.
(Ord. PD-82-08, December 13, 1982, vol. 20, p. 435; amended by Ord. PD-84-04, February 6, 1984, effective April 1, 1984, vol. 21, p. 492; amended by Ord. PD-84-21, November 26, 1984, vol. 23, p. 207; amended by Ord. C-92-98 [PLG-025-98], September 28, 1998, vol. 42, p. 483; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

^{5A} **Reviser's Note:** See Reviser's Note 1 at page 454

11.01.170 Fees and Charges

The Board of County Commissioners shall levy such fees and charges as are necessary for the administration or review of the applications, plans, or permits required, to the end that the individuals benefiting from said actions will bear a greater portion of the costs of administration and review.

(Ord. PD-82-08, December 13, 1982, vol. 20, p. 435)

11.01.180 Codification

This ordinance shall be codified as a separate chapter in Title 11, said chapter to be entitled "Land Development Standards." Each codified section shall be in the same order as set forth in this ordinance.

(Ord. PD-82-08, December 13, 1982, vol. 20, p. 435)

11.01.190 Severability

If any portion of this ordinance is held invalid, such decision shall have no effect upon the validity of the remaining portion of this ordinance. The Board of County Commissioners hereby declares that it would have adopted this ordinance and each part or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, parts, or portions thereof be declared invalid or unconstitutional.

(Ord. PD-82-08, December 13, 1982, vol. 20, p. 435)

11.01.200 Effective Date

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

(Ord. C-92-98 [PLG-025-98], September 28, 1998, vol. 42, p. 483; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

Chapter 11.02 ^{5B}

Clearing and Grading Requirements ⁶

Sections:

- 11.02.010 Purpose
- 11.02.020 Applicability
- 11.02.030 Definitions
- 11.02.040 Public Works Director^{6A}/County Engineer Authority
- 11.02.050 Compliance with other Laws
- 11.02.060 Relationship to Chapter 16.14C ICC Environmental Impacts
- 11.02.070 Liability
- 11.02.080 Grading Permit Required
- 11.02.090 Exemptions
- 11.02.100 Grading in Accordance with Approved Permit and Plans – Person Responsible
- 11.02.110 Grading Permit Application Submittal Requirements
- 11.02.120 Submittals for Engineered Grading
- 11.02.130 Notice of Application – Grading in Excess of Five Hundred (500) Cubic Yards
- 11.02.140 Reports on Geotechnical Engineering, Soils Engineering, Engineering Geology, and Mitigation Plans
- 11.02.150 Bonds
- 11.02.160 Issuance of Grading Permits. Grading in Shorelines of the State, Geologically Hazardous Areas, Steep Slopes, and/or Critical Areas
- 11.02.170 Covenant
- 11.02.180 Disclosure Statement

^{5B} **Reviser’s Note:** Administration and interpretation of the provisions of this chapter are assigned to the Planning and Community Development Director in place of the Public Works Director. See Res. No. C-03-01, January 8, 2001, vol. 45, p. 157.

⁶ **Reviser’s Note:** For a copy of the Island County Stormwater Design Manual (sometimes called the “Island County Drainage Manual” or the “Island County Surface Water Manual”), which contains standards and technical guidance for complying with this ordinance, contact the Island County Public Works Department.

^{6A} **Reviser’s Note:** See Reviser’s Note 5B above

11.02.010	LAND DEVELOPMENT STANDARDS
11.02.190	Grading Permit Expiration and Renewal
11.02.200	Modifications of Permit Conditions
11.02.210	Grading Inspection
11.02.220	Completion of Work
11.02.230	Hazards
11.02.240	Grading Permit Fees
11.02.250	Appeals
11.02.260	Penalties and Enforcement
11.02.270	Standards for Class IV General Forest Practices Permits, Class IV Platted Forest Practices Permits, and Conversion Option Harvest Plans, and for Any Lands Harvested Without a Forest Practices Permit When a Permit was Required
11.02.280	Cuts or Excavations
11.02.290	Fills or Embankments
11.02.300	Slope Requirements
11.02.310	Setbacks for Cuts or Fills (See Figure 1)
11.02.320	Drainage and Terracing
11.02.330	Erosion Control
11.02.340	Reclamation of Quarry or Mining Sites
11.02.350	Severability
11.02.360	Effective Date
11.02.010	Purpose

The purpose of this chapter shall be to regulate clearing and grading on property to safeguard life, limb, property, and the general welfare. The objectives of this chapter are as follows:

- A. To promote sound, practical, and economical development practices and construction procedures which minimize impacts to the county's water resources and adjoining properties;
- B. To minimize degradation of water quality and to prevent erosion and sedimentation of streams, creeks, lakes, wetlands, and other surface water;
- C. To control soil movement originating on developing land;

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- D. To preserve and protect archeological sites;
- E. To maintain stable earth foundations for structures or site grading operations using benches, keys, and compaction of soils or other suitable engineering methods;
- F. To maintain the quality of the county's water resources;
- G. To minimize adverse effects caused by alterations in surface water or ground water quality, quantities, locations, and flow patterns;
- H. To promote site planning and construction practices that are consistent with natural topographical, vegetational, and hydrological conditions;
- I. To maintain the safety of county roads and right-of-ways; and
- J. To protect public safety by reducing slope instability and potential for landslides.

(Ord. C-92-98 [PLG-025-98], September 28, 1998, vol. 42, p. 483; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

11.02.020 Applicability

This chapter applies to all clearing and grading except as exempted herein. Prior to beginning regulated grading activity on a site, the owner of the project or agent shall be required to comply with the terms and conditions of this chapter. Failure to comply is subject to the enforcement and penalty provisions stated herein.

(Ord. C-92-98 [PLG-025-98], September 28, 1998, vol. 42, p. 483; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

11.02.030 Definitions

Unless the context clearly requires otherwise, the definitions in this chapter apply to all clearing and grading in unincorporated Island County. Clearing and grading within proposed or existing public right-of-ways shall follow the standards of the 1998 Standard Specifications for Road Bridge and Municipal Construction, or most recent addition.

- A. **Applicant** means a property owner, or any person or entity designated or named in writing by the property owner to be the applicant, in an application for a development proposal, permit, or approval.
- B. **Approval** means that the proposed work or completed work conforms to this chapter in the opinion of the Building Official or Director.
- C. **As-graded** means the extent of surface conditions on completion of grading.
- D. **Bank** means the rising ground bordering the sea, river, or lake. (Also see Bluff)
- E. **Bluff** means a high bank composed largely of unconsolidated deposits with near-vertical face overlooking a body of water.

- F. **Bedrock** means in-place solid rock.
- G. **Bench** means a relatively level step excavated into earth material on which fill is to be placed.
- H. **Best management practices (BMPs)** or “BMPs” means physical, structural, or managerial practices which have gained general acceptance for their ability to prevent or reduce public safety impacts and other environmental impacts and which are adopted in the Island County Drainage Manual⁷ or approved by the Director.
- I. **Bond**. “Bond” shall mean a surety bond, assignment of funds, or irrevocable bank letter of credit.
- J. **Civil engineer** means a professional engineer licensed by the State of Washington to practice civil engineering.
- K. **Civil engineering** means the application of the knowledge of the forces of nature, principles of mechanics, and the properties of materials to the evaluation, design, and construction of civil works.
- L. **Clearing** means the cutting and removal of vegetation by mechanical or chemical methods.
- M. **Compaction** means the densification of a fill by mechanical means.
- N. **Critical areas**, as used in this chapter, means fish and wildlife habitat conservation areas, wetlands, flood hazard areas, geologically hazardous areas, and their buffers, as applicable.
- O. **Development activity** means any proposal which will result in construction, development, earth movement, clearing, or other site disturbance and requires a permit, approval, or authorization from the county or is proposed by a public agency.
- P. **Director** means, unless otherwise specified, the Director of the Public Works Department^{7A} or his or her designee.
- Q. **Earth material** means any rock, natural soil, or fill or any combination thereof.

⁷ **Reviser’s Note:** For a copy of the Island County Stormwater Design Manual (sometimes called the “Island County Drainage Manual” or the “Island County Surface Water Manual”), which contains standards and technical guidance for complying with this ordinance, contact the Island County Public Works Department.

^{7A} **Reviser’s Note:** See Reviser’s Note 5B at page 475

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- R. **Engineering geologist** means a professional engineering geologist licensed by the State of Washington.
- S. **Engineering geology** means the application of geologic knowledge and principles in the investigation and evaluation of naturally occurring rock and soil for use in the design of civil works.
- T. **Erosion** means the removal and loss of soil by the action of water, ice, or wind.
- U. **Excavation** means the mechanical removal of earth material.
- V. **Fill** means a deposit of earth material placed by artificial means.
- W. **Forest practices** means any activity conducted on or directly pertaining to forest land and related to growing, harvesting, or processing timber as described in WAC 222-16.
- X. **General Design and Construction Standards.** “General Design and Construction Standards” means “The Standard Specifications for Municipal Public Works Construction”, latest edition, as prepared by the Washington State Chapter of the American Public Works Association, except as amended herein or by variance granted in writing by the Director.
- Y. **Geologically hazardous area** means those areas that because of their susceptibility to erosion, sliding, or other geologic events, are generally not suited to the siting of commercial, residential, or industrial development consistent with public health or safety concerns, including but not limited to those lands designated in the Department of Ecology Coastal Zone Atlas dated April 1979, as it may be amended or revised, as land which has had recent or historical slide activity and/or has unstable slope conditions, including those lands within one-hundred (100) feet (either top or base) thereof.
- Z. **Geologist** means a professional Geologist licensed by the State of Washington.
- AA. **Geotechnical engineer** means a civil engineer licensed by the State of Washington with training and experience in the practice of soil mechanics (geotechnical engineering).
- BB. Geotechnical professional means a licensed civil engineer with training and experience in the practice of soil mechanics (geotechnical engineer), engineering geologist or geologist licensed in the State of Washington.
- CC. **Grade** means the vertical location of the ground surface.
 - 1. Existing grade means the grade prior to grading.
 - 2. Finish grade means the final grade of the site that conforms to the approved plan.
 - 3. Rough grade means the stage at which the grade approximately conforms to the approved plan.

- DD. **Grading** means any excavating or filling or combination thereof.
- EE. **Key** means a designed compacted fill placed in a trench excavated in earth material beneath the toe of a proposed fill slope.
- FF. **Land disturbing activity** means any activity that results in a change in the existing soil cover (both vegetative and nonvegetative) and/or the existing soil topography. Land disturbing activities include, but are not limited to, demolition, construction, clearing, grading, filling, and excavation. Land disturbing activities also include Class IV General Forest Practices Permits, Class IV Platted Forest Practices Permits, and Conversion Option Harvest Plans and their associated forest practices permit submitted pursuant to RCW 76.09.060(3)(b)(I)(F).
- GG. **Landslide hazard areas** are potentially subject to landslides based on a combination of geologic, topographic, and hydrologic factors. Landslide areas include any areas susceptible because of any combination of bedrock, soil, slope (gradient), slope aspect, structure, hydrology, or other factors.
- HH. **Professional inspection** means the inspection required by this code to be performed by the civil engineer, geotechnical engineer, geologist, or engineering geologist licensed by the State of Washington with appropriate training and experience. Such inspections include that performed by persons supervised by such engineers or geologists and shall be sufficient to form an opinion relating to the conduct of the work.
- II. **Scarp** means a line of a cliff(s) produced by faulting, landslides, or erosion.
- JJ. **Site** means any lot or parcel of land or contiguous combination thereof, under the same ownership, where grading is performed or permitted.
- KK. **Site review** means the inspection by an Island County employee of a site at which development activity has been proposed, including examination of proposed plans, and may include critical area site plan review per ICC 17.02, erosion control, site conditions, and applicable Island County codes, standards, and written policies.
- LL. **Slope** means the gradient in vertical feet per horizontal feet or percent. Side slopes of drainage facilities are usually referred to with the horizontal dimension first as in 3H:1V.
- MM. **Slope - Steep**. "Steep slope" as used in this chapter means those areas in Island County on slopes forty percent (40%) or steeper within a vertical elevation change of at least ten (10) feet. A slope is delineated by establishing its toe and top and is measured by averaging the inclination over at least ten (10) feet of vertical relief. For the purpose of this definition:

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1. The toe of a slope is a distinct topographic break in slope which separates slopes inclined at less than forty percent (40%) from slopes forty percent (40%) or steeper. Where no distinct break exists, the toe of a steep slope is the lowermost limit of the area where the ground surface drops ten (10) feet or more vertically within a horizontal distance of twenty-five (25) feet; and
2. The top of a slope is a distinct, topographic break in slope which separates slopes inclined at less than forty percent (40%) from slopes forty percent (40%) or steeper. Where no distinct break exists, the top of a steep slope is the uppermost limit of the area where the ground surface drops ten (10) feet or more vertically within a horizontal distance of twenty-five (25) feet.

- NN. **Soil** means naturally-occurring superficial deposits overlying bedrock.
- OO. **Specifications** mean requirements for the proposed work. It may include, but is not limited to, the current and subsequent amendment to Washington State Department of Transportation and American Public Works Association standards and specifications for Road, Bridge and Municipal Construction.
- PP. **Temporary Erosion and Sedimentation Control** means any temporary measures taken to reduce erosion, control siltation and sedimentation, and ensure that sediment-laden water does not leave the site.
- QQ. **Terrace** means a relatively level step constructed in the face of a graded slope surface for drainage and maintenance purposes.

(Ord. C-92-98 [PLG-025-98], September 28, 1998, vol. 42, p. 483; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38; amended by Ord. C-41-06 [PLG-024-05], April 24, 2006, vol. 2006, p. 148)

11.02.040 Public Works Director^{7B}/County Engineer Authority

- A. **Administration of grading.** The Public Works Director/County Engineer shall administer and enforce compliance with all grading requirements of this chapter for all grading except for grading administered by the Public Works Director/County Engineer as provided in this chapter, or otherwise noted herein.
- B. **Policies and procedures.** The Public Works Director/County Engineer may adopt and amend administrative policies and procedures for the purpose of implementing and enforcing the provisions of this chapter. All administrative policies and

^{7B} **Reviser's Note:** See Reviser's Note 5B at page 475

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procedures and any amendments thereto will be approved by the Board of County Commissioners and shall be available to the public at the Public Works Department.

(Ord. C-92-98 [PLG-025-98], September 28, 1998, vol. 42, p. 483; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

11.02.050 Compliance with Other Laws

Approvals and permits granted under this chapter and any policies and procedures promulgated hereunder do not constitute waivers of the requirements of any other laws or regulations nor do they indicate compliance with any other laws or regulations. Compliance is still required with all applicable federal, state, or other local laws and regulations.

(Ord. C-92-98 [PLG-025-98], September 28, 1998, vol. 42, p. 483; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

11.02.060 Relationship to Chapter 16.14C ICC Environmental Impacts

- A. The grading requirements of this chapter, together with the comprehensive plan adopted pursuant to RCW 36.70A, the critical areas regulations of ICC 17.02, and the drainage regulations of ICC 11.03, constitute the policy of the county under the county's police power authority, the Growth Management Act (GMA), and the State Environmental Policy Act (SEPA) for the review of development and the determination of significant adverse environmental impacts and imposition of mitigation requirements due to the impacts on-site and off-site from grading.
- B. For the purposes of ICC 16.14C, measures required by this chapter and other applicable development regulations shall constitute adequate mitigation of adverse or significant adverse environmental impacts, on-site and off-site, from grading.

(Ord. C-92-98 [PLG-025-98], September 28, 1998, vol. 42, p. 483; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

11.02.070 Liability

- A. Administration of this chapter shall not be construed to impose or create a basis for any liability on the part of the county, its appointed and elected officials, officers, agents, or employees, nor shall this chapter be construed to create any special relationship with or otherwise protect any specific person or class of persons.
- B. Island County is not responsible for the accuracy of grading plans submitted for approval. The county expressly disclaims any responsibility for the design or implementation of a grading plan. The design or implementation of a suitable grading plan is the responsibility of the person submitting the application.

(Ord. C-92-98 [PLG-025-98], September 28, 1998, vol. 42, p. 483; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

11.02.080 Grading Permit Required

A grading permit shall be required for all land disturbing activities, unless exempted by this chapter. Examples of regulated land disturbing activities include, but are not limited to:

- A. Accumulative filling and/or excavation exceeding five hundred (500) cubic yards.
- B. Clearing, filling, or excavation, in any quantities, within two hundred (200) feet of a **regulated** shoreline area, on steep slopes as defined herein, or within a geologically hazardous area, as herein defined, in wetlands or their associated buffers, or into or next to any body of water, including streams or their associated buffers, or any other critical areas, as herein defined.
- C. Class IV Forest Practice Permits, Class IV Platted Forest Practice Permits, and Conversion Option Harvest Plans and their associated forest practices permit.
- D. Clearing to bare earth if greater than two (2) acres in size.

(Ord. C-92-98 [PLG-025-98], September 28, 1998, vol. 42, p. 483; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

11.02.090 Exemptions

The following land disturbing activities outside a critical area and its associated buffer, which are at least five (5) feet from the property boundary line, are exempt from the requirements of this chapter, except for land disturbing activities located partially or entirely within a geologically hazardous area or steep slope as herein defined:

- A. Operation of a solid waste disposal site controlled by other regulations. This exemption shall not apply to expansion, relocation, or closure of a solid waste disposal site;
- B. Commercial operations involving mining, quarrying, excavating, processing, or stockpiling of rock, sand, gravel, aggregate, or clay if such operations are authorized by a valid Island County permit as required by ICC 17.03. This exemption does not apply to:
 - 1. Reclamation pursuant to this chapter;
 - 2. An operation which destabilizes or undermines any adjacent or contiguous property; or
 - 3. An operation which results in adverse downstream drainage impacts;
- C. Agricultural activities as follows:
 - 1. Tilling, soil preparation, and maintenance;
 - 2. Fallow rotation, planting, and harvesting; or

3. Application of fertilizer and chemicals approved by the Environmental Protection Agency, the Washington State Department of Ecology, or the United States Department of Agriculture in accordance with applicable regulation and best management practices;
- D. Site investigative work necessary for land use application submittals such as surveys, soil borings and test pits, soil logs and other related activities, provided the land-disturbing activity is no greater than is necessary to accomplish the work;
- E. Excavation of a well for a single family dwelling;
- F. Excavation or filling of cemetery graves;
- G. Grading pursuant to an approved public road access permit when the provisions of this chapter have been considered and addressed in the terms and conditions of the access permit;
- H. Grading which is regulated by this chapter, but for which review has occurred and conditions specified in compliance with this chapter, as a requirement of the approval of the development activity, including but not limited to the issuance of a building permit;
- I. Accumulated filling and/or excavation less than five hundred (500) cubic yards, except that as a condition of this exemption those land disturbing activities specified below must comply with the minimum erosion and sedimentation control requirements of ICC 11.03:
 1. Grading which does not obstruct or significantly alter an existing drainage course or pattern, and/or which creates five thousand (5,000) square feet or less of new impervious surface;
 2. Grading which is greater than two hundred fifty (250) cubic yards but less than five hundred (500) cubic yards in a Rural Area of Intense Development; or
 3. Grading on a site for a single-family dwelling and accessory structures, provided that excess excavated material must be disposed of at a permitted site approved by the Director (if not retained on site), and that the excavations shall not commence until the building permit is secured by the applicant, unless otherwise authorized by the Director; or
- J. Grading of five thousand (5,000) cubic yards or less in an isolated, self-contained area not in a UGA/RAID, if there is no danger of environmental degradation to critical areas as herein defined, on or off site, and no threat that sediment will be transported off site to adjoining properties;
- K. Routine maintenance or repair of the following agricultural activities:

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1. Drainage facilities;
 2. Animal waste management facilities;
 3. Buildings, fences, roads, and bridges;
 4. Ponds, drains, and waterways;
- L. A grading permit is not required for county Public Works Department construction or maintenance projects. The Public Works Director^{7C}/County Engineer shall administer and enforce compliance with all grading requirements of this chapter for county Public Works Department construction projects. The Public Works Director/County Engineer shall include a requirement for all applicable grading, drainage, and erosion and sedimentation control plans in any contract documents prepared for such projects;
- M. Development that is undertaken by the Washington State Department of Transportation in state highway rights-of-way and is regulated by Chapter 173-270 WAC, the Puget Sound Highway Runoff Program, shall be exempt from the provisions of this chapter.

