

## GEOLOGICALLY HAZARDOUS AREA COVENANT

This Development Information Bulletin (DIB) explains when a covenant is required and how it is applied through the Clearing and Grading review process.

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A Geologically Hazardous Area Covenant is required 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 is an acknowledgment by the landowner that the area is recognized as being geologically hazardous; it is an agreement to disclose these conditions to future landowners, and it releases the County from any liability in issuing the permit. Geologically Hazardous Areas include nearly all shoreline bluffs in Island County (see DIB 511). The covenant will include a legal description of the property, a description of the geologic hazard determined to be present on or associated with the property, and the following language:

1. *“