(Ord. C-92-98 [PLG-025-98], September 28, 1998, vol. 42, p. 483; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

11.02.100 Grading in Accordance with Approved Permit and Plans - Person Responsible

When a grading permit is required, all land disturbing activities shall be done in accordance with the approved plans, specifications, and permit requirements. Any person performing land disturbing activities subject to a grading permit shall have a copy of a valid grading permit and plans on the work site at all times and shall be responsible for compliance with the plans, specifications, and permit requirements.

(Ord. C-92-98 [PLG-025-98], September 28, 1998, vol. 42, p. 483; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

11.02.110 Grading Permit Application Submittal Requirements

- A. The purpose of the grading permit application is to require sufficient engineering and design information to determine compliance with the requirements of this chapter and Chapter 11.03 and Titles 16 and 17 ICC, as applicable.
- B. The Director shall establish and may revise submittal requirements for a complete grading permit application. The list of submittal requirements shall be available at the Public Works Department^{7D}. The submittal requirements may include at least the following:

^{7C} **Reviser's Note:** See Reviser's Note 5B at page 475

^{7D} **Reviser's Note:** See Reviser's Note 5B at page 475

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1. The applicant's name, address, and legal description;
 2. Vicinity map;
 3. Grading plans drawn to scale which include all proposed grading showing cross-sections or an equivalent method;
 4. Grading quantities (amount of cut or fill to be moved);
 5. If excess material excavated, the location of the disposal site;
 6. Temporary erosion and sedimentation control plans which meet the requirements of ICC 11.03;
 7. Existing grade and proposed finish grade contours shall be shown on each grading plan sheet;
 8. A preliminary drainage plan/drainage narrative pursuant to ICC 11.03, if applicable;
 9. Location of property boundary, easements, critical areas, and structures within fifteen (15) feet of said boundary, on-site sewage facilities, and location of domestic water supply; and/or
 10. Applicable grading permit application fees pursuant to this chapter, if any.
- C. A civil engineer shall prepare and stamp the grading plans if they are engineered grading pursuant to this chapter.
- D. After a site review of the proposed grading, the Building Official or Director may require additional information be submitted to determine compliance with the requirements of this chapter. The request for additional information is subject to the procedures and time frames established in ICC 16.19.

(Ord. C-92-98 [PLG-025-98], September 28, 1998, vol. 42, p. 483; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

11.02.120 Submittals for Engineered Grading

- A. All grading in excess of five thousand (5,000) cubic yards requires submittal and approval of a grading plan and drainage plan, as specified in ICC 11.03, prepared and stamped by a civil engineer.
- B. All grading within a geologically hazardous area, as herein defined, requires submittal and approval of a geotechnical engineering report, an engineered grading plan and full drainage plan, as specified in ICC 11.03, prepared and stamped by a civil engineer.
- C. All grading, except for utility installations, within public road rights-of-way shall follow the grading requirements and specifications of the 1998 WSDOT Standard Specifications

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or current edition, and the grading plans shall be prepared and stamped by a civil engineer.

- D. When required by this chapter, all grading plans that are presented for record as part of a public hearing associated with the approval of the development activity, except appeal hearings, shall be prepared and stamped by a civil engineer.

(Ord. C-92-98 [PLG-025-98], September 28, 1998, vol. 42, p. 483; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

11.02.130 Notice of Application--Grading in Excess of Five Hundred (500) Cubic Yards

- A. Within five (5) working days of filing an application for a grading permit for grading in excess of five hundred (500) cubic yards of material, an applicant shall post one (1) or more signs which meet county standards in conspicuous locations on the property's frontage abutting a public right-of-way. If no public right-of-way exists, the signs shall be placed at the point of access to the property. If the grading is subject to SEPA review, the posting shall occur at the same time and in the same manner as the posting/notice requirements of ICC 16.19.
- B. The signs shall contain at least the following information in a form prescribed by the Director: type of permit requested, assigned county file number, project description, and the county contact person. The signs shall remain posted throughout the review process and until all appeal periods have expired.
- C. Posting is not required if the grading was anticipated and described in a prior approved land use action.
- D. The applicant shall submit a declaration verifying the date and location of posting in a form prescribed by the Director.
- E. If a declaration of posting is not returned to the Director within fifteen (15) days of application, the Director shall discontinue processing of the permit request until the declaration is received.

(Ord. C-92-98 [PLG-025-98], September 28, 1998, vol. 42, p. 483; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

11.02.140 Reports on Geotechnical Engineering, Soils Engineering, Engineering Geology, and Mitigation Plans

If the Director or their designee determines that geologic, hydrologic, or site conditions may present special grading or drainage problems, he or she may require the applicant to submit a geotechnical engineering report per this chapter. The Director or their designee may waive all or some of the elements of the general geotechnical report, geotechnical engineering report, and/or mitigation plans.

- A. **General Geotechnical Report.** In the case of land-disturbing activities proposed on a steep slope, not in a geological hazardous area, the Director or their designee may require a general geotechnical report prepared by a licensed geotechnical professional. A general geotechnical report shall include:
1. An adequate description of the geology of the site including data regarding the nature, distribution, and strength of existing soils; and
 2. An opinion on the adequacy for the intended use of sites to be developed by the proposed grading, as affected by geotechnical factors, including stability of slopes and potential impacts; and
 3. Conclusions and recommendations for grading procedures including cuts and placement of structural fills, when necessary; and
 4. Appropriate mitigation measures.
 5. The Director or their designee may require the information outlined in the Geotechnical Engineering Report (ICC 11.02.140(B)) and/or Mitigation Plans (ICC 11.02.140(C)) if site conditions and/or proposed land disturbance are determined to warrant a detailed site evaluation.
- B. **Geotechnical engineering report for geologically hazardous areas.** In the case of land-disturbing activities proposed to be within setbacks established for a geological hazardous area, a geotechnical engineering report prepared and sealed by a geotechnical engineer shall be submitted. If appropriate, a geologist may contribute to the geologic aspects of the project.
1. The minimum setbacks that will generally not require a geotechnical report are as follows:
 - a) Fifty (50) foot setback or greater from a slope that is more than ten (10) feet but no more than thirty (30) feet in height; or
 - b) Seventy-five (75) foot setback or greater from a slope that is more than thirty (30) feet but no more than fifty (50) feet in height; or
 - c) One hundred (100) foot setback or greater from a slope that is more than fifty (50) feet in height.
 2. The scope of a geotechnical report shall include the following where applicable:
 - a) An assessment of the geologic and hydrogeologic conditions in the vicinity of the site. Description of types and engineering properties of the soils, sediments, and/or rock of the subject property and potentially affected adjacent properties must be included;
 - b) Description of existing site topography including determination of height of slope, slope gradient, and preparation of a generalized cross section;

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- c) Description of any areas mapped as unstable (e.g. by Coastal Zone Atlas), landslides, erosion activity or other areas of unstable soils identified visually at the site;
- d) Description of any watercourses, including drainage channels, ditches, springs and intermittent streams;
- e) An estimate of slope stability and the effect construction and placement of structures will have on the stability of slopes. The minimum setbacks described above shall be used. The geotechnical engineer must concur with this setback or may establish an alternative setback based on the geology, bluff retreat rates, seismic activity and other considerations;
- f) A description of the extent and type of vegetative cover to include tree attitude;
- g) A detailed description of the project including any structural development, its relationship to geologic hazard(s) and its potential impact upon the hazard area, the subject property, and affected adjacent properties;
- h) A description of type of construction including any unusual load intensities, public and private sewage disposal systems, fills and excavations including proposed angles of cuts and fills;
- i) Specific recommendations and/or mitigation actions must be provided regarding proposed vegetation removal and replacement, erosion control, and locations and methods of surface and subsurface drainage. If anchor blocks within 50 feet of the bluff are required for storm drains over bluffs, specific recommendations regarding setbacks and design criteria shall be included;
- j) The drainage recommendations shall be site specific to mitigate impacts and prevent erosion. Surface drainage shall not be directed across the face of geologically hazardous or landslides hazard area (including marine bluffs or ravines). If drainage must be discharged from the area into adjacent waters, it shall be collected above the hazard, secured, and directed to the water by tight line drain and provided with an energy dissipating device at the point of discharge. Installations within two hundred (200) feet of the shoreline must be authorized by the County Shoreline Administrator and must be consistent with the Shoreline Management Act. If the drainage recommendations in the Geotechnical Engineering Report are determined by the Director to not be sufficient, a specific Drainage Plan prepared by a licensed engineer may be required (see Mitigation Plans).

- k) The Director or their designee may require a representative of the geotechnical engineer to perform special inspections in accordance with ICC 11.02.210 to confirm that conditions encountered during construction are consistent with the assumptions of the geotechnical engineering report and construction conforms with the design and mitigation plans.
- C. **Mitigation plans.** If the Director or their designee determines that the site conditions and/or proposed development require additional mitigation details not provided in the geotechnical engineering report or general geotechnical report, mitigation plans or other submittals including but not limited to any of the following may be required:
- 1. Mitigation proposals that shall include:
 - a) Subsurface exploration and logs prepared under the supervision of the geotechnical engineer. Subsurface exploration may be required for proposed development within 25 feet of the top or base of a bluff greater than 10 feet in height; for proposed infiltration of stormwater; unusual load intensities as determined by the geotechnical engineer; stormwater anchor blocks; or other design considerations that the Director determines represent a risk from the geohazard;
 - b) A vegetation management and/or restoration plan and/or other means for maintaining long term stability of slopes;
 - c) A temporary erosion and sedimentation control plan (TESCP) prepared by a qualified professional in accordance with the requirements of ICC 11.03;
 - d) A drainage plan prepared by a licensed civil engineer showing the collection, transport, treatment, discharge, and/or recycle of water in accordance with the requirements of ICC 11.03. The drainage plan must include at least the considerations presented in ICC 11.02.140.B.10.
 - e) All infiltration systems, such as stormwater detention and retention facilities, and curtain drains or french drain are prohibited in geologically hazardous areas and their buffers unless a geotechnical report indicates such facilities or systems will not adversely affect slope stability and the systems are designed by a licensed civil engineer. Such systems will require subsurface exploration to confirm the suitability of subsurface conditions. Special inspection in accordance with ICC 11.02.210 will be required during construction.
 - 2. The mitigation plan must be approved by the Director or their designee and be implemented as a condition of project approval;

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3. Projects found to be in non-compliance with the mitigation conditions issued as part of the development approval are subject to enforcement actions necessary to bring the development into compliance with this chapter;
 4. Mitigation plans which do not fulfill the performance required based on the site assessment/geotechnical report findings or otherwise fail to meet the intent of this chapter shall be revised and the subject development brought into compliance with the revised mitigation plan.
 5. The Director or their designee may require project specific professional inspections in accordance with ICC 11.02.210 to confirm that conditions encountered during construction are consistent with the design assumptions and construction conforms to the design and mitigation plans.
- D. Peer Review. The Director may require third party review of geotechnical reports and/or mitigation plans if the Director or their designee determines that additional professional interpretation is needed to evaluate/address site conditions or the applicant's proposed development. The review will be accomplished by an experienced geotechnical professional either selected by Island County Public Works or the applicant may select from a list of three or more pre-qualified geotechnical professionals assembled by Island County Public Works. The applicant shall pay 50% of the cost of the review.

(Ord. C-92-98 [PLG-025-98], September 28, 1998, vol. 42, p. 483; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38; amended by Ord. C-41-06 [PLG-024-05], April 24, 2006, vol. 2006, p. 148)

11.02.150 Bonds

- A. The Director may require bonds in such form and amounts as may be deemed necessary to ensure that the work, if not completed in accordance with the approved plans and specifications, will be corrected to eliminate hazardous conditions.
- B. For drainage facilities required by a grading permit, the Director may require security and/or insurance in accordance with ICC 11.03.

(Ord. C-92-98 [PLG-025-98], September 28, 1998, vol. 42, p. 483; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

11.02.160 Issuance of Grading Permits. Grading in Shorelines of the State, Geologically Hazardous Areas, Steep Slopes, and/or Critical Areas

- A. A grading permit shall not be issued for grading in a shoreline/geologically hazardous area, steep slope or critical areas or their buffers or grading that is associated with a project in a shoreline/geologically hazardous, steep slope or critical area until all required permits and approvals have been granted.
- B. A grading permit will be issued after all other necessary permits and plan approvals required for site development have been obtained or review indicates that approvals are assured by other affected agencies, all fees have been paid, the grading plans

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and specifications have been approved, and environmental review under ICC 16.14C has been completed, if applicable.

(Ord. C-92-98 [PLG-025-98], September 28, 1998, vol. 42, p. 483; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

11.02.170 Covenant

The Public Works Director^{7E}/County Engineer may require a covenant between the owner(s) of the property and Island County. The covenant shall be signed by the owner(s) of the site and notarized prior to issuance of any permit or approval in a potential geologically hazardous area or other area of potentially hazardous soils or drainage or erosion conditions. The covenant shall not be required where the permit or approval is for work done by Island County. The covenant shall include:

- A. A legal description of the property;
- B. A description of the property condition making this subsection applicable;
- C. A statement that the owner(s) of the property understands and accepts the responsibility for the risks associated with development on the property given the described condition, and agrees to inform future purchasers and other successors and assignees of the risks;
- D. The application date, type, and number of the permit or approval for which the covenant is required;
- E. A statement waiving the right of the owner(s), the owner's heirs, successors and assigns to assert any claim against Island County by reason of or arising out of issuance of the permit or approval by Island County for the development on the property, except only for such losses that may directly result from the negligence of Island County.

The covenant shall be filed for record by the owner with the Island County Auditor, at the expense of the owner, so as to become part of the Island County real property records.

(Ord. C-92-98 [PLG-025-98], September 28, 1998, vol. 42, p. 483; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

11.02.180 Disclosure Statement

Pursuant to the requirements of this chapter, no person shall sell, lease, or offer for sale or lease any property within a geologically hazardous area that has been the subject of a geotechnical report required by this chapter, unless the prospective buyer or lessee has been given notice substantially as follows:

To: _____

^{7E} **Reviser's Note:** See Reviser's Note 5B at page 475

The Property at _____ is located within a⁸ geologically hazardous area. Geologically hazardous areas include areas susceptible to the effects of erosion, sliding, earthquake, or other geologic events. They pose a threat to the health and safety of citizens when incompatible residential, commercial, industrial, or infrastructure development are sited in areas of a hazard. Geologic hazards pose a risk to life, property, and resources when steep slopes are destabilized by inappropriate activities and development or when structures or facilities are sited in areas susceptible to natural or human-caused geologic events.

Some geologic hazards can be reduced or mitigated, but not eliminated by engineering, design, or modified construction practices so that risks to health and safety are acceptable. Island County has placed certain restrictions on development and use of geologically hazardous areas.

Before purchasing or leasing the above property, you should consult the Island County Zoning Ordinance ICC 17.03, the Island County Critical Area Ordinance ICC 17.02, the Island County Grading Ordinance ICC 11.02, and any previously issued permits/geotechnical reports to determine restrictions, if any, which have been placed on the subject property.

(Ord. C-92-98 [PLG-025-98], September 28, 1998, vol. 42, p. 483; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

11.02.190 Grading Permit Expiration and Renewal

- A. Grading permits shall expire twenty four (24) months from the date of issuance, provided that the Director may set an earlier expiration date for a permit, or issue a permit that is non-renewable, or both, if the Director determines that soil, hydrologic, or geologic conditions on the project site necessitate that grading and drainage improvements and site stabilization be completed within less time.
- B. If a permit has expired, the applicant must obtain a renewed permit before starting work authorized under the expired permit.
- C. A permit may be renewed only once for up to twenty four (24) additional months. Additional extensions may be granted following a site inspection verifying that conditions have not changed, and work in progress, if any, is in compliance with the conditions of the permit.
- D. Requirements under this chapter that are not expressly temporary during the grading operations, including but not limited to, requirements for erosion control, drainage, and slope management do not terminate with the expiration of the grading permit.

(Ord. C-92-98 [PLG-025-98], September 28, 1998, vol. 42, p. 483; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38; amended by Ord. C-41-06 [PLG-024-05], April 24, 2006, vol. 2006, p. 148)

⁸ **Reviser’s Note:** The word “a” is added as it was inadvertently omitted from this ordinance.

11.02.200 Modifications of Permit Conditions

After issuance of a grading permit, the Director may require modifications of grading plans and operations if grading delays or weather-generated problems occur which were not considered at the time the permit was issued.

(Ord. C-92-98 [PLG-025-98], September 28, 1998, vol. 42, p. 483; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

11.02.210 Grading Inspection

- A. Land-disturbing activities for which a permit is required shall be subject to inspection by the Director/Building Official. Professional inspection of grading operations shall be provided, at the expense of the applicant, by the civil engineer, soils engineer, and the engineering geologist retained to provide such services in accordance with "E" below for engineered grading and as required by the Building Official for other grading.
- B. The civil engineer shall provide professional observation within such engineer's area of technical specialty, which shall consist of observation and review as to the establishment of line, grade, surface drainage, and erosion control of the development area. If revised plans are required during the course of the work they shall be prepared by the civil engineer, at the expense of the applicant.
- C. The soils engineer shall provide professional observation within such engineer's area of technical specialty, which shall include observation during grading and testing for required compaction. The soils engineer shall provide sufficient observation during the preparation of the natural ground and placement and compaction of the fill to verify that such work is being performed in accordance with the conditions of the approved plan and the appropriate requirements of this chapter. Revised recommendations relating to conditions differing from the approved soils engineering and engineering geology reports shall be submitted to the permittee, the Building Official, and the civil engineer.
- D. The engineering geologist/geotechnical engineer shall provide professional observation within such engineer's area of technical specialty to determine if conditions encountered are in conformance with the approved report. Revised recommendations relating to conditions differing from the approved engineering geology report shall be submitted to the soils engineer.
- E. The applicant or owner shall be responsible for the work to be performed in accordance with the approved plans and specifications and in conformance with the provisions of this code and shall engage consultants, when required, to provide professional inspections on a timely basis. The applicant or owner shall act as a coordinator between the consultant, the contractor, and the Director/Building Official. In the event of changed conditions, the applicant or owner shall be responsible for informing the Director/Building Official of such change and shall provide revised plans for approval.

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- F. The Director shall require grading observation of subdivisions to assure that future public or private roadways and slopes are graded in accordance with the approved plans and specifications and in conformance with provisions of this chapter.
- G. If, in the course of fulfilling their respective duties under this chapter, the civil engineer, the soils engineer, geotechnical engineer, or the engineering geologist finds that the work is not being done in conformance with this chapter or the approved grading plans, the discrepancies shall be reported immediately in writing to the applicant or owner and to the Building Official.
- H. If the civil engineer, the soils engineer, geotechnical engineer, or the engineering geologist of record is changed during grading, the work shall be stopped until the replacement has agreed in writing to accept their responsibility within the area of technical competence for approval upon completion of the work. It shall be the duty of the applicant or owner to notify the Building Official in writing of such change prior to the recommencement of such grading.
- I. The types of soils inspections and standards recognized as acceptable soils tests are:
 - 1. ASTM D 1557, moisture-density relations of soils and soil aggregate mixtures;
 - 2. ASTM D 1556, in-place density of soils by the sand-cone method; ASTM D 2167, the rubber-balloon method; or ASTM D 2937, the drive-cylinder method; and
 - 3. ASTM D 2922 and D 3017, in-place moisture content and density of soils by nuclear methods.

(Ord. C-92-98 [PLG-025-98], September 28, 1998, vol. 42, p. 483; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

11.02.220 Completion of Work

Upon final completion of the work, the following final reports and drawings and supplements thereto are required for engineered grading or when professional inspection is performed for grading, as applicable.

- A. Civil engineers shall state that to the best of their knowledge the work within their area of responsibility was done in accordance with the final approved grading plan, or the civil engineer shall show any significant deviations from the approved plans. The locations, elevations, and details of subsurface drains shall show any significant deviations from the approved plan as reported by the design engineer.
- B. A report prepared by the soils engineer retained to provide such services in accordance with this chapter, including locations and elevations of field density tests, summaries of field and laboratory tests, other substantiating data, and comments on any changes made during grading and their effect on the recommendations made in the approved soils engineering investigation report. Soils engineers shall submit a statement that, to the best of their knowledge, the work within their area of responsibilities is in accordance with the approved soils engineering report and applicable provisions of this chapter.

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- C. A report prepared by the engineering geologist retained to provide such services in accordance with this chapter, including a final description of the geology of the site and any new information disclosed during the grading and the effect of same on recommendations incorporated in the approved grading plan. Engineering geologists shall submit a statement that, to the best of their knowledge, the work within their area of responsibility is in accordance with the approved engineering geologist report and applicable provisions of this chapter.
- D. The applicant’s engineer shall submit, in a form prescribed by the Director/Building Official, a statement of conformance to said as-built plan and the specifications. The applicant or owner shall notify the Director/Building Official when the grading operation is ready for final inspection. Final approval shall not be given until all work, including installation of all drainage facilities and their protective devices, and all erosion-control measures have been completed in accordance with the final approved grading and drainage plans, and the required reports have been submitted.

(Ord. C-92-98 [PLG-025-98], September 28, 1998, vol. 42, p. 483; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

11.02.230 Hazards

- A. Whenever the Director/Building Official determines that any existing cut or excavation, fill, or embankment on private property adversely affects the safety, use, or stability of a public way or drainage channel, the owner of the property upon which the excavation or fill is located or other person or agency in control of said property, upon receipt of notice in writing from the Building Official, shall within the period specified therein repair or eliminate such cut or excavation, fill, or embankment to eliminate the hazard to conform with the requirements of this chapter. Failure to comply shall be considered a violation subject to the penalty and enforcement provisions of this chapter.
- B. Where the Director determines that hazardous conditions exist, warning signs shall be affixed at locations as required by the Director, and the site must be enclosed by fencing with lockable gates that must be closed and locked when personnel are not present at the site. The fence must be no less than five (5) feet in height and the fence material shall have no horizontal opening larger than two (2) inches.

(Ord. C-92-98 [PLG-025-98], September 28, 1998, vol. 42, p. 483; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

11.02.240 Grading Permit Fees

Refer to Island County Fee Schedule available at the Island County Public Works Department.^{8A}
(Ord. C-92-98 [PLG-025-98], September 28, 1998, vol. 42, p. 483; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

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^{8A} **Reviser’s Note:** See Reviser’s Note 5B at page 475

11.02.250 Appeals

- A. Any aggrieved person may appeal any final decision or determination of the Director under this chapter to the Hearing Examiner as a Type II appeal, except that the appeal of decisions and determinations of the Director that are included as a condition of another permit, pursuant to the exemption provisions of this chapter, do not change the appeal procedures established for issued permit. Appeals shall be filed and processed pursuant to the provisions of ICC 16.19.
- B. At the hearing, the appellant shall have the burden of proof.
- C. The decision of the Hearing Examiner shall be final and conclusive with the right of reconsideration and may then be reviewable by an action for writ of review filed in Island County Superior Court as provided in ICC 16.19.

(Ord. C-92-98 [PLG-025-98], September 28, 1998, vol. 42, p. 483; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

11.02.260 Penalties and Enforcement

Any violation of Chapter 11.02 shall be enforced by the Planning and Community Development Director and shall be subject to the enforcement provisions of Chapter 17.03 ICC. The County Engineer shall provide support and technical guidance to the Planning and Community Development Director on all Chapter 11.02 violations.

(Ord. C-92-98 [PLG-025-98], September 28, 1998, vol. 42, p. 483; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38; amended by Ord. C-160-01 [PLG-020-01], January 7, 2002, vol. 46, p. 83)

11.02.270 Standards for Class IV General Forest Practices Permits, Class IV Platted Forest Practices Permits, and Conversion Option Harvest Plans, and for Any Lands Harvested Without a Forest Practices Permit When a Permit was Required

- A. Grading permit requirements shall be established on a case-by-case basis, following a field inspection/evaluation of slopes and their relative stability, of topography and existing natural, constructed, or planned drainage ways/systems, of soils and their susceptibility to erosion, of forest and vegetative cover as exists and planned, and of critical areas, as defined in this chapter, and regulated shoreline areas. Prior to establishing the requirements of the grading permit a determination shall be made by the Director as to:
 - 1. the presence of documented critical drainage/flooding/erosion/stability problems downstream of the development activity that may be exacerbated by the development activity if appropriate conditions are not established; and
 - 2. the quality and use of receiving waters which may be degraded if appropriate conditions are not established.
- B. Grading permit requirements may include the preparation and implementation of drainage plans pursuant to the requirements of ICC 11.03.

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- C. If the proposal is within an urban growth area, the city/town shall be consulted to ensure conformance with the requirements for similar development activities within the incorporated area of the UGA.

(Ord. C-92-98 [PLG-025-98], September 28, 1998, vol. 42, p. 483; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

11.02.280 Cuts or Excavations

- A. Unless otherwise recommended in the approved soils engineering or engineering geology report, cuts shall conform to the provisions of this section. These provisions may be waived for minor cuts which are less than four (4) feet in height.
- B. Slopes. Maximum slopes allowable are specified in Section 11.02.300.
- C. Slopes after being cut shall be stabilized. The soils engineering or an engineering geology report, or both, shall verify that the slopes shall not be subject to on-going erosion that would adversely impact public or private property.
- D. Cuts or excavations within critical areas or their buffers shall not occur unless consistent with requirements of ICC 17.02.

(Ord. C-92-98 [PLG-025-98], September 28, 1998, vol. 42, p. 483; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

11.02.290 Fills or Embankments

- A. General. Unless otherwise recommended in the approved soils engineering report, fills shall conform to the provisions of this section. In the absence of an approved soils engineering report, these provisions may be waived for minor fills not intended to support structures, and which are less than four (4) feet in height.
- B. Slopes. Maximum allowable slopes are specified in Section 11.02.300.
- C. Fill material:
1. Detrimental amounts of organic material shall not be permitted in fills. Except as permitted by the Director, no rock or similar irreducible material with a maximum dimension greater than twelve (12) inches shall be buried or placed in fills.
 2. Exception. The Director may permit placement of larger rock when the soils engineer properly devises a method of placement, and continuously inspects its placement and approves the fill stability. The following conditions shall also apply:
 - a) Prior to issuance of the grading permit, potential rock disposal areas shall be delineated on the grading plan;
 - b) Rock sizes greater than twelve (12) inches in maximum dimension shall be ten (10) feet or more below grade, measured vertically; and

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- c) Rocks shall be placed so as to assure filling of all voids with well-graded soil.
- 3. Compaction. All fills intended to support structures or private roads shall be compacted to a minimum of ninety percent (90%) of maximum dry density (MDD) as determined by the modified Proctor (ASTM D1557).
- 4. Slope. Maximum allowable slopes are specified in Section 11.02.300.
- 5. Fills. Fills shall not be placed in critical areas unless in compliance with the requirements of ICC 17.02.

(Ord. C-92-98 [PLG-025-98], September 28, 1998, vol. 42, p. 483; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

11.02.300 Slope Requirements

Slopes shall be constructed to ensure the stability of embankments and adjacent properties and shall be constructed consistent with accepted design standards, but shall not be steeper than those maximum slopes specified below without an analysis and recommendation from the soils engineer:

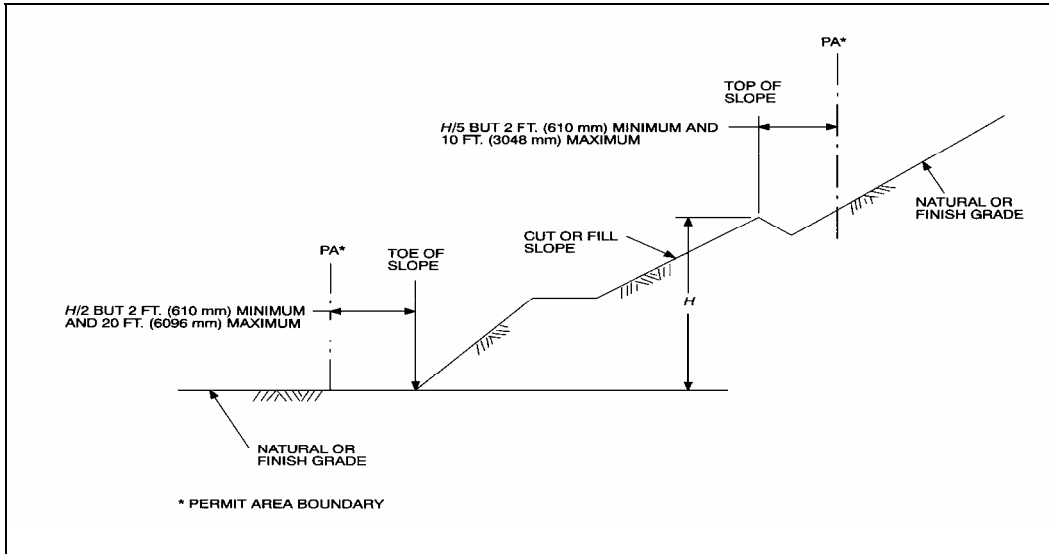
- A. Cut slope:
 - 1. 1H:1V requires stepped construction method, as specified in design standards or as approved by the Director or with review and recommendation of a civil engineer; or
 - 2. 1.75H:1V
- B. Fill slope:
 - 1. 1.5H:1V with review and recommendations of a civil engineer or as approved by the Director; or
 - 2. 1.75H:1V

(Ord. C-92-98 [PLG-025-98], September 28, 1998, vol. 42, p. 483; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

11.02.310 Setbacks for Cuts or Fills (See Figure 1)

- A. Cut and fill slopes shall be set back from site boundaries in accordance with this section. Setback dimensions shall be horizontal distances measured perpendicular to the site boundary. The top of cut slopes shall not be made nearer to a site boundary line than one fifth of the vertical height of cut with a minimum of two (2) feet and a maximum of ten (10) feet. The setback must be increased as necessary for stability for any required subsurface drainage or surcharge.
- B. The toe of fill slope shall be made not nearer to the site boundary line than one half the height of the slope with a minimum of two (2) feet and a maximum of twenty (20) feet.

FIGURE 1--SETBACK DIMENSIONS



(Ord. C-92-98 [PLG-025-98], September 28, 1998, vol. 42, p. 483; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

11.02.320 Drainage and Terracing

- A. Unless otherwise indicated on the approved grading plan, drainage facilities and terracing shall conform to the provisions of this section for cut or fill slopes steeper than three (3) units horizontal in one (1) unit vertical (3H:1V - 33.3% slope).
- B. Terraces at least sixteen (16) feet in width shall be established at not more than thirty foot (30') vertical intervals on all cut or fill slopes to control surface drainage and debris, except that where only one terrace is required, it shall be at midheight. For cut or fill slopes greater than sixty (60) feet and up to one hundred and twenty (120) feet in vertical height, one terrace at approximately mid height shall be twelve (12) feet in width. Terrace widths and spacing for cut and fill slopes greater than one hundred and twenty (120) feet in height shall be designed by the civil engineer and approved by the Building Official. Suitable access shall be provided to permit proper cleaning and maintenance.
- C. Swales or ditches on terraces shall have a minimum gradient of one-half percent (0.5%).
- D. Cut or fill slopes shall be provided with subsurface drainage as necessary for stability and proper conveyance of groundwater.

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- E. All drainage facilities shall be designed to carry waters to the nearest practicable drainage way in a safe manner approved by the Building Official or Director and shall comply with provisions of ICC 11.03, if applicable. Outfalls or points of discharge shall be designed using best management practices and construction procedures which minimize erosion.
- F. Building pads shall have a drainage gradient of two percent (2%) toward approved drainage facilities, unless waived by the Building Official. Exception: the gradient from the building pad may be one percent (1%) if all of the following conditions exist throughout the permit area:
 - 1. No proposed fills are greater than ten (10) feet in maximum depth;
 - 2. No proposed finish cut or fill slope faces have a vertical height in excess of ten (10) feet; and
 - 3. No existing slope faces steeper than one (1) unit vertical in ten (10) units horizontal, ten percent (10%) slope have a vertical height in excess of ten (10) feet.
- G. Paved interceptor drains shall be installed along the top of all cut slopes where the tributary drainage area above slopes toward the cut and has a drainage path greater than forty (40) feet measured horizontally. Interceptor drains shall be paved with a minimum of three (3) inches of concrete or granite and reinforced. They shall have a minimum depth of twelve (12) inches and a minimum paved width of thirty (30) inches measured horizontally across the drain. The slope of drain shall be approved by the Building Official or Director.

(Ord. C-92-98 [PLG-025-98], September 28, 1998, vol. 42, p. 483; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

11.02.330 Erosion Control

- A. The faces of cut and fill slopes shall be prepared and maintained to control against erosion. This control may consist of effective planting, hydroseeding, or mulching. The protection for the slopes shall be installed as soon as practicable and prior to calling for/or requesting final project approval. Where cut slopes are not subject to erosion due to the erosion-resistant character of the materials, such protection may be omitted.
- B. Where necessary, check dams, cribbing, riprap, silt fences, or other devices/methods shall be employed to provide safety to adjoining properties or to minimize impacts.
- C. Small residential development and other small development activity, as defined in ICC 11.03, that creates less than five thousand (5,000) square feet of new

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impervious surface must comply with erosion control and best management practices requirements of ICC 11.03.

- D. Major development and redevelopment, as defined in ICC 11.03, must comply with erosion control and best management practices requirements of ICC 11.03.
- E. All other regulated grading shall comply with drainage and erosion control requirements of ICC 11.03.

(Ord. C-92-98 [PLG-025-98], September 28, 1998, vol. 42, p. 483; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

11.02.340 Reclamation of Quarry or Mining Sites

Upon completion or abandonment of quarrying or mining operations, the owner or operator of sites not regulated by Washington State Department of Natural Resources pursuant to Chapter 78.44 RCW, must obtain a grading permit under this chapter for reclamation and an approved full drainage plan under ICC 11.03, and comply with the following reclamation standards:

- A. Grading or backfilling shall be done with clean earth material (i.e., non-noxious, nonflammable, noncombustible, and nonputrescible solids);
- B. Such graded or backfilled areas, except for roads, shall be sodded or surfaced with soil of a quality at least equal to the topsoil of the immediately surrounding land areas, and to a depth equal to that of the topsoil of immediately surrounding land areas, provided that all sod and soil shall be at least four (4) inches in depth;
- C. Final grading shall be such as to encourage the uses permitted within the underlying zone classification;
- D. Bare topsoil shall be planted with trees, shrubs, and grasses which are indigenous to the region and compatible with the surrounding area;
- E. Graded or backfilled areas shall be reclaimed in a manner which will not allow water to collect nor permit stagnant water to remain unless specifically authorized in the grading permit; and
- F. Non-harmful tailings consisting of earth material and soil piles shall be level. The leveled and graded area must be sodded or surfaced and planted as required in paragraphs B and D of this section. Burying of material other than earth materials as part of the mining reclamation must have prior approval from the Director.

(Ord. C-92-98 [PLG-025-98], September 28, 1998, vol. 42, p. 483; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

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11.02.350 Severability

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

(Ord. C-92-98 [PLG-025-98], September 28, 1998, vol. 42, p. 483; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

11.02.360 Effective Date

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

(Ord. C-92-98 [PLG-025-98], September 28, 1998, vol. 42, p. 483; accepted by Res. C-133-98, PLG-043-98, October 19, 1998, vol. 43, p. 38)

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Rev. 12/06

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Chapter 11.03⁹
Stormwater and Surface Water

Sections:

- 11.03.010 Declaration of Purpose**
- 11.03.020 Applicability and Exemptions**
- 11.03.030 Definitions**
- 11.03.040 Drainage Manual and Ordinance Administration**
- 11.03.050 Compliance with Other Laws**
- 11.03.060 Relationship to Chapter 16.14C ICC Environmental Impacts and Other Regulations**
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- 11.03.080 Critical Drainage Areas - Designation**
- 11.03.090 Development Activities Requiring Drainage Review**
- 11.03.100 Drainage Review for Small Residential Development Activities**
- 11.03.110 Drainage Review for Other Small Development Activities**
- 11.03.120 Exemptions for Small Residential Development and Other Small Development Activities**
- 11.03.130 Drainage Review for Major Development Activities and for Engineered Grading**
- 11.03.140 Owner or Applicant to Comply with Drainage Approvals**
- 11.03.150 Drainage Review Process**
- 11.03.160 Preliminary Drainage Plan/Drainage Narrative Submittal Requirements**
- 11.03.170 Final Drainage Plan Submittal Requirements**
- 11.03.180 Appeals**
- 11.03.190 Drainage Review Fees**
- 11.03.200 Drainage System Requirements for All Development Activities with Drainage Plans/Drainage Narratives**
- 11.03.210 Additional Drainage System Requirements for Major Development Activities in UGAs and RAIDs**

⁹ **Reviser's Note:** For a copy of the Summary of Identified Drainage Problems within RAIDs and additional standards applicable to development activities within the Critical Drainage Areas contact the Island County Public Works Department.

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11.03.220 **Drainage System Requirements for Developments Proposing the Low-Impact Development Alternative**

11.03.230 **Erosion and Sedimentation Control Requirements**

11.03.240 **Redevelopment**

11.03.250 **Modifications or Waivers of Requirements**

11.03.260 **Maintenance Responsibility for Drainage Facilities**

11.03.270 **Interim Maintenance Responsibility after Construction Acceptance**

11.03.280 **Release of Applicant from Maintenance Responsibility**

11.03.290 **Easements and Dedications Granted to the County**

11.03.300 **Easements Granted to the Public**

11.03.310 **Maintenance Covenant**

11.03.320 **Separate Tracts for Detention Facilities**

11.03.330 **Security and Insurance**

11.03.340 **Penalties and Enforcement**

11.03.350 **Illicit Connections and Uses**

11.03.360 **Inspection and Right of Way**

11.03.370 **Withholding of Certificate of Occupancy**

11.03.380 **Hazards**

11.03.390 **Severability**

11.03.400 **Effective Date**

11.03.010 **Declaration of Purpose**

The purpose of this chapter is to regulate and control drainage or stormwater to safeguard the public health, safety, and general welfare. The objectives of this chapter are as follows:

- A. To promote sound, practical, and economical development practices and construction procedures which minimize impacts to the County's waters;
- B. To minimize degradation of water quality and to control the sedimentation of streams, rivers, lakes, wetlands, and other surface water;
- C. To control stormwater runoff originating on developing land;
- D. To preserve the suitability of water for recreation and fishing;
- E. To fulfill the goals and requirements of the Critical Areas Ordinance, Chapter 17.02 ICC, by:

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1. Preserving and protecting aquatic habitat; and
 2. Minimizing net loss of the county's wetlands by maintaining hydrologic continuity with other aquatic resources.
- F. To maintain the quality of the County's water resources;
- G. To minimize adverse effects caused by alterations in surface water or ground water quality, quantities, locations, and flow patterns;
- H. To maintain the safety of County roads and rights-of-way; and
- I. To protect public safety by reducing slope instability and landslides.

(Ord. C-91-98 [PLG 024-98], September 28, 1998, vol. 42, p. 484; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38; amended by Ord. C-41-06 [PLG-024-05], April 24, 2006, vol. 2006, p. 148)

11.03.020 Applicability and Exemptions

This chapter shall apply to all development activities, including the construction of single family residential structures and any accessory structures, unless exempted herein.

(Ord. C-91-98 [PLG 024-98], September 28, 1998, vol. 42, p. 484; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

11.03.030 Definitions

Unless the context clearly requires otherwise, the definitions in this chapter apply throughout this chapter. Other terms not defined in this chapter, but which are defined in the Stormwater Management Manual for the Puget Sound Basin, shall be interpreted consistent with the latter unless the context clearly requires otherwise.

- A. **Applicant.** "Applicant" means the property owner, or any person or entity designated or named in writing by the property owner to be the applicant, in an application for a development proposal, permit, or approval from Island County.
- B. **Best management practices (BMPs).** "Best management practices" or "BMPs" means physical, structural, or managerial practices which have gained general acceptance for their ability to prevent or reduce public safety impacts and other environmental impacts, and which are adopted in the Drainage Manual, or approved by the Director.
- C. **Civil engineer.** "Civil engineer" means a professional engineer licensed by the State of Washington to practice in the field of civil engineering.
- D. **Clearing.** "Clearing" means the cutting and removal of vegetation by mechanical or chemical methods.
- E. **Conveyance.** "Conveyance" means a mechanism for transporting water from one point to another, including pipes, ditches, and channels.

- F. **Conveyance system.** "Conveyance system" means a drainage facility, natural, or artificial which collects, contains and conducts the flow of stormwater runoff. The elements of a natural conveyance system include, but are not limited to, swales, wetlands, drainage courses, streams, and rivers. The elements of an artificial conveyance system include, but are not limited to, gutters, ditches, pipes, constructed open channels and detention facilities.
- G. **Critical areas.** "Critical areas" as used in this chapter means fish and wildlife habitat conservation areas, wetlands; flood hazard areas, geologically hazardous areas, and their buffers.
- H. **Critical Drainage Area.** "Critical Drainage Area" means an area with such severe flooding, drainage and/or erosion/sedimentation conditions, including designation as a water quality sensitive area, which have resulted or will result from the cumulative impacts of development and urbanization, that the area has been formally designated as a Critical Drainage Area by resolution of the Board of County Commissioners.
- I. **Department.** "Department" means the Public Works Department.
- J. **Design storm.** "Design storm" means a rainfall event, used for the purpose of sizing and designing drainage facilities, stated in terms of a recurrence interval and a time period over which the rainfall amount is measured or analyzed [e.g., a two (2)-year, twenty-four (24)-hour storm]. Design storms are specified in Drainage Manual.
- K. **Detention.** "Detention" means the temporary storage of stormwater runoff to control peak discharge rates and allow settling of stormwater sediment.
- L. **Detention facility.** "Detention facility" means an above- or below-ground drainage facility, such as a pond or tank, that temporarily stores stormwater runoff and releases it at a slower rate than is collected by the drainage system. The facility includes the flow control structure, the inlet and outlet pipes, and all maintenance access points.
- M. **Development activity.** "Development activity" means any proposal which will result in construction, development, earth movement, clearing, including Class IV General Forest Practices Permits, Class IV Platted Forest Practices Permits, Conversion Option Harvest Plans, other site disturbance including the regulated division of land, and which requires a permit, approval, or authorization from the County, or is proposed by a public agency.
- N. **Development activity, major.** "Major development activity" means any development activity or redevelopment that creates five thousand (5,000) square feet or more of new impervious surface, not including the surface area of the access road to the site of the development and/or land disturbing activities of two (2) acres or more, not associated with the construction of a single family residence or associated with Class IV Forest Practice Permits or a Conversion Option Harvest Plan and its associated grading permit.
- O. **Development activity, small residential.** "Small residential development activity" means a development activity for a single family dwelling which requires a single family residential permit or grading permit and that creates less than five thousand (5,000) square

feet of new impervious surface, not including the surface area of the access road to the site of the development.

- P. **Development activity, other small.** “Other small development activity” means a development activity not associated with a single family residential permit and that creates less than five thousand (5,000) square feet of new impervious surface, not including the surface area of the access road to the site of the development including land disturbing activities less than two (2) acres.
- Q. **Director.** "Director" means the Director of the Public Works Department or a designee.
- R. **Direct discharge.** “Direct discharge” means undetained discharge from a proposed project that is otherwise subject to flow control.
- S. **Discharge.** “Discharge” means runoff, excluding offsite flows, leaving the proposed development through overland flow, built conveyance systems, or infiltration facilities.
- T. **Downstream analysis.** “Downstream analysis” means an analysis of potential drainage impacts and drainage facilities downstream of the subject property as required by this chapter as a requirement for a drainage plan/drainage narrative.
- U. **Drainage.** "Drainage" means the collection, conveyance, containment, or discharge of stormwater runoff.
- V. **Drainage basin.** "Drainage basin" means a geographic and hydrologic area of a watershed or drainage catchment area.
- W. **Drainage facility.** "Drainage facility" means a system of collecting, conveying, and storing stormwater runoff. Drainage facilities include, but are not limited to, all stormwater conveyance systems and containment facilities including pipelines, channels, dikes, ditches, closed depressions, infiltration facilities, retention facilities, detention facilities, stormwater treatment facilities, erosion and sedimentation control facilities, and other drainage structures and appurtenances, both natural and artificial.
- X. **Drainage impacts.** "Drainage impacts" means the adverse impacts from changes to existing water, rate or quality, or water conveyance ability.
- Y. **Drainage Manual.** “Drainage Manual” means the “Island County Surface Water Manual” which is the manual (and supporting documents as appropriate) describing surface and stormwater design and analysis requirements, procedures, and guidance which has been adopted in accordance with the provisions of this chapter.
- Z. **Drainage narrative.** “Drainage narrative” means a written report specifying the proposed conventional rate and water quality control BMPs/proposed improvements, or, alternatively, the proposed low-impact BMPs/proposed improvements of this ordinance, to

mitigate the surface water impacts of the proposal. In the case of a major development activity using low-impact performance objectives, the narrative shall be prepared by a civil engineer.

- AA. **Drainage plan.** "Drainage plan" means a preliminary drainage plan which meets the submittal requirements promulgated under this chapter or a final drainage plan which meets the submittal requirements promulgated under this chapter.
- BB. **Erosion.** "Erosion" means the removal and loss of soil by the action of water, ice, or wind.
- CC. **Erosion and sedimentation control.** "Erosion and sedimentation control" means any temporary or permanent measures taken to reduce erosion, control siltation and sedimentation, and ensure that sediment-laden water does not leave the site.
- DD. **Existing site conditions.** "Existing site conditions" means conditions that exist on site prior to commencement of the proposed development activity or clearing except that for sites in water quality sensitive areas, the existing condition shall mean undisturbed forest, for the purpose of calculating runoff water quality characteristics.
- EE. **General Design and Construction Standards.** "General Design and Construction Standards" means "The Standard Specifications for Municipal Public Works Construction", latest edition, as prepared by the Washington State Chapter of the American Public Works Association, except as amended by the Board of County Commissioners.
- FF. **Hearing Examiner.** "Hearing Examiner" means the office of Island County Hearing Examiner created by ICC 16.13.
- GG. **Illicit discharge.** "Illicit discharge" means all non-stormwater discharges to stormwater drainage systems that cause or contribute to a violation of state water quality, sediment quality or ground water quality standards, including but not limited to, sanitary sewer connections, industrial process water, interior floor drains, and greywater systems.
- HH. **Impervious surface.** "Impervious surface " means a hard surface area that prevents, impedes, or retards the infiltration of water into the soil mantle or causes water to run off the surface in greater quantities or at a greater rate of flow than under natural conditions. Common impervious surfaces include roof tops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled surfaces. Open, uncovered retention/detention facilities are not considered impervious surfaces.
- II. **Improvement.** "Improvement" means those structures commonly provided as land is converted from its natural to a developed state. Examples include (with or without curbs or gutters), sidewalks, crosswalks, parking lots, water mains, sanitary and storm sewers, drainage facilities, street trees, and other appropriate items.

- JJ. **Infiltration.** "Infiltration" means the hydrologic process of stormwater runoff soaking into the subsoil, commonly referred to as percolation, to dispose of surface and stormwater runoff.
- KK. **Low-impact development.** "Low-impact development" means combining a functional site design with pollution prevention measures to reduce impacts and compensate for development impacts on hydrology and water quality. The goal is to maintain the predevelopment runoff volume, peak runoff rates, and frequency to mimic predevelopment runoff conditions. Stormwater is managed in small, cost-effective landscape features rather than being conveyed and managed in large, costly pond facilities, located at the bottom of drainage areas.
- LL. **New impervious surface.** "New impervious surface" means the addition of paved or other hard surface, as well as the paving of pre-existing dirt, gravel, or other similar compacted surfaces.
- MM. **Offsite.** "Offsite" means any area lying upstream of the site that drains onto the site and any area lying downstream of the site to which the site drains.
- NN. **Owner.** "Owner" means a person with fee interest to a property.
- OO. **Peak discharge.** "Peak discharge" means the maximum instantaneous rate of stormwater runoff in cubic feet per second (cfs) or cubic meters per second (cms) determined for the design storm.
- PP. **Plans.** "Plans" means the project drawings that show location, character, and dimensions of the proposed work including storm pipe network layouts, profiles, cross-sections, details, and general notes.
- QQ. **Pollution.** "Pollution" means contamination or other alteration of the physical, chemical, or biological properties of waters of the state, including change in temperature, taste, color, turbidity, or odor of the waters, or such discharge of any liquid, gaseous, solid, radioactive, or other substance into any waters of the state as will or is likely to create a nuisance or render such waters harmful.
- RR. **Redevelopment.** "Redevelopment" means the creation or addition, on an already developed site, of impervious surfaces, ground area expansion of a building or other structure, or replacement of impervious surface that is not part of a routine maintenance activity, and land disturbing activities associated therewith. Road/parking lot overlay projects are routine maintenance and shall not be considered redevelopment.
- SS. **Regional stormwater management facility (regional facility).** "Regional stormwater management facility" or "regional facility" means a retention/detention facility constructed by a public agency and which serves more than one property identified in an adopted Island County Watershed Management Plan.

- TT. **Retention.** "Retention" means the detainment of stormwater runoff in a basin without release except by means of evaporation, infiltration, or percolation.
- UU. **Retention facility.** "Retention facility" means an above- or below-ground facility, such as a pond or tank, that stores stormwater runoff without release except by means of evaporation and infiltration or percolation. The facility includes the flow control structure, the infiltration system, the inlet and outlet pipes, and all maintenance access points.
- VV. **Shorelines.** "Shorelines" means those lands defined as "shorelines of the state" under the Shoreline Management Act of 1971, chapter 90.58 RCW.
- WW. **Site.** "Site" means a lot or parcel of land or contiguous combination thereof.
- XX. **Site review.** "Site review" means the inspection by a Island County employee of a site where development activity has been proposed, including but not limited to examination and comparison of site conditions and erosion control with proposed plans and applicable Island County codes, standards, and administrative policies and procedures. A site review may include a critical area site plan review per ICC 17.02.
- YY. **Slope.** "Slope" means the gradient in vertical feet per horizontal feet or percent. Side slopes of drainage facilities are usually referred to with the horizontal dimension first as in 3H:1V.
- ZZ. **Soil.** "Soil" means the unconsolidated mineral and organic material deposits overlying bed rock.
- AAA. **Source control.** "Source control" means preventing pollutants from entering stormwater, by means that include, but are not limited to, materials storage and handling practices and facilities, and site maintenance practices.
- BBB. **Specifications.** "Specifications" means technical standards for construction. It may include, but is not limited to, standards contained in the Washington State Department of Transportation and American Public Works Association Standards and Specifications, and the Engineering and Design and Development Standards.
- CCC. **Steep slope.** "Steep slope" as used in this chapter means those areas in Island County on slopes forty percent (40%) or steeper within a vertical elevation change of at least ten (10) feet. A slope is delineated by establishing its toe and top and is measured by averaging the inclination over at least ten (10) feet of vertical relief. For the purpose of this definition:
1. The toe of a slope is a distinct topographic break in slope which separates slopes inclined at less than forty percent (40%) from slopes forty percent (40%) or steeper. Where no distinct break exists, the toe of a steep slope is the lowermost limit of the area where the ground surface drops ten (10) feet or more vertically within a horizontal distance of twenty five (25) feet; and

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2. The top of a slope is a distinct, topographic break in slope which separates slopes inclined at less than forty percent (40%) from slopes forty percent (40%) or steeper. Where no distinct break exists, the top of a steep slope is the upper most limit of the area where the ground surface drops ten (10) feet or more vertically within a horizontal distance of twenty five (25) feet.

DDD. **Stormwater runoff.** "Stormwater runoff" means water originating from rainfall and other precipitation that enters drainage facilities, rivers, streams, springs, seeps, ponds, lakes, or wetlands plus ground water base flows above the aquifer or water table.

EEE. **Stormwater treatment.** "Stormwater treatment" means the removal of pollutants from stormwater by means that include, but are not limited to, filtration, sedimentation, adsorption, and chemical alteration or degradation of pollutants.

FFF. **Stormwater treatment facility.** "Stormwater treatment facility" means a constructed drainage facility that removes pollutants from stormwater and includes the inlet and outlet pipes and all maintenance access points for such facilities.

GGG. **Stream.** "Stream" as defined in ICC 17.02.

HHH. **Temporary Erosion and Sedimentation Control.** "Temporary Erosion and Sedimentation Control" means any temporary measures taken to reduce erosion, control siltation and sedimentation, and ensure that sediment-laden water does not leave the site.

III. **Upstream analysis.** "Upstream analysis" means a calculation of the geographic area of land lying upstream and drainage flow that drains onto or through the site.

JJJ. **Water Quality Sensitive Area.** "Water quality sensitive area" means areas that are sensitive to a change in water quality and have an existing and documented water quality problem listed in final reports required under Section 303(d) of the Clean Water Act or designated in adopted local non-point action plans under Chapter 400-12 WAC.

KKK. **Watershed.** "Watershed" means a geographic region in which water drains into a particular river, stream, or body of water.

LLL. **Watershed management plan.** "Watershed management plan" means a plan adopted by the County for a specific watershed management area including, but not limited to, a comprehensive drainage plan, a comprehensive drainage basin plan, or a master drainage infrastructure plan.

MMM. **Wetlands.** "Wetlands" as defined in ICC 17.02.

(Ord. C-91-98 [PLG 024-98], September 28, 1998, vol. 42, p. 484; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

11.03.040 Drainage Manual and Ordinance Administration¹⁰

- A. Drainage Manual. The Board of Island County Commissioners shall adopt and amend a Drainage Manual and/or adopt by reference all or in part an existing drainage manual of another municipality. The Drainage Manual and any amendments thereto will be available to the public at the Public Works Department. The Drainage Manual shall contain standards and technical guidance for complying with this chapter, including recommended best management practices, engineering design storm requirements, engineering design requirements for various drainage facilities, and other drainage control measures. The Drainage Manual shall include, but is not limited to the following:
1. Hydrologic and hydraulic analysis, modeling, design storm, and design;
 2. Detention and retention facility design and maintenance;
 3. Erosion and sediment control practices;
 4. Stormwater treatment practices, design, and maintenance;
 5. Source control practices;
 6. Structural design methods and facility maintenance practices for other drainage facilities;
 7. A selection of recommended best management practices;
 8. The submittal requirements of a preliminary or detailed drainage plan, including plan revisions and record drawings;
 9. The drainage facility inspection process, release of maintenance responsibilities, and process for construction acceptance; and
 10. Adoption by reference of general design and construction standards.
- B. The Director/County Engineer shall administer and enforce compliance with all requirements of this chapter, or otherwise noted herein.
- C. Administration of this chapter for public works projects. The Director/County Engineer shall administer and enforce compliance with all requirements of this chapter for County Public Works Department construction projects. These projects shall be exempt from all fee requirements and all requirements of security and insurance of this chapter. The Director/County Engineer shall include a requirement for all applicable grading, drainage,

¹⁰ **Reviser's Note:** For a copy of the Island County Stormwater Design Manual (sometimes called the "Island County Drainage Manual" or the "Island County Surface Water Manual"), which contains standards and technical guidance for complying with this ordinance, contact the Island County Public Works Department.

and erosion and sedimentation control plans in any contract documents prepared for such projects.

(Ord. C-91-98 [PLG 024-98], September 28, 1998, vol. 42, p. 484; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

11.03.050 Compliance with Other Laws

Approvals and permits granted based on compliance with this chapter and any policies and procedures promulgated hereunder do not constitute waivers of the requirements of any other laws or regulations, nor do they indicate compliance with any other laws or regulations.

Compliance is still required with all applicable federal, state, and local laws and regulations.

(Ord. C-91-98 [PLG 024-98], September 28, 1998, vol. 42, p. 484; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

11.03.060 Relationship to Chapter 16.14C ICC Environmental Impacts and Other Regulations

A. The requirements of this chapter, together with the comprehensive plan adopted pursuant to RCW 36.70A, the critical areas regulations of ICC 17.02, the storm and surface water utility regulations of ICC 15.02, and the grading regulations of ICC 11.02 constitute the policy of the County under the County's police power authority, the GMA and SEPA for the review of development, and the determination of significant adverse environmental impacts and imposition of mitigation requirements due to the impacts on-site and off-site from changes to stormwater volume, release rate, and erosion and sedimentation caused by development activities.

B. For the purposes of ICC 16.14C, measures required by this chapter and other applicable development regulations shall constitute adequate mitigation of adverse or significant adverse environmental impacts, on-site and off-site, from changes to stormwater volume, release rate, and erosion and sedimentation caused by development activities.

(Ord. C-91-98 [PLG 024-98], September 28, 1998, vol. 42, p. 484; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

11.03.070 Liability

A. Administration of this chapter shall not be construed to impose or create a basis for any liability on the part of the County, its appointed and elected officials, officers, agents, or employees, nor shall this chapter be construed to create any special relationship with or otherwise protect any specific person or class of persons.

B. Island County is not responsible for the accuracy of plans (preliminary or final) submitted for approval. The County expressly disclaims any responsibility for design or implementation of a drainage plan. The design and implementation of a drainage plan is the responsibility of the person or firm submitting the application.

(Ord. C-91-98 [PLG 024-98], September 28, 1998, vol. 42, p. 484; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

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11.03.080 Critical Drainage Areas – Designation¹¹

Any lands determined by the Board of Island County Commissioners to meet the following criteria shall be designated Critical Drainage Areas by resolution of the Board:

- A. Areas sensitive to the effects of construction or development as evidenced by severe flooding, drainage, and/or erosion/sedimentation conditions, which have resulted or will result from the cumulative impacts of development and urbanization; or
- B. Areas that discharge to a receiving water that has a documented water quality problem and has been designated a water quality sensitive area as defined herein; or
- C. Areas where the need for additional stormwater control measures have been identified through a basin plan, watershed ranking process, or through Growth Management Act planning.

(Ord. C-91-98 [PLG 024-98], September 28, 1998, vol. 42, p. 484; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

11.03.090 Development Activities Requiring Drainage Review

Except as exempted in ICC 11.03.020 the requirements of this chapter apply to three types of development activities: small residential development activities per the provisions of ICC 11.03.100; other small development activities per the provisions of ICC 11.03.110; and major development activities per the provisions of ICC 11.03.130. The requirements also apply to the regulated division of land and planned residential developments.

(Ord. C-91-98 [PLG 024-98], September 28, 1998, vol. 42, p. 484; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

11.03.100 Drainage Review for Small Residential Development Activities

- A. The Director/County Engineer may conduct a site review of all proposed small residential activities for which a permit application has been submitted. Drainage narratives for small residential development shall not be required, except for proposals in areas designated as Critical Drainage Areas.
- B. The Director/County Engineer shall attach to the applicant’s permit a list of required temporary erosion and sedimentation control measures (best management practices - BMPs) which fulfill the minimum erosion and sedimentation control requirements of ICC 11.03.230.A.1-4 and 6.
- C. In the case of small residential development proposed within a designated Critical Drainage Area, the applicant may either submit a drainage narrative for review/approval or may accept, as conditions of permit approval, the attachment of conditions which fulfill either, as applicable, the low-impact development surface water rate control best management practices (BMPs) or conventional rate control BMPs, and which also fulfill the temporary

¹¹ **Reviser’s Note:** For a copy of the Summary of Identified Drainage Problems within RAIDs and additional standards applicable to development activities within the Critical Drainage Areas contact the Island County Public Works Department.

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erosion and sedimentation control requirements (BMPs) of this chapter, unless otherwise exempted below. Small residential development activities that discharge surface water into a designated water quality sensitive area shall have additional water quality BMP's attached as conditions of approval.

- D. The required erosion and sedimentation control BMPs must be installed and maintained during construction. When required, the surface water quality and/or rate BMPs must be completed prior to the issuance of an occupancy permit. The BMPs may be inspected by the County during construction and a stop work order may be issued by the Building Official if the BMPs have not been installed and maintained.
- E. A preliminary drainage plan shall be required if:
 - 1. The proposed development activity is subject to a public hearing before the Hearing Examiner and low-impact drainage controls are not proposed; or
 - 2. The Director/County Engineer determines that:
 - a) The proposed development activity would alter a natural drainage course; or
 - b) The proposed development activity would adversely impact a Critical Drainage Area.
- F. Any small residential development for which a drainage plan/narrative has been submitted shall comply with the drainage system requirements, the minimum erosion and sedimentation control provisions, the water quality, the wetland/critical area restrictions, and all applicable requirements for maintenance of drainage facilities of this chapter.

(Ord. C-91-98 [PLG 024-98], September 28, 1998, vol. 42, p. 484; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

11.03.110 Drainage Review for Other Small Development Activities

The following are required for all other small development activity which create less than five thousand (5,000) square feet of new impervious surface and are not a small residential development activity:

- A. In the case of small development proposal, the applicant must either submit a drainage narrative for review/approval or must accept, as conditions of permit approval, the attachment of conditions which fulfill either, as applicable, the low-impact development surface water rate control best management practices (BMPs) or conventional rate control BMPs, and which also fulfill the temporary erosion and sedimentation control requirements (BMPs) of this chapter, unless otherwise exempted below. Other small development activities that discharge surface water into a designated water quality sensitive area shall have additional water quality BMP's attached as conditions of approval.
- B. Any subsequent small development for which a drainage plan/drainage narrative has been submitted must comply with the drainage system requirements, the minimum erosion and sedimentation control provisions, the wetland detention restrictions, the water quality, and

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all applicable requirements for maintenance of drainage facilities, and security and insurance of this chapter.

- C. A preliminary drainage plan shall be required if:
1. The proposed development activity is subject to a public hearing before the Hearing Examiner and low-impact drainage controls are not proposed; or
 2. The Director/County Engineer determines that:
 - a) The proposed development activity would alter a natural drainage course; or
 - b) The proposed development activity would adversely impact a Critical Drainage Area.

(Ord. C-91-98 [PLG 024-98], September 28, 1998, vol. 42, p. 484; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

11.03.120 Exemptions for Small Residential Development and Other Small Development Activities

Small residential development activities and other small development activities, including the regulated division of land, of lots 2.5 or larger in size shall be exempt from the stormwater quantity control, source control of pollution, and stormwater treatment BMPs of this chapter except in Critical Drainage Areas and/or except development, as determined by the Director, within or which is likely to impact a critical area.

(Ord. C-91-98 [PLG 024-98], September 28, 1998, vol. 42, p. 484; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

11.03.130 Drainage Review for Major Development Activities and for Engineered Grading

For all major development activity and/or engineered grading pursuant to ICC 11.02:

- A. A preliminary drainage plan must be submitted as an application requirement for major development activities and must be submitted for engineered grading and be approved prior to project approval. An applicant may voluntarily submit a final drainage plan at this stage in the process. If the applicant proposes to use low-impact development drainage controls, a drainage narrative may be submitted in lieu of the preliminary drainage plan.
- B. The Director/County Engineer may waive the requirement for a final drainage plan after a preliminary drainage plan/narrative has been submitted and reviewed as provided for by this chapter upon making written findings that the proposed development activity/engineered grading will not:
1. adversely affect existing water quality conditions of any aquatic resource;
 2. alter the existing surface or subsurface drainage patterns or flow rates on-site or off-site;

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3. increase peak discharge or stormwater runoff volume sufficiently to cause adverse impacts downstream; or
 4. cause erosion, sedimentation, or flooding on upstream or downstream properties.
- C. Any drainage plan/drainage narrative and subsequent major development/engineered grading must comply with the drainage system requirements, all erosion and sedimentation control provisions, all redevelopment requirements, the water quality requirements, the wetland detention restrictions, and all applicable requirements for maintenance of drainage facilities and security of this chapter as a condition of approval of the development activity.

(Ord. C-91-98 [PLG 024-98], September 28, 1998, vol. 42, p. 484; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

11.03.140 Owner or Applicant to Comply with Drainage Approvals

The owner or applicant performing any development activity/engineered grading must comply with all specifications, standards, requirements, and conditions of any permit, plan, or review approved under the authority of this chapter. Any person performing drainage facility construction shall have a copy of the plans on the work site at all times. No person may alter or interfere with any drainage facility which is an element of an approved drainage plan/drainage narrative or review. Failure to comply shall be considered a violation of this chapter and subject to the enforcement process of this chapter.

(Ord. C-91-98 [PLG 024-98], September 28, 1998, vol. 42, p. 484; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

11.03.150 Drainage Review Process

- A. Drainage review pursuant to this chapter shall be conducted in conjunction with and shall be a condition of, review and approval of the underlying permit for the proposed development activity. Construction, including regulated clearing and grading, may not commence until issuance of approval of any required drainage review.
- B. Whenever a development activity/engineered grading requires submittal of a drainage plan/drainage narrative under this chapter, the preliminary drainage plan/narrative shall be submitted at the time of application for a proposed project. The department shall use the provisions of the Drainage Manual to determine if the drainage plan/narrative and the application for the development activity are complete. Failure to submit a complete preliminary drainage plan/narrative at the time of application shall cause the application to be incomplete.
- C. Upon finding any deficiencies in the drainage plan/drainage narrative submittal, the department shall notify the applicant of the deficiencies and return the drainage plan/drainage narrative to the applicant for revision and resubmittal. Such a finding of deficiency must be timely and conform to the time frames and procedures established in ICC 16.19.

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- D. Once a drainage plan/drainage narrative has been determined complete, the department shall conduct a review of the drainage plan/drainage narrative for compliance with the requirements of Island County Code. This review may include a site review.
- E. If a final drainage plan is required under this chapter, the final drainage plan shall be submitted at the time of submittal of construction plans for the building permit or in the case of those development activities regulated under the state subdivision act (RCW 58.17) or site plans regulated under ICC 16.15, in conjunction with the review and approval of the application for final approval. Failure to submit a complete final drainage plan shall cause the application to be incomplete.
- F. If a plan is resubmitted, a resubmittal and revision fee may be required after the second submittal.
- G. The department shall notify the applicant in writing upon approval of the plan.
- H. The applicant must pay the inspection fee required, if any, before the department shall issue the approval.

(Ord. C-91-98 [PLG 024-98], September 28, 1998, vol. 42, p. 484; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

11.03.160 Preliminary Drainage Plan/Drainage Narrative Submittal Requirements

- A. Preliminary drainage plan:
 - 1. The purpose of the preliminary drainage plan submittal requirements is to require a conceptual layout of the proposed drainage system that clearly indicates the nature and extent of the work proposed and which explains how the drainage system will function, with sufficient information to allow the County to determine compliance with the applicable requirements of this chapter and other applicable laws. Preliminary drainage plan submittals may also include detailed engineering and design information for the drainage system.
 - 2. The submittal requirements established pursuant to this section shall be used to determine whether a preliminary drainage plan submittal is complete.
 - 3. The submittal requirements established in the Drainage Manual adopted pursuant to this chapter shall be used to determine whether a preliminary drainage plan submittal is complete.
 - 4. Preliminary drainage plan fees must be paid at the time of application.
- B. Drainage narrative submittal requirements:
 - 1. The purpose of the drainage narrative is to require a conceptual layout of the proposed drainage system, which clearly indicates the nature and extent of the work proposed and which explains how the drainage system will function in fulfillment of the alternative low-impact standards of this chapter, with sufficient information to allow the County to determine compliance with the applicable requirements of this

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chapter and other applicable laws. If the development activity is proposed within a designated Critical Drainage Area, special attention must be paid to those parameters upon which the designation is based.

2. The submittal requirements established in the Drainage Manual adopted pursuant to this chapter shall be used to determine whether a drainage narrative submittal is complete. Preliminary drainage plan fees must be paid at the time of application.
3. Preliminary drainage plan fees must be paid at the time of application.

(Ord. C-91-98 [PLG 024-98], September 28, 1998, vol. 42, p. 484; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

11.03.170 Final Drainage Plan Submittal Requirements

- A. The purpose of the final drainage plan submittal requirements is to require an accurate set of drainage plans and calculations that are a part of the construction documents prepared for the development activity. The nature and extent of the work proposed must be clearly indicated and include sufficient information to allow the County to determine compliance with the applicable requirements of this chapter and other applicable laws.
- B. Submittal requirements for final drainage are specified in the Drainage Manual and shall be used to determine whether the final drainage plan and the application for the associated development activity are complete.
- C. A geotechnical report may be required by the Director/County Engineer upon determining that the development activity is within a critical area or that soil, hydrologic or geologic conditions merit more detailed information to address project safety, stability, or drainage.
- D. All or portions of a preliminary or final drainage plan/drainage narrative submitted for one permit or approval may be submitted as a part of another application if it meets current requirements of this chapter and upon payment of review fees.
- E. Final drainage plan fees must be paid at the time of application for final approval.

(Ord. C-91-98 [PLG 024-98], September 28, 1998, vol. 42, p. 484; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

11.03.180 Appeals

- A. Any aggrieved person may appeal any final decision or determination of the Director/County Engineer under this chapter to the Hearing Examiner, except that the appeal of decisions and determinations of the Director that are included as a condition of another permit, pursuant to the provisions of this chapter, do not change the appeal procedures established for the issued permit. Appeals shall be filed and processed pursuant to the provisions of ICC 16.19 as a Type II decision.
- B. At the hearing, the appellant shall have the burden of proof.

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- C. The decision of the Hearing Examiner shall be final and conclusive with the right of reconsideration and may then be reviewable by an action for writ of review filed in Island County Superior Court as provided in ICC 16.19.

(Ord. C-91-98 [PLG 024-98], September 28, 1998, vol. 42, p. 484; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

11.03.190 Drainage Review Fees

- A. Fees required for all drainage reviews, approvals and inspections conducted by Island County in order to compensate the Public Works Department for the costs of administering this chapter: These fees apply when a drainage review is a required component of a permit application or is a condition of a building permit/final development approval. Such fees are in addition to any other fees required by law. The fees are established in the County Fee Schedule which is available at the Public Works Department and the Planning and Community Development Department.
- B. Refund of drainage construction inspection fees. Upon receiving an applicant's written request, the Director/County Engineer may give a pro-rated refund of drainage construction inspection fees for documented reductions in grading quantities, square footage of impervious surface area, lineal feet of road, number of lots, or acreage. Such a request must be received within six (6) months of project completion or record drawing acceptance by the County.

(Ord. C-91-98 [PLG 024-98], September 28, 1998, vol. 42, p. 484; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

11.03.200 Drainage System Requirements for All Development Activities with Drainage Plans/Drainage Narratives

The review standards and drainage system requirements of this section shall apply to all drainage plans/drainage narratives and subsequent development activities.

- A. Stormwater entry and exit. If drainage patterns currently exist on the site, drainage facilities must be designed so that stormwater enters and exits the site at the existing location(s) of entry and exit.
- B. Mitigation. Mitigation must be provided for drainage impacts resulting from changes in the flow rate and quality of stormwater runoff, and in the case of a Critical Drainage Area from changes in the volume of runoff. Impacts which must be mitigated include, but are not limited to, impacts from flooding, erosion, sedimentation, scouring, bank sloughing, or groundwater discharges to aquifer recharge areas, and adverse impacts to aquatic habitat and water quality resulting from increased pollutants in stormwater or from spills or discharges of pollutants. If the development activity is proposed in an area established as a Critical Drainage Area, as herein defined, additional mitigation shall be required.

- C. Downstream drainage.
1. Downstream analysis. If required, the applicant shall perform a downstream analysis per the Drainage Manual. A downstream analysis is not required when low-impact standards are proposed and the development is approved using low-impact standards.
 2. Avoiding or mitigating downstream drainage impacts. If the downstream analysis identifies significant adverse drainage impacts downstream from the proposed development activity, then the applicant shall avoid or mitigate these impacts. A proposed development's obligation in light of existing or potential downstream problems is that the existing problems must not be aggravated and new problems must not be created as a result of development of the site. This chapter does not require development proposals to fix or otherwise reduce the severity of existing downstream drainage problems, although to do so may be an acceptable mitigation.
- D. Conveyance system requirements.
1. Conveyance systems shall accommodate the peak flow of the design storm as required by the Drainage Manual.
 2. Conveyance systems shall not place streams in culverts unless determined by the Director/County Engineer to be necessary for property access and traffic circulation. Bridges or bottomless arch culverts shall be installed instead of culverts at stream crossings, unless approved by the Director. Stream crossing installations may be regulated by the Washington State Department of Fish and Wildlife (WDFW) and subject to Hydraulic Project Approval (HPA) from WDFW.
- E. Retention and detention system requirements. The design storm retention/detention requirements for a specific site and development; the minimum computation standards; and any correction factors for sizing retention or detention facilities, are specified in the Drainage Manual except that the stormwater runoff rate controls of this chapter shall not apply if the stormwater runoff generated on-site is:
1. treated for water quality using appropriate best management practices; the proposed increase in peak discharge for a one hundred (100)-year, twenty-four (24)-hour design storm is less than one tenth (0.1) cubic feet per second; and a downstream analysis demonstrates that there will be no adverse impacts to existing drainage facilities or to Critical Drainage Areas; or
 2. discharged to a regional stormwater management facility and the following conditions are met:
 - a) the facility is in operation by the time construction begins;
 - b) the conveyance system between the proposed project and the regional facility meets the design requirements of this chapter; and
 - c) the regional facility meets the stormwater runoff quantity control standards of this chapter; or

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3. is discharged directly into the receiving water and the applicant can demonstrate that the conveyance system is adequate to handle the increased rate and volume and that there will be no adverse impacts resulting from direct discharge into the water.
- F. Setbacks from drainage facilities.
1. Open drainage facilities. A setback of at least seven and one-half (7.5) feet, measured horizontally, shall be provided between any structure, on-site or off-site, and the top of the bank of a constructed open channel or open retention/detention pond.
 2. Closed drainage facilities. A setback of at least five (5) feet, measured horizontally, shall be provided between any structure, on-site or off-site, and the nearest edge of a closed drainage facility.
- G. Easements. Drainage facilities shall include easements as provided in this chapter, if required thereby.
- H. Maintenance. Drainage facilities shall be maintained as required by this chapter.

(Ord. C-91-98 [PLG 024-98], September 28, 1998, vol. 42, p. 484; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

11.03.210 Additional Drainage System Requirements for Major Development Activities in UGAs and RAIDs

In addition to the requirements this chapter, the Drainage Manual specifies additional surface water quantity and quality controls and design parameters for major development activities in Urban Growth Areas (UGAs) and those Rural Areas of Intense Development (RAIDs) that have designated Critical Drainage Areas and the review of drainage plans submitted.

(Ord. C-91-98 [PLG 024-98], September 28, 1998, vol. 42, p. 484; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

11.03.220 Drainage System Requirements for Developments Proposing the Low-Impact Development Alternative

Alternative low-impact development standards require:

- A. Runoff Volume Control. The predevelopment volume is maintained by a combination of minimizing the site disturbance from the predevelopment to the post development condition and then providing distributed retention BMPs. Retention BMPs are structures that retain the runoff for the design storm event. A "customized" or detailed runoff curve number (CN) evaluation is required to determine the required runoff volume. The storage required to maintain the predevelopment volume may also be sufficient to maintain the predevelopment peak rate.
- B. Peak Runoff Rate Control. Low-impact development is designed to maintain the predevelopment peak runoff discharge rate for the selected design storm events. This is done by maintaining the predevelopment time of concentration (Tc) and then using retention and/or detention BMPs (e.g., rain gardens, open drainage systems, etc.) that are

distributed throughout the site. The goal is to use retention practices to control runoff volume and, if these retention practices are not sufficient to control the peak runoff rate, to use additional detention practices to control the peak runoff rate.

- C. Flow Frequency Duration Control. Since low-impact development is designed to emulate the predevelopment hydrologic regime through both volume and peak runoff rate controls, the flow frequency and duration for the post development conditions will be almost identical to those for the predevelopment conditions. The impacts on the sediment and erosion and stream habitat potential at downstream reaches can then be minimized.
- D. Water Quality Control. Low-impact development is designed to provide water quality treatment control for the duration storm runoff from impervious areas using retention practices. The storage required for water quality control is compared to the storage required to control the increased runoff volume. The greater of the two volumes is the required retention storage. Low-impact development also provides pollution prevention by modifying human activities to reduce the introduction of pollutants into the environment.

(Ord. C-91-98 [PLG 024-98], September 28, 1998, vol. 42, p. 484; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

11.03.230 Erosion and Sedimentation Control Requirements

- A. The erosion and sedimentation control requirements of paragraphs 1-4 and 6 of this subsection shall apply to all development activity. In addition, all erosion and sedimentation control review standards and requirements of this subsection shall apply to any major development activity and the review of drainage plans submitted therefor. The applicant shall meet these standards and requirements by using appropriate best management practices (BMPs) for erosion and sedimentation control in accordance with the Drainage Manual or as approved by the Director.
 - 1. Erosion on- and off-site. During and after construction, all persons engaging in development activities shall minimize erosion and sedimentation on-site and shall protect properties and water courses downstream from the site from erosion due to increases in the velocity and peak flow rate of stormwater runoff from the site;
 - 2. Transport of sediment. The applicant shall minimize the transport of sediment onto paved surfaces, and if sediment is transported onto a paved surface, shall clean the paved surface at the end of each day in accordance with BMPs in the Drainage Manual, or approved by the Director;
 - 3. Stabilizing exposed soil. The applicant shall stabilize denuded areas and soil stockpiles as established in the Drainage Manual;
 - 4. Temporary erosion and sedimentation control measures shall be maintained until final site stabilization;
 - 5. Protecting storm sewer inlets. The applicant shall protect storm sewer inlets receiving stormwater runoff during construction so that water will not enter the inlet

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without first being filtered or otherwise treated to minimize the amount of sediment entering the inlet;

6. Sediment retention. The applicant shall route stormwater runoff from the site through a sediment retention BMP as established in the Drainage Manual. Preserving a vegetated buffer strip around the lower perimeter of the site satisfies this requirement;
 7. Design of temporary sediment ponds and traps. The applicant shall design and construct all temporary sediment ponds and sediment traps to accommodate the peak discharge as established by the Drainage Manual;
 8. Temporary conveyance systems. The applicant shall design and construct all temporary stormwater conveyance systems to minimize erosion, while conveying peak discharge from the design storm established in the Drainage Manual;
 9. Erosion. The applicant shall design and construct temporary and permanent BMPs adequate to minimize erosion of outlets, adjacent stream banks, slopes, and downstream reaches;
 10. Additional requirements for utilities. The installation of underground utility lines shall be subject to the following additional requirements:
 - a) no more than five hundred (500) feet of trench may remain open at one time;
 - b) excavated material shall be placed on the uphill side of trenches, unless inconsistent with safety or site constraints;
 11. Discharge from dewatering devices. Water from a dewatering device shall discharge into a sediment-retention BMP;
 12. Maintenance and repair of erosion and sedimentation control measures. The applicant shall maintain and repair as necessary all temporary and permanent erosion and sedimentation control BMPs to assure their continued performance.
- B. The applicant shall implement fully the erosion and sedimentation control plan at each stage of site development.

(Ord. C-91-98 [PLG 024-98], September 28, 1998, vol. 42, p. 484; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

11.03.240 Redevelopment

- A. Where redevelopment activities meet the definition of a major development, the requirements of this Chapter shall apply only to that portion of the site that is being redeveloped, except where one or more of the following conditions exist, the requirements of this Chapter shall apply, to the maximum extent practicable, to the entire site, including adjoining parcels, if they are part of the project:
1. Existing developed sites greater than one (1) acre in size with a total of fifty percent (50%) or more impervious surface and within a designated Critical Drainage Area as

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a result of severe flooding, drainage, erosion/sedimentation conditions, and/or discharging to a receiving water that has a documented water quality problem, which have resulted or will result from the cumulative impacts of development and urbanization, or

2. Developed sites that discharge to a receiving water that has a documented water quality problem and has been designated a Critical Drainage Area as a result of the designation of a water quality sensitive area.
- B. Regardless of the area of impervious surface, the source control BMP's and water quality treatment to remove stormwater pollutants as required under this chapter, shall apply to the entire site unless the applicant demonstrates to the Director's/County Engineer's satisfaction that the cost of treatment would increase total stormwater control cost by more than ten (10%) percent. In such case, the Director/County Engineer may allow, for the rest of the site only, a reasonable reduction in area or BMP's required for water quality treatment, so that treatment costs remain below the ten percent (10%) threshold, if the applicant demonstrates to the Director's/County Engineer's satisfaction that the reduction will not have significant negative impacts to aquatic resources downstream of the project.
- C. The Director/County Engineer may impose additional requirements on the entire site or a portion thereof, including stormwater detention, if the Director/County Engineer determines that significant water quality, flooding, or critical area impacts may be worsened as a result of the redevelopment.

(Ord. C-91-98 [PLG 024-98], September 28, 1998, vol. 42, p. 484; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

11.03.250 Modifications or Waivers of Requirements

- A. Additional or more stringent controls. The Director/County Engineer may require the modification of plans, specifications, and operations or impose additional or more stringent standards and requirements than those specified in this chapter or in any approval or permit, if the Director/County Engineer determines such standards or requirements are necessary because of unusual or newly discovered site conditions; because of weather conditions; to protect water quality or critical areas; to minimize flood hazards; or to protect public health, safety, and welfare.
- B. Waiver or modification at request of applicant. At the written request of the applicant, the Director/County Engineer may waive or modify any requirement of this chapter as provided in this subsection. A waiver or modification pursuant to this subsection shall not be valid unless approved by the Director/County Engineer in writing.
1. The applicant's written request for a waiver or modification of a requirement must specify the specific provision of this chapter for which the waiver or modification is requested; how the intent of the requirement will otherwise be achieved; the reasons for the request; and how the request meets the criteria of subsection 2, below. The request shall be accompanied by payment of the fee required. The Director/County

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Engineer shall respond in writing within thirty (30) days of receipt of the request, either approving or disapproving the request, or requesting more information. The Director/County Engineer shall specify the reasons for any decision.

2. The Director/County Engineer may approve a modification or waiver only upon finding that:
 - a) The waiver or modification will not result in increased flooding, water pollution, sedimentation, or damage to adjacent properties or drainage facilities, both natural and artificial, whether public or private; and
 - b) At least one of the following criteria is met:
 - (i) Compliance with the requirement will not substantially achieve the intended purpose because of unusual site conditions;
 - (ii) Compliance with the requirement will impose an undue hardship on the applicant that does not generally occur when the requirement is met on other sites, and the hardship is due to special circumstances on the site such as topography, location, or surroundings and is not the result of the applicant's own actions;
 - (iii) The requirement is not technically feasible;
 - (iv) The requirement will cause or poses a significant threat of harm to public health, safety, or welfare; the environment; or public or private property which harm outweighs the requirement's benefits;
 - (v) An emergency situation necessitates approval of the waiver or modification; or
 - (vi) Reasonable use of the property is not possible unless the waiver or modification is approved.
- C. Modification of requirements in areas designated in a Watershed Management Plan. The County, at its discretion and in a manner determined by the County, may modify any requirement of this chapter within areas which have been designated in a County-adopted Watershed Management Plan as having unique characteristics which may warrant different drainage standards, specifications, or requirements.

(Ord. C-91-98 [PLG 024-98], September 28, 1998, vol. 42, p. 484; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

11.03.260 Maintenance Responsibility for Drainage Facilities

The owner of record shall be responsible for maintenance and operation of on-site drainage systems, unless the County assumes this responsibility pursuant to this chapter. Detailed maintenance responsibilities are specified in the Drainage Manual.

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- A. Drainage systems shall be maintained at all times so that their water quantity, water quality control functions, and access are not impaired. Maintenance shall include keeping all conveyance systems, storage facilities, and access areas free of accumulated debris or trash, and all impervious surfaces free from sediment.
- B. Maintenance of all drainage systems shall be conducted by the responsible party in compliance with an operation and maintenance plan for drainage facilities developed in accordance with the requirements of this chapter.
- C. Maintenance covenant. The owners with a record interest in any private drainage facilities shall sign and record a covenant which runs with the land and requires the owners of the property, heirs, successors, and assigns to maintain the drainage facilities. The covenant shall be in a form specified by the Director/County Engineer. The covenant shall describe the owner's maintenance responsibilities and obligations, the right of entry for inspection by the County, and when applicable, notice by the County to perform the required maintenance. If required maintenance has not been performed, the County may cause said maintenance to be done at the sole expense of the owner. The County shall endeavor to provide the property owner reasonable advance notification of the need to do the maintenance and a reasonable opportunity for the property owner to perform it.

(Ord. C-91-98 [PLG 024-98], September 28, 1998, vol. 42, p. 484; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

11.03.270 Interim Maintenance Responsibility after Construction Acceptance

The applicant or owner of any drainage facility shall be responsible for maintenance of the drainage system, including that portion within the County road right-of-way, for a period of two years following construction acceptance by the County. The County may periodically inspect the system for maintenance and may enforce the maintenance requirements pursuant to this chapter. The applicant or owner shall provide a maintenance bond in accordance with this chapter. Verification of maintenance and County approval must be obtained in writing prior to release of any maintenance bond. If inspection during the two-year maintenance period identifies deficiencies in maintenance of the drainage system, the applicant must correct such deficiencies within the time specified by the Director. The maintenance bond security shall be administered in accordance with this chapter.

(Ord. C-91-98 [PLG 024-98], September 28, 1998, vol. 42, p. 484; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

11.03.280 Release of Applicant from Maintenance Responsibility

After release of the maintenance bond, the applicant will be released from responsibility for maintaining those elements of the drainage system that are to be publicly owned and are within the County road right-of-way.

(Ord. C-91-98 [PLG 024-98], September 28, 1998, vol. 42, p. 484; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

11.03.290 Easements and Dedications Granted to the County

- A. Easements shall be granted to the County for the right to enter property, at the County's discretion, for the purpose of inspecting, maintaining, modifying, or replacing the following drainage systems to protect the public from flooding, water quality degradation, and damage to aquatic habitat:
1. All detention facilities, retention facilities, and stormwater treatment facilities;
 2. Access routes constructed in accordance with the requirements of this chapter;
 3. Conveyance systems that conduct stormwater from a public or private right-of-way to detention facilities, retention facilities, and stormwater treatment facilities;
 4. Closed-conduit conveyance systems that conduct water downstream of a public or private right-of-way;
 5. Closed-conduit conveyance systems that conduct stormwater from detention facilities, retention facilities, and stormwater treatment facilities downstream to a public right-of-way;
 6. Any other privately-owned drainage system, if the Director/County Engineer determines that damage to a public right-of-way or County property, or a threat to public health, safety, and welfare may occur if the drainage system does not function properly;
 7. Any other drainage easements offered by the owner of the subject property may be accepted if the Director/County Engineer determines the easement serves the public interest.
- B. All easements granted to the County under this section shall grant access from an opened public right-of-way.
- C. Easements granted to the County under subsection shall be fifteen (15) feet in width. The required width may be changed at the discretion of the Director/County Engineer, based upon site conditions and access needs, provided that the easement shall be at least ten (10) feet wide.
- D. The easement shall be documented and submitted to the department in a form required by the Director.
- E. Prior to accepting the easement, the Director may require the removal of all encumbrances which are inconsistent with the purposes for which the easement is being granted.
- F. The owners with a record interest in the property shall sign the easement document, and execute and record a covenant which runs with the land and binds the property, requiring the owners of the property burdened by the easement to maintain the easement and their adjacent property.

G. No fill, structures, fences, walls, rip rap, buildings or other similar encumbrances to access or restrictions to the flow of water may be placed within the drainage easement without the written consent of the Director/County Engineer. Encumbrances placed within a drainage easement in violation of this restriction may be removed by the County at the sole expense of the owner. The County shall endeavor to provide the property owner reasonable advance notification of the need to remove the encumbrance and a reasonable opportunity for the property owner to remove the encumbrance. The property owner must reimburse the County for the cost of removing encumbrances placed within an easement in violation of this code. Payments must be made within ninety (90) days of the day the County submits a bill for costs. In the event of nonpayment, the County may bring suit to recover such costs, including its attorney’s fees, and upon obtaining a judgment, such amount shall become a lien against the property of the owner as provided in RCW 4.56.190.

(Ord. C-91-98 [PLG 024-98], September 28, 1998, vol. 42, p. 484; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

11.03.300 Easements Granted to the Public

If determined by the approving authority to be of public necessity during the review process, easements shall be granted to the public over all drainage facilities specified in an approved drainage plan, for the purpose of conveying or storing stormwater runoff. The easement shall be documented and submitted to the department in a form required by the Director.

(Ord. C-91-98 [PLG 024-98], September 28, 1998, vol. 42, p. 484; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

11.03.310 Maintenance Covenant

The owners with a record interest in any private drainage facilities shall sign and record a covenant which runs with the land and requires the owners of the property, heirs, successors, and assigns to maintain the drainage facilities. The covenant shall be in a form specified by the Director. The covenant shall describe the owner’s maintenance responsibilities and obligations, the right of entry for inspection by the County, and when applicable, notice by the County to perform the required maintenance. If required maintenance has not been performed, the County may cause said maintenance to be done at the sole expense of the owner. The County shall endeavor to provide the property owner reasonable advance notification of the need to do the maintenance and a reasonable opportunity for the property owner to perform it. The property owner must reimburse the County for the cost of performing maintenance which the owner has failed to perform in violation of this code. Payments must be made within ninety days of the day the County submits a bill for costs. In the event of nonpayment, the County may bring suit to recover such costs, including its attorney’s fees, and upon obtaining a judgment, such amount shall become a lien against the property of the owner as provided in RCW 4.56.190.

(Ord. C-91-98 [PLG 024-98], September 28, 1998, vol. 42, p. 484; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

11.03.320 Separate Tracts for Detention Facilities

Detention facilities, retention facilities, and stormwater treatment facilities serving residential lots, and access roads serving these facilities, shall be placed in one or more separate tracts

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owned in common by the property owners served by the facility or owned by a homeowner's association, who shall be responsible for maintenance of such facilities, unless dedicated to the County. Low-impact facilities may be located within individual lots or community property.

(Ord. C-91-98 [PLG 024-98], September 28, 1998, vol. 42, p. 484; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

11.03.330 Security and Insurance

The Director/County Engineer is authorized and has the discretion to require, all applicants constructing detention/retention facilities or other drainage facilities for major development activities to post surety and cash bonds in those areas that have been designated Critical Drainage Areas. The following bonds and insurance are required:

- A. **Construction Bond.** As required by the Director, the person constructing the facility shall post a construction bond in an amount sufficient to cover the cost of conforming said construction with the approved drainage plans. After determination by the Public Works Department that all facilities are constructed in compliance with the approved plans, the construction bond shall be released.
- B. **Maintenance Bond.** After satisfactory completion of the facilities and release of the construction bond by the County, the owner constructing the facilities shall commence a two (2) year period of satisfactory maintenance of the facility.

(Ord. C-91-98 [PLG 024-98], September 28, 1998, vol. 42, p. 484; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

11.03.340 Penalties and Enforcement

Any violation of Chapter 11.03 shall be enforced by the Planning and Community Development Director and shall be subject to the enforcement provisions of Chapter 17.03 ICC. The County Engineer shall provide support and technical guidance to the Planning and Community Development Director on all Chapter 11.03 violations.

(Ord. C-91-98 [PLG 024-98], September 28, 1998, vol. 42, p. 484; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38; amended by Ord. C-160-01 [PLG-020-01], January 7, 2002, vol. 46, p. 83)

11.03.350 Illicit Connections and Uses

- A. The stormwater system of Island County, natural and artificial, publicly- and privately-owned, may only be used to convey stormwater runoff. "Stormwater System" shall mean all natural and man-made systems which function together or independently to collect, store, purify, discharge, and convey stormwater. Included are all stormwater facilities as well as natural systems such as streams and creeks and all natural systems which convey, store, infiltrate, or divert stormwater. Violation of this section can result in enforcement action being taken as prescribed herein.
- B. No person shall use the stormwater system, directly or indirectly, to dispose of any solid or liquid matter other than stormwater. No person shall make or allow any connection to the stormwater system which could result in the discharge of polluting matter. Connections to

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the stormwater system from the interiors of structures are prohibited. Connections to the stormwater system for any purpose other than to convey stormwater or groundwater are prohibited and shall be eliminated.

(Ord. C-91-98 [PLG 024-98], September 28, 1998, vol. 42, p. 484; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

11.03.360 Inspection and Right of Entry

The department may inspect any development activity for which a permit is required and construction of drainage facilities for which plan approval is required to enforce the provisions of this chapter. By submitting a preliminary or final drainage plan/drainage narrative or an application for a grading permit, the applicant consents to entry upon the site by the County for the purpose of making reasonable inspections to verify information provided by the applicant and to verify that work is being performed in accordance with the approved plans, permits, and the requirements of this chapter.

(Ord. C-91-98 [PLG 024-98], September 28, 1998, vol. 42, p. 484; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

11.03.370 Withholding of Certificate of Occupancy

In addition to the issuance of any order for abatement and correction of a violation of a provision of this chapter, the Director/County Engineer may request that the Building Official withhold the

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approval of a Certificate of Occupancy or other forms of occupancy approval until the violation has been corrected.

(Ord. C-91-98 [PLG 024-98], September 28, 1998, vol. 42, p. 484; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

11.03.380 Hazards

Whenever the Director/County Engineer determines that a condition caused by a development activity regulated by this chapter creates a present or imminent hazard, or is likely to create a hazard to the public safety, health, or welfare, the environment, or public or private property, the Director/County Engineer may declare such condition a public nuisance and may direct the property owner or persons causing or contributing to the hazardous condition to abate the hazard within a specified period, or the Director/County Engineer may take action to abate the hazard and recover all costs incurred from the responsible parties. Payments must be made within ninety (90) days of the day the County submits a bill for costs. In the event of nonpayment, the County may bring suit to recover such costs, including its attorney's fees, and upon obtaining a judgment, such amount shall become a lien against the property of the owner as provided in RCW 4.56.190.

(Ord. C-91-98 [PLG 024-98], September 28, 1998, vol. 42, p. 484; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

11.03.390 Severability

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

(Ord. C-91-98 [PLG 024-98], September 28, 1998, vol. 42, p. 484; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

11.03.400 Effective Date

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

(Ord. C-91-98 [PLG 024-98], September 28, 1998, vol. 42, p. 484; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

Chapter 11.04¹²
Concurrency Ordinance

Sections:

- 11.04.010 Purpose**
- 11.04.020 Definitions**
- 11.04.030 Concurrency - Applicability**
- 11.04.040 Approval or Denial of Development Activity**
- 11.04.050 Concurrency Exemptions**
- 11.04.060 Concurrency Procedures and Requirements**
- 11.04.070 Test for Concurrency - Fail**
- 11.04.080 Level of Service Standards**
- 11.04.090 Intergovernmental Coordination**
- 11.04.100 Severability**
- 11.04.110 Effective Date**

11.04.010 Purpose

The Capital Facilities Element of the County Comprehensive Plan defines and establishes categories of public facilities. The Capital Facilities Element also classifies certain public facilities according to these categories. The purpose of this chapter is to ensure that Category A and B public facilities are adequate and that they are available and concurrent with development.

To ensure that Category A and B public facilities are or will be adequate, a Test for Concurrency shall be required.

A Concurrency Management program unites capital facilities planning with local land use plans to ensure that adequate transportation facilities exist to accommodate new development activity. This chapter implements the concurrency requirements of the Capital Facilities Element and the Growth Management Act.

(Ord. C-90-98 [PLG-023-98], September 28, 1998, vol. 42, p. 489; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38; amended by Ord. C-115-00 [R-50-00], December 18, 2000, vol. 45, p. 134)

¹² **Reviser’s Note:** For a copy of the Island County Concurrency and Adequacy Management Program contact the Island County Public Works Department.

11.04.020 Definitions

- A. **Adequate Public Facilities** means facilities that have the capacity to serve development without decreasing levels of service below locally established minimums.
- B. **Background Capacity** means the allocation of available capacity of a transportation facility to exempt and/or vested developments and non-development related traffic volume increases.
- C. **Capacity – Arterial Road(s) and Transit Routes** means a measurement expressed as the maximum number of peak hour vehicle trips that an identified transit route/arterial road or intersection may accommodate at a specified level of service.
- D. **Category A** public facilities means facilities owned or operated by Island County and subject to the requirement for concurrency as follows:
1. Arterials
 2. Transit routes
 3. Intersections of transit routes/arterials and other County roads
- (Category A facilities do not include the intersection of County arterials, County transit routes/and State facilities nor County transit routes on State facilities. Public road intersections with SR 20 and SR 525 are included in the Washington State Transportation Plan's Travel Delay Methodology which is the basis of defining levels of service on Highways of Statewide Significance.)
- E. **Category B** public facilities means facilities owned or operated by federal, state, or city governments, independent districts, or individuals/private/community organizations and which are subject to the requirement for concurrency. For the purposes of this ordinance they are city and/or town transit routes/arterials and their intersections, and Highways of Statewide Significance.
- F. **Concurrency or Concurrent with Development** mean that adequate public facilities are available when the impacts of development occur, except that in the case of transit routes and County/city/town arterial roads and their intersections, and Highways of Statewide Significance, concurrent with development shall mean:
1. that the capacity of an affected transit route/arterial or arterial intersection(s), and/or Highways of Statewide Significance is sufficient to accommodate the projected transportation impacts of a proposed development; or
 2. that improvements, strategies, or other mitigation measures which will achieve or maintain an operating level at or above the level of service standard established for the affected transit route/arterial or arterial intersection(s), and/or Highways of Statewide Significance:

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- a) are in place, planned, reasonably funded, and scheduled for completion no later than six (6) years after development approval as reflected in the most recent version of the adopted County or State Transportation Improvement Program (TIP); or
- b) will be available and complete no later than six (6) years after development approval, as provided where appropriate by the applicant’s voluntary financial commitment/agreement that is in place at the time of the development’s approval. (Refer to the definition of voluntary agreement for further explanation. This definition infers that if an applicant does not enter into a financial commitment to guarantee improvements the test for concurrency is failed.)

G. **Correction** means a project(s) or strategy(ies) to correct existing or projected level of service deficiencies.

H. **Corridor Sections** means in Island County the SR 525 and SR 20 corridors are divided into four sections for the purposes of corridor planning and concurrency. SR 532 on Camano Island, a regional highway, is a separate and distinct corridor for which concurrency is not required. The four Whidbey Island Corridor sections are:

- 1. Clinton Ferry Terminal to the SR 525/SR 20 intersection;
- 2. SR 20 from the Keystone Ferry to Swantown Road;
- 3. SR 20 from Swantown Road through the city of Oak Harbor to Ault Field Road; and
- 4. SR 20 from Ault Field Road to Skagit County.

I. **Development Activity** means any proposal that will result in construction, development, earth movement, clearing, or other site disturbance which generates new traffic demands following completion of the proposal and which requires a permit, approval, or authorization from the County, except that single family residential building permits, proposals governed by Chapter 58.17 RCW as explained in the footnoted court cases^{12A} or any proposed activity by a public or private utility or service, are not considered a development activity for the purposes of concurrency.

J. **Highways of Statewide Significance (HSS)** denote transportation facilities and services of statewide significance are identified under RCW 47.06.140 and specifically include the following:

- 1. The interstate highway system;
- 2. Interregional state principal arterials including ferry connections that serve statewide travel;

^{12A} See *Noble Manor Co. v. Pierce County*, 133 Wn.2d 269 (1997) and *Westside Business Park, LLC v. Pierce County*, 100 Wn. App. 599 (2000).

3. Intercity passenger rail services;
 4. Intercity high-speed ground transportation;
 5. Major passenger intermodal terminals excluding all airport facilities and services;
 6. The freight railroad system;
 7. The Columbia/Snake navigable river system;
 8. Marine port facilities and services that are related solely to marine activities affecting international and interstate trade, and
 9. High-capacity transportation systems serving regions as defined in RCW 81.104.015.
- K. **Highways of Statewide Significance (HSS) – Island County** are those HSS facilities formally designated on April 14, 1999, by the House and Senate passed "Joint Memorial 4006" and specifically include those portions of the following facilities in Island County:
1. State Highways:
 - a) SR 525 - I-5 to SR 20 (entire route)
 - b) SR 20 – SR 101 to SR 2/Newport (entire route)
 2. State Ferry Routes
 - a) SR 525 Mukilteo/Clinton Ferry
 - b) SR 20 Pt. Townsend/Keystone Ferry
- L. **Impacted by Development** means that the development will add 10 or more peak-hour trips to any County arterial road, transit route, or HSS corridor segment.
- M. **Level of Service (LOS)** means an established minimum capacity of public facilities that must be provided per unit of demand or other appropriate measure of need.
- N. **Level of Service – County Transportation Facilities** means a qualitative measure of how well a roadway or intersection functions. It describes traffic conditions in terms of such factors as speed and travel time, volume conditions, freedom to maneuver, traffic interruptions, comfort and convenience, and safety. Levels of service are designated A through F, from best to worst, as defined in the 1994 Highway Capacity Manual (TRB Special Report 209) or other level of service methodologies utilized by the County/city/town and as specified in its transportation plan. For Island County, traffic volume on a County arterial/transit route is used to determine LOS, and average delay time on the worst approach lane is used to determine LOS for arterial intersections.
- O. **Level of Service – Highways of Statewide Significance Transportation Facilities** means a qualitative measure of how well a corridor section or marine ferry system functions.

1. Highways - System performance measured by the Average Annual Daily Traffic/Capacity - AADT/C Ratio (ACR) on a corridor basis. The resulting value represents the average vehicle demand and the duration of congested conditions on a corridor section.
 - a) Clinton Ferry Terminal to the SR 525/SR 20 intersection –ACR 10;
 - b) SR 20 from the Keystone Ferry to Swantown Road – ACR 10;
 - c) SR 20 from Swantown Road through the city of Oak Harbor to Ault Field Road – ACR 12; and
 - d) SR 20 from Ault Field Road to Skagit County – ACR 12.
 2. Ferries - System performance which examines the total monthly vehicle demand during the month of May for the Clinton/Mukilteo and the Keystone/Port Townsend ferry service. LOS is measured and based on westbound PM weekday peak periods (3:00 PM to 7:00 PM). A "two boat-wait" means that 85% or more of general traffic would not have to wait for more than two additional sailings after arriving at the terminal before being able to get on the boat.
- P. **Mitigation** means the avoidance or minimization of a development activity’s impact upon an affected arterial or arterial intersection through such means as limiting or altering the proposed uses, intensities, or design of the development or by compensating for the impact by replacing, enhancing, or providing proportionate share system improvements which provide additional capacity.
- Q. **Peak Hour** means the hour-long time period in the afternoon when traffic volumes are highest, usually a one-hour period between four p.m. and six p.m. for roadways.
- R. **Proportionate Share/Proportionate Mitigation** means that portion of the cost of public facility improvements that are reasonably related to the service demands, needs, and impacts and of new development. (RCW 82.02.090(5)).
- S. **Service Areas, County Arterials and Transit Routes** means those County arterials and transit routes impacted by the proposed development.
- T. **Service Areas, Highways of Statewide Significance (HSS)** means a geographic area in which a defined set of transportation facilities provide service to development within the area. Service areas shall be designated on the basis of sound planning or engineering principles. The service areas for the HSS facilities in Island County are:
1. SR 20 and SR 525 – the individual corridor sections specified herein impacted by the proposed development as determined by a traffic report/study submitted in compliance with the requirements of this ordinance;
 2. State Ferry Routes:

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- a) Mukilteo/Clinton Ferry – All of Whidbey Island
- b) Pt. Townsend/Keystone Ferry – All of Whidbey Island

- U. **Traffic Impacts.** Traffic impacts means the diminishment of capacity of a roadway or intersection by the addition of new vehicle trips. Effects of new vehicle trips that are not quantifiable or to the extent that the effects cannot be mitigated fully by the addition of new capacity - such as safety hazards and inadequate signalization - are not traffic impacts for concurrency purposes and are to be addressed and mitigated under SEPA.
- V. **Transit Routes** means County roads identified in the adopted transportation elements of the respective political subdivision used by Island Transit. Those roads used by Island Transit that are not identified in the referenced transportation elements will be considered for inclusion in the plans as transit routes during updates of the transportation elements and are not considered transit routes until they are so identified. For the purposes of this Chapter, transit routes do not include state facilities nor the intersection of state and County arterials/transit routes.
- W. **Voluntary Agreement** means an agreement between a developer and the County or district as authorized by RCW 82.02.020.

(Ord. C-90-98 [PLG-023-98], September 28, 1998, vol. 42, p. 489; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38; amended by Ord. C-115-00 [R-50-00], December 18, 2000, vol. 45, p. 134)

11.04.030 Concurrency - Applicability

The Test for Concurrency shall be performed for all development activities, unless exempt from the Test for Concurrency as provided in this chapter. Responsible agencies for Category A and Category B facilities are the entities which own/operate the public facility. Exempt development activities and development activities that have been issued certificates of concurrency are considered part of the background capacity for County planning and programming efforts. For Category A facilities, the County is assuming the concurrency responsibilities for tracking and accounting for the impacts of exempt development activities. For Category B facilities, each responsible agency owning/operating a Category B public facility assumes the concurrency responsibilities for tracking and accounting for the impacts of exempt development activities.

(Ord. C-90-98 [PLG-023-98], September 28, 1998, vol. 42, p. 489; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38; amended by Ord. C-115-00 [R-50-00], December 18, 2000, vol. 45, p. 134)

11.04.040 Approval or Denial of Development Activity

- A. **Approval of Development Activity.** A development activity for which all servicing County transit route/arterial or arterial intersection(s), and/or Highways of Statewide Significance are concurrent with development may be approved so long as all other provisions of the applicable requirements of law are met.

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- B. Denial of Development Activity. A development activity for which any servicing County transit route/arterial or arterial intersection(s), and/or Highways of Statewide Significance is not concurrent with development, shall be denied, unless the applicant can substantiate, through a traffic study, that the new or expanded development activity does not add an additional demand that further impacts the failed level of service.

(Ord. C-115-00 [R-50-00], December 18, 2000, vol. 45, p. 134)

11.04.050 Concurrency Exemptions

- A. Exemptions from the Test for Concurrency for Category A and Category B facilities shall include emergency exemptions as listed below, development activities that have minimal impact on transportation facilities, and other actions as identified below:
1. Emergency Exemptions. The following actions which must be undertaken immediately or for which there is insufficient time for full compliance with this chapter, shall be exempt from the Test for Concurrency:
 - a) Actions necessary to prevent an imminent threat to public health or safety;
 - b) Actions necessary to prevent an imminent danger to public or private property;
or
 - c) Actions necessary to prevent an imminent threat of serious environmental degradation.
 2. Exempt Development Activity
 - a) Permitted uses in the Rural, Rural Residential, Rural Agriculture, Commercial Agriculture, and Rural Forest Zones, except duplexes, triplexes in the rural residential zone at a density greater than three (3) dwelling units per acre;
 - b) Interior renovations with no change in use, or, in the case of residential structures, no increase in number of dwelling units;
 - c) Interior completion of any structure for use(s) with the same or less intensity as the existing use or a previously-approved use;
 - d) Replacement structure with no change in use or, in the case of residential structures, no increase in number of dwelling units;
 - e) Variance (examples include but are not limited to building setback and height variances);
 - f) Any other development that will have no transportation impact, and that will not change the traffic volumes and flow patterns in the afternoon peak travel period, as determined by the Director, such as Communication Towers;

- g) Shoreline substantial development, conditional use, or variance permits (these types of permits are not exempt if the associated development activity is not exempt. Conformance with the concurrency requirements is achieved through the processing of the underlying nonexempt development permit); and
 - h) Vested development activities.
- B. Tracking Exempted Development Activity and Reserved Capacity
- 1. Until such time that a building permit is applied for an exempt development activity or for a development activity that has been issued a Certificate of Concurrency, these activities are considered part of the background capacity for County long range planning and programming efforts. This information shall be used when developing annual reports and to support program and project planning pursuant to the capital facilities and transportation elements and their associated six year improvement programs. Upon the application for a building permit, the responsible agency must take into account exempted developments and developments that have been issued a Certificate of Concurrency impact to the applicable level of service.
 - 2. The responsible agency must establish a tracking system to account for both exempt developments, developments issued a Certificate of Concurrency and background capacity.
- C. SEPA and other Standards/Regulations
- 1. Applications exempt from the Test for Concurrency or issued Certificates of Concurrency are not necessarily exempt from SEPA or other regulatory requirements. The test for concurrency establishes that the project is not causing a level of service decline below acceptable levels. Passing the concurrency test does not mean that the project does not have an incremental impact on the capacity of the transportation system that shall be proportionately mitigated as a condition of project approval.
 - 2. The provisions of this chapter are not intended to limit the application of the State Environmental Policy Act or the County's Environmental Procedures to development activities. Each development activity subject to review under this chapter and under the provisions of SEPA may be conditioned or denied pursuant to SEPA, with respect to project-related impacts, independently from the provisions of this chapter, provided that the environmental review under SEPA may rely upon compliance with this chapter to adequately mitigate any specifically identified adverse environmental impacts.

(Ord. C-90-98 [PLG-023-98], September 28, 1998, vol. 42, p. 489; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38; amended by Ord. C-115-00 [R-50-00], December 18, 2000, vol. 45, p. 134)

11.04.060 Concurrency Procedures and Requirements

A. Time of Submittal and Submittal Requirements

1. Time of Submittal - The Test for Concurrency shall be performed prior to making application for a development activity, unless exempt from the Test for Concurrency as defined above. If an application for a development activity is submitted and then determined to be subject to the Test for Concurrency, the application shall be deemed incomplete, and established permit review time frames shall be suspended until the requirements of this chapter are fulfilled by the applicant and the Test for Concurrency is successfully completed. A fee may be charged for the concurrency test by each responsible agency. The concurrency determination for development applications impacting the same transportation facility/intersection shall be tested in the order of submittal, in accordance with the respective application's fully complete dates, as determined under Section 16.19.060 ICC.
2. Submittal Requirements
 - a) Unless exempted, the applicant must include as part of their application for concurrency, a traffic report that specifies the peak hour trips generated by the development activity during the single worst peak hour, using standard trip generation rates published by the Institute of Transportation Engineers. The report must include trip generation diagrams. The report shall include all arterials, transit routes/arterial intersections, State Highways located within two miles of a proposed development activity and all arterial and State intersections which will reasonably be projected to experience ten (10) or more additional peak hour trips as a result of the development activity, regardless of their distance from the development activity. The traffic report shall also include an analysis of the anticipated project related impacts to the LOS of the Clinton-Mukilteo and Pt. Townsend – Keystone ferry services. Detailed submittal requirements are specified in the Island County Concurrency and Adequacy Management Program.
 - b) In the event that a development activity is likely to add ten (10) or more peak hour trips to an arterial or transit route/arterial intersection which is currently operating at its adopted level of service standard (LOS), the applicant must submit a traffic impact study in lieu of a report. The traffic impact study must include a complete level of service analysis. If a city/town transportation facility is involved, a scoping meeting will be held with the city/town representative and the applicant prior to preparing the Traffic Impact Study. The level of service analysis has to conform with the 1994 Highway Capacity Manual for County arterials and transit routes and all intersections and the WTP

Travel Delay Methodology for state highway facilities as documented in the County transportation plan. Also the traffic report must identify the number of trips that would affect each ferry system serving Whidbey Island.

- c) The evaluation of a transit route/arterial intersection, including intersections with State Highways, shall be based on the level of service of the worst lane approach. Traffic Reports shall include all background capacity, including traffic presumed to be generated by valid concurrency certificates.
- d) When the development activity is likely to generate ten (10) or more peak hour trips, the report or the traffic impact study must be performed by an engineer licensed to practice in the state of Washington who has special training and experience in traffic engineering. When the project is likely to generate less than ten (10) peak hour trips, the report can be prepared by the applicant and trip generation diagrams are not required. The concurrency determination for development applications impacting the same transportation facility/intersection shall be tested in order of the respective applications' fully complete dates as determined under Section 16.19.060 ICC.

B. Concurrency Review Procedures

Each responsible agency owning/operating a Category A or B public facility may establish an Administrative Concurrency Review Process. In the case of a non-County municipal owner (Category B facility), the Administrative Concurrency Review Process may be in the form of an "Interlocal Agreement" pursuant to RCW 39.34 or a Memorandum of Understanding (MOU) with the County.

The Administrative Concurrency Review Process shall contain a statement of the adopted LOS standards and how the LOS is measured. The responsible agency Administrative Concurrency Review Process shall also specify the information required by the responsible agency to make a decision on concurrency and:

- 1. a review process for phased projects and multiple projects; and
- 2. provisions, as applicable, for reserving capacity when only partial capacity is available for a specific development activity. If partial capacity is reserved, the applicant shall be required to modify the application for the development activity consistent with the available capacity; and
- 3. for SR 20 and SR 525 the Washington State Department of Transportation shall, on or before December 1 of each calendar year notify the County of the projected status of the SR 20 and SR 525 corridor sections' LOS during the next calendar year, and if deficiency is projected, whether correction of the deficiency is included in their associated six year improvement program; and
- 4. for HSS ferry routes, the process must either include the methodology for analyzing a development's specific impact on the LOS or alternatively the Marine Division of the

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Washington State Department of Transportation shall, on or before December 1 of each calendar year, notify the County of the projected status of the ferry systems' LOS during the next calendar year, and if deficiency is projected, whether correction of the deficiency is included in their associated six year improvement program.

C. Concurrency Review Requirements for Municipal Owners

As a prerequisite of participation in the concurrency review process, the responsible agency, whose jurisdiction lies entirely within the County for a Category B public facility must:

1. have a valid adopted comprehensive plan which, at a minimum, fulfills the requirements of WAC 365-195-315(1) (a), (b), (c), and (d) and which has been determined to be consistent with the County's Comprehensive Plan, taking into account the County's land use and population projections; and
2. have submitted to the County's planning agency a list of the agency's proposed public works planned for initiation or construction as required by RCW 36.70.520 for review/report under RCW 36.70.530.

D. Relationship to Other Reviews and Requirements

1. The Concurrency Review Process does not defer, replace or substitute for the reviews required under all other applicable regulations.
2. The Concurrency Review Process shall not affect the ability of a responsible agency to require payment of fees/system development charges during the permit review process.
3. The Concurrency Test shall be based upon the adopted level of service (LOS) standards as specified in the Island County Capital Facilities Plan, as adopted by Washington State for Highways of Statewide Significance, and this chapter.
4. Any determination made by the Director pursuant to this chapter shall be an administrative action that is categorically exempt from SEPA.
5. The Test for Concurrency is considered a Type I decision pursuant to ICC 16.19 and appealable only by the applicant.
6. The procedural requirements for acceptance of applications, request for additional information, and final decisions, of and as specified in ICC 16.19, govern the process of the Test for Concurrency.

E. Test for Concurrency - Roles

1. The Community Development Division of the Public Works Department shall provide the overall coordination of the Test for Concurrency by:

- a) notifying each responsible agency on at least an annual basis of all development activity, including exempt development activity, during the preceding year;
 - b) notifying the responsible agencies of expired development activity or other actions that render the activity null and void.
2. The Road Division of the Public Works Department shall be responsible for:
- a) managing the Test for Concurrency process, including notifying a city/town or other Category B public facility owner, if they will likely be providing service to a development activity or if the development activity will likely impact a Category B facility. Once a complete Concurrency Application is received the Department of Public Works will forward it to the city/town or other non-County responsible agency. The Public Works Department shall also notify the regulatory agency having approval authority over the Category B public facility;
 - b) keeping the official record of the results of Tests for Concurrency, including their expiration, and making the information available to applicants/public.
3. Responsible agencies for Category A or B public facilities:
- a) shall be responsible for conducting the Test for Concurrency for their individual Category A or B public facilities and forwarding the written results to the applicant and the Public Works Department within thirty (30) days of the receipt of the request and Concurrency Application from the County, unless a Memorandum of Understanding (MOU) with the County establishes alternative procedures.
 - b) Failure of the responsible agency owning/operating a Category B public facility to either provide the results of their analysis to the Public Works Department within the time limits established herein or failure of the responsible agency to comply with this chapter, shall not be construed by the County to be a determination of "facility concurrency." When the responsible agency owning/operating a Category B public facility does not respond or provide the results of their analysis the County shall seek the advice of the regulatory agency having approving authority over the public facility and request that the agency notify the County in writing that capacity of the public facility for all or a portion of the development activity is or is not adequate either functionally or on a regulatory basis; noting the system deficiencies and the corrections necessary. In the case of Highways of Statewide Significance the process and procedures are established in the Memorandum of Understanding (MOU) with the County as established hereinabove; and
 - c) Such notice constitutes failure of the Test for Concurrency and is subject to the procedures of this chapter.

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- d) Shall ensure for each application that has passed the Test for Concurrency that capacity is currently available and reserved for the development activity, except that in the case of transit routes and/or County/city/town arterial roads, the availability of capacity shall mean that improvements or strategies are in place at the time of development, or that a financial commitment is in place to complete the improvements or strategies within six (6) years; and
- e) may charge applicable fees to recover the costs of concurrency testing and monitoring concurrency systems.

F. Test for Concurrency - Pass

- 1. The Test for Concurrency is passed when the demand for Category A and B public facilities, which includes the incremental demand of building permit applications for both development activities for which a Certificate of Concurrency has been issued and exempt development activity, when added to the projected demand from the applicant's development activity is equal to or less than the capacity required to maintain the level of service standard or is determined concurrent as provided for under this chapter.
- 2. Payment of any fee, performance of any condition, or other assurances may be required by the responsible agency prior to notification that the Test for Concurrency is passed. Said conditions and assurances shall be deemed to be conditions of approval of the development activity.
- 3. The following provisions shall apply to the Test for Concurrency:
 - a) The Community Development Division of the Public Works Department shall be notified of the results of a Test for Concurrency. The results of the Test for Concurrency for all Category A and B public facilities shall be recorded by the Public Works Department and the Public Works Department shall maintain a record of the results;
 - b) The documented results of a Test for Concurrency, as recorded by the Public Works Department, shall apply only to the specific land use types, densities, intensities, and the development project described in the application for the Test for Concurrency;
 - c) The documented results of a Test for Concurrency, as recorded by the Public Works Department, are not transferable to other land, but can be transferred to new owners of the original land subject to the conditions imposed by the responsible agency on the approval; and
 - d) The documented results of a Test for Concurrency, as recorded by the Public Works Department, shall expire if:

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- (i) the associated application for development activity is not submitted within one (1) year from the date the results of concurrency are recorded; or
 - (ii) if the development activity or authorization for the development activity expires, is rendered null and void, is relinquished, or is revoked.
- e) The expiration date of the documented results of a Test for Concurrency, as recorded by Public Works Department, may be extended according to the same terms and conditions as the associated approved development activity. If the development activity is granted an extension, so shall the documented results of a Test for Concurrency.
- f) If the associated development activity does not include an expiration date, the expiration date shall be two (2) years from the date of documentation of the results of the Test for Concurrency.

(Ord. C-90-98 [PLG-023-98], September 28, 1998, vol. 42, p. 489; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38; amended by Ord. C-115-00 [R-50-00], December 18, 2000, vol. 45, p. 134)

11.04.070 Test for Concurrency – Fail

The Test for Concurrency is not passed if the demand for a Category A or B public facility which includes (1) the existing demand; and (2) the incremental demand of building permit applications for both development activities for which a Certificate of Concurrency has been issued and exempt development activity, when added to the projected demand from the applicant's development activity is greater than the capacity required to maintain the level of service standard.

If no capacity is available for a Category A or Category B public facility, i.e. the public facility is operating below the adopted LOS, the Test for Concurrency fails for that facility, and the applicant has the following options:

- A. Resubmit for another Test for Concurrency at a later date when additional capacity may be available;
 - B. Arrange for the provision (correction of the deficiency) of the capacity needed; or
 - C. Appeal the results of the Test for Concurrency to the Hearing Examiner in accordance with the provisions of ICC 16.19. The applicant may appeal the results of the Test for Concurrency based on four grounds:
 - 1. A technical error;
 - 2. The applicant provided alternative data or, in the case of transit routes, County arterials, and intersections of regional significance, the applicant provided a transportation impact study that was rejected by the County;
 - 3. Unwarranted delay in review that allowed capacity to be given to another applicant;
- or

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- 4. Agency did not follow process required by this chapter.
- D. The fact that an applicant has a basis for an appeal is not in itself justification to uphold the appeal. The burden of proof that the denial was in error remains with the applicant.
- E. Appeals will be acted upon using the Type I decision procedures of ICC 16.19.
(Ord. C-90-98 [PLG-023-98], September 28, 1998, vol. 42, p. 489; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38; amended by Ord. C-115-00 [R-50-00], December 18, 2000, vol. 45, p. 134)

11.04.080 Level of Service Standards

The standards for levels of service of public facilities shall be as follows. These standards apply to the unincorporated area of the County.

A. Category A Public Facilities: (By definition Category A Facilities are County facilities and therefor do not include the intersection of County and State facilities nor transit routes on State facilities.)

- 1. County Roads (rural transit routes/rural arterials): LOS C
- 2. County Roads (urban transit routes/urban arterials): LOS D
- 3. County Transit routes/arterial intersections:
 - a) Intersections in rural areas: LOS C
 - b) Intersections in unincorporated UGAs: LOS D
- 4. Exceptions:
 - a) The LOS Standard for East Camano Drive, north of Camano Hill Road, Ault Field and Goldie Roads: LOS E
 - b) The LOS Standard for East Camano Drive, south of Camano Hill Road and north of Monticello Drive: LOS D

B. Category B Public Facilities:

- City/town arterials: As specified in the adopted Concurrency Ordinance of the involved city/town.
- Highways of Statewide Significance, including intersections with County arterials and transit routes: As adopted by the State and specified in the adopted Island County Capital Facilities Plan

(Ord. C-90-98 [PLG-023-98], September 28, 1998, vol. 42, p. 489; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38; amended by Ord. C-115-00 [R-50-00], December 18, 2000, vol. 45, p. 134; amended by Ord. C-42-04, April 12, 2004, vol. 2004, p. 106)

11.04.090 Intergovernmental Coordination

The County may enter into agreements with other local governments and the State of Washington to coordinate the imposition of impact mitigation for transportation impacts under SEPA. The County may apply transportation standards, fees and mitigations to development in the County that impacts other local governments and the State of Washington. Development approvals by the County may include conditions and mitigations that will be imposed on behalf of, and implemented by other local governments and the State of Washington. The County may receive impact fees or other mitigations based on or as a result of development proposed in other jurisdictions that impact the County.

The County may agree to accept and implement conditions and mitigations that are imposed by other jurisdictions on development in their jurisdiction. No fees or mitigations for transportation facilities of other agencies will be required by the County unless an agreement has been executed between the County and the affected agency. The agreement shall specify the level of service standards to be used by the County and the affected agency, which standards shall be consistent with the County's comprehensive plan and, if different than the standards adopted pursuant to this title, shall be adopted by ordinance.

(Ord. C-115-00 [R-50-00], December 18, 2000, vol. 45, p. 134)

11.04.100 Severability

The provisions of this ordinance are declared to be separate and severable. Should any section, clause, sentence, paragraph, subdivision, part, or portion of this ordinance, or the application thereof to any person or circumstance, be declared invalid or unconstitutional by a court of competent jurisdiction, such declaration shall not affect the validity or constitutionality of the remainder of the ordinance or its application to other persons or circumstances. Ordinances in conflict with the provisions of this ordinance are hereby superseded.

(Ord. C-90-98 [PLG-023-98], September 28, 1998, vol. 42, p. 489; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

11.04.110 Effective Date

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

(Ord. C-90-98 [PLG-023-98], September 28, 1998, vol. 42, p. 489; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38; amended by Ord. C-115-00 [R-50-00], December 18, 2000, vol. 45, p. 134)

Chapter 11.05¹³
Adequacy Ordinance

Sections:

- 11.05.010 Purpose**
- 11.05.020 Definitions**
- 11.05.030 Check for Adequacy - Applicability**
- 11.05.040 Check for Adequacy Procedures and Requirements**
- 11.05.050 Approval or Denial of Development Activity**
- 11.05.060 Level of Service Standards**
- 11.05.070 Severability**
- 11.05.080 Effective Date**

11.05.010 Purpose

The Capital Facilities Element of the County Comprehensive Plan defines and establishes categories of Public Facilities. The Capital Facilities Element also classifies certain public facilities according to these categories. The purpose of this chapter is to ensure that those Category C and D public facilities for which the State Subdivision Law, RCW 58.17.060 and 110, requires a finding that appropriate provisions have been made prior to preliminary approval and those public facilities necessary to support development activity in the form of building permits, are available and adequate to serve the development at the time when the impacts of development occur. To ensure that the specified Category C and D public facilities are or will be adequate, a Check for Adequacy will be required before approval of regulated divisions of land or the issuance of building permits.

An Adequacy Management Program unites capital facilities planning with local land use plans to ensure that adequate public facilities exist to accommodate new development. This chapter implements the adequacy requirements of the Capital Facilities Element and the Growth Management Act.

While the Capital Facilities Element and this chapter specify the level of service (LOS) standards for public facilities owned by the County, other political subdivisions, and municipalities, they

¹³ **Reviser's Note:** For a copy of the Island County Concurrency and Adequacy Management Program contact the Island County Public Works Department.

also contain LOS standards for certain non-County and privately-owned facilities. These facilities are deemed public by application of their definition under the controlling body of regulation. In the case of domestic water and sewer/septage this chapter's intention is to reflect the regulatory realities of water and sewer requirements for new development. As an example, GMA mandated the adoption of regulations that require "proof of water availability" prior to the issuance of a building permit. Such "proof" means adequacy will be determined and ensured. (Ord. C-108-98 [PLG-033-98], September 28, 1998, vol. 42, p. 487; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

11.05.020 Definitions

- A. **Adequate public facilities** means facilities that have the capacity to serve development without decreasing levels of service below locally established minimums.
- B. **Category C** means public facilities owned or operated by Island County but not subject to the requirement for concurrency. For the purposes of this chapter they are:
 - 1. Community parks (County owned parks)
 - 2. Municipal septage treatment facilities
 - 3. Surface and stormwater systems
- C. **Category D** means public facilities owned or operated by federal, state, or city governments, independent districts, or individual/private/community organizations but not subject to the requirement for concurrency. For the purposes of this ordinance they are:
 - 1. Domestic water systems;
 - 2. School facilities;
 - 3. Sanitary sewer/on-site sewage treatment systems;
 - 4. Surface and stormwater systems; and
 - 5. Transit systems (other than fixed service transit routes).
- D. **Community parks** means parks owned and operated by the County.
- E. **Correction** means a project(s) or strategy(ies) to correct existing or projected level of service deficiencies.
- F. **Development activity** means any proposal which will result in construction, development, earth movement, clearing, or other site disturbance and requires a permit, approval, or authorization from the County or is proposed by a public agency.
- G. **Level of service (LOS)** means an established minimum capacity of public facilities that must be provided per unit of demand or other appropriate measure of need.

- H. **Mitigation** means the avoidance or minimization of a development activity's impact upon an affected arterial or arterial intersection through such means as limiting or altering the proposed uses, intensities, or design of the development or by compensating for the impact by replacing, enhancing, or providing system improvements which provide additional capacity.
- I. **Public facility** means for the purposes of this chapter, the capital improvements and systems of each of the following facilities or services:
1. County Arterial roads/ County transit routes not including intersections with State facilities
 2. Domestic water (potable water supplies)
 3. Community parks
 4. Sanitary sewer/septage (sanitary wastes)
 5. Schools and school grounds
 6. Surface and stormwater management
 7. Transit, including transit stops
- J. **Transit** means a municipally owned and operated public transit service.
- K. **Transit routes** means County/city/town roads identified in the adopted Transportation Elements of the respective political subdivision used by Island Transit. Those roads used by Island Transit that are not identified in the referenced Transportation Elements will be considered for inclusion in the plans as transit routes during updates of the Transportation Elements and are not considered transit routes until they are so identified. For the purposes of this Chapter, transit routes do not include state facilities nor the intersection of state and County arterials/transit routes.
- L. **Transit stop** means a designated passenger pick-up and drop-off location on a transit route.

(Ord. C-108-98 [PLG-033-98], September 28, 1998, vol. 42, p. 487; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

11.05.030 Check for Adequacy – Applicability

The check for adequacy shall be performed only for certain public facilities that are designated herein as Category C or D public facilities and for which the State Subdivision Law, RCW 58.17.060 and RCW 58.17.110, requires a finding that appropriate provisions have been made for the specified public facilities prior to preliminary approval of the development activity. In the case of a building permit, the adequacy test is applied to those facilities required by the Uniform Building Code, as adopted by the County, the controlling public health, environmental health, drainage, and land development regulations.

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- A. For short subdivisions and subdivisions the specified public facilities are:
1. drainage ways (storm and surface water systems),
 2. community parks,
 3. potable water supplies,
 4. sanitary wastes,
 5. schools and school grounds,
 6. streets or roads, and
 7. transit stops.
- B. For building permits, as applicable under the governing statute, the specified public facilities are:
1. potable water supplies (Title 8 ICC);
 2. sanitary wastes (Title 8 ICC); and
 3. drainage ways (storm and surface water systems – Title 11 ICC).

(Ord. C-108-98 [PLG-033-98], September 28, 1998, vol. 42, p. 487; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

11.05.040 Check for Adequacy Procedures and Requirements

- A. Timing of the Check for Adequacy - The Check for Adequacy will occur:
1. during the preliminary approval process of those development activities regulated under the State Subdivision Law (RCW 58.17) and prior to preliminary approval. Except, that for streets or roads, the Test for Concurrency required by Chapter 11.04 ICC shall substitute for and replace the Check for Adequacy for “streets or roads”;
 2. prior to issuance of a building permit as required by the governing regulations.
- B. Check for Adequacy Procedures
1. Each responsible municipal agency owning/operating or having regulatory authority over the approval of a Category C or D public facility may establish an Administrative Adequacy Review Process. In the case of a non-County (Category D facility) municipal owner, the Administrative Adequacy Review Process may be in the form of an “Interlocal Agreement” pursuant to RCW 39.34. Regulatory or non-County municipal agencies are not required to adopt administrative procedures if the governing regulations sufficiently establish the review process.
 2. The Administrative Adequacy Review Process should contain a statement of the adopted LOS standards and how the LOS is measured. The responsible agency

Administrative Adequacy Review Process should also specify the information required by the responsible agency and:

- a) a review process for phased projects; and
 - b) as applicable, provisions for reserving capacity when only partial capacity is available for a specific development activity. If partial capacity is reserved, the applicant shall be required to modify the application consistent with the available capacity.
 - c) In those cases when the Category D facility owner/operator is an individual/private company/community organization, the check for adequacy process is fulfilled by adherence to the applicable regulatory requirements, e.g. water supply and on-site sewage treatment, of the approving health authority.
3. Upon receiving a complete application for a development activity regulated under RCW 58.17 or requiring a building permit, the Planning and Community Development Department shall forward a request for adequacy check, together with the relevant portion of the application, to the responsible agency which is reasonably likely to provide service to or regulate the development activity. Alternatively the applicant may submit, as part of the application, service agreements or proof of availability of service from non-County municipal providers for review by the governing regulatory agencies.
- C. Check for Adequacy Requirements for Municipal Owners. As a prerequisite of participation in the check for adequacy review process, the responsible agency for Category D public facility must:
1. have a valid adopted comprehensive plan which fulfills the requirements of WAC 365-195-315(1) (a), (b), (c), and (d) and which has been determined to be consistent with the County's Comprehensive Plan and takes into account the County's land use and population projections; and
 2. ¹⁴ have submitted to the County's planning agency a list of the agency's proposed public works planned for initiation or construction as required by RCW 36.70.520 for review/report under RCW 36.70.530.
- The County will notify municipal owners in writing on an annual basis whether or not they are in compliance with this section.
- D. Responsible agencies of Category C and D public facilities shall: (Note – In all cases submittal of a standard service agreement acceptable to the regulatory authority or proof of service availability by the applicant are acceptable alternatives to the following.)

¹⁴ **Reviser's Note:** The word "must" was omitted as it is redundant where placed in this ordinance.

1. Use the application information for the development activity, as provided by Planning and Community Development Department, to conduct the Check for Adequacy for their individual Category C or D public facilities;
 2. Provide the results of this analysis to the Public Works Department for the purposes of verifying that appropriate provisions have been made for the proposed development activity and for inclusion in the Capital Facilities Element update.
 3. Failure of the responsible agency to either provide the results of this analysis to the Public Works Department within the time limits established under ICC 16.19 for the type of development activity or to comply with this chapter shall be construed by the County to be a determination of “facility adequacy”, which shall be reflected into the County’s approval/disapproval of the development activity, unless the regulatory agency having approving authority over the public facility notifies the County in writing:
 - a) that capacity of the public facility for all or a portion of the development activity is not adequate either functionally or on a regulatory basis; and
 - b) of the system deficiencies and the corrections necessary; and
 - c) of the authority supporting the regulatory agency’s finding of inadequacy.
- E. Relationship to Other Reviews and Requirements
1. The Check for Adequacy Process does not defer, replace, or substitute for the reviews required under all other applicable regulations.
 2. The Check for Adequacy Process shall not affect the ability of a responsible agency to require payment of fees at any time during the permit review process.
 3. The Check for Adequacy shall be based upon the adopted level of service standards as specified in the County’s Capital Facilities Plan.
- F. Check for Adequacy - Pass
1. The Check for Adequacy is passed when the demand for Category C and D public facilities, which includes existing demand plus previously approved written service commitments/agreements issued by the public facility for service, when added to the projected demand from the applicant’s development activity is equal to or less than the capacity required to maintain the level of service standard or as provided for under this chapter unless the regulatory agency having approving authority over the public facility notifies the County in writing:
 - a) that capacity of the public facility for all or a portion of the development activity is not adequate either functionally or on a regulatory basis; and
 - b) of the system deficiencies and the corrections necessary; and

- c) of the authority supporting the regulatory agencies finding of inadequacy.
2. Payment of any fee, performance of any condition, or other assurances may be required by the responsible agency prior to notification that the Check for Adequacy is passed. Said conditions and assurances shall be deemed to be conditions of approval of the development activity.
3. The documented results of a Check for Adequacy, as recorded in the project record of the development activity by the Planning and Community Development Department, shall apply only to the specific land use types, densities, intensities, and the development project described in the application for the development activity.

G. Check for Adequacy – Fail

The Check for Adequacy is not passed if the demand for a Category C or D public facility, which includes existing demand plus previously approved written service commitments/agreements issued by the public facility for service, when added to the projected demand from the applicant's development activity is greater than the capacity required to maintain the level of service standard or if the regulatory requirements are not or cannot be fulfilled, as reported by the responsible agency or regulatory agency, in writing. If no capacity is available for a Category C or Category D public facility, the Check for Adequacy fails for that facility and the applicant has the following options:

1. Resubmit for another development application at a later date when additional capacity may be available;
2. Arrange for the provision (correction of the deficiency) of the capacity needed; or
3. Appeal the results of the Check for Adequacy in association with the decision-making process for the type of development activity. The applicant may appeal the results of the Check for Adequacy based on three grounds:
 - a) A technical error; or
 - b) Unwarranted delay in review that allowed capacity to be given to another applicant; or
 - c) Agency did not follow process required by this chapter.
4. The fact that an applicant has a basis for an appeal is not in itself justification to uphold the appeal. The burden of proof that the denial was in error remains with the applicant.

(Ord. C-108-98 [PLG-033-98], September 28, 1998, vol. 42, p. 487; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38; amended by Ord. C-78-99 [PW-37-99], July 12, 1999, vol. 43, p. 377)

11.05.050 Approval or Denial of Development Activity

- A. Approval of Development Activity. A development activity that complies with an adopted level of service standard for any Category C and D public facilities, as confirmed by the Check for Adequacy, as required by this chapter, may be approved so long as all other provisions of the applicable requirements of law are met.
- B. Denial of Development Activity. A development activity which does not comply with an adopted level of service standard for any Category C and D public facilities as confirmed by the Check for Adequacy, as required by this chapter, shall be denied.

(Ord. C-108-98 [PLG-033-98], September 28, 1998, vol. 42, p. 487; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

11.05.060 Level of Service Standards

The standards for levels of service of public facilities shall be as follows ("per person" means per capita total population, unless otherwise indicated). These standards apply to the unincorporated area of the County and include arterial roads in incorporated areas.

A. Category C Public Facilities

(The adopted Capital Facility Element establishes the LOS for Category C public facilities that are not listed below and are not specified in this section. The LOS standards for these facilities are established in the Capital Facilities Element for planning purposes only.)

- 1. Septage Treatment Facility: Eighty (80) gallons per year per residential equivalent
- 2. Community Parks: Three and a half (3.5) acres per one thousand (1,000) unincorporated
- 3. Surface and Stormwater Management Systems: Approving Authority Standard – Title 11 ICC

B. Category D Public Facilities

(The adopted Capital Facility Element establishes the LOS for other Category D public facilities that are not listed below and are not specified in this chapter. The LOS standards for these facilities are established in the Capital Facilities Element for Capital Facilities planning purposes only.)

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- 1. Domestic Water: Proof of Water Availability – Title 8 ICC
- 2. Sanitary Sewer: Approving Authority Standard – Title 8 ICC
- 3. School District Facilities: Site Conditions -- five (5) usable acres and one (1) additional usable acre per one hundred (100) students and for any school housing students above grade six, an additional usable five (5) acres, as specified in WAC 180-26-020.
- 4. Transit Service: Availability of Transit Service (The LOS methodology for transit service is detailed in the adopted Transportation Element.)

(Ord. C-108-98 [PLG-033-98], September 28, 1998, vol. 42, p. 487; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

11.05.070 Severability

The provisions of this ordinance are declared to be separate and severable. Should any section, clause, sentence, paragraph, subdivision, part, or portion of this ordinance, or the application thereof to any person or circumstance, be declared invalid or unconstitutional by a court of competent jurisdiction, such declaration shall not affect the validity or constitutionality of the remainder of the ordinance or its application to other persons or circumstances. Ordinances in conflict with the provisions of this ordinance are hereby superseded.

(Ord. C-108-98 [PLG-033-98], September 28, 1998, vol. 42, p. 487; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

11.05.080 Effective Date

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

(Ord. C-108-98 [PLG-033-98], September 28, 1998, vol. 42, p. 487; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

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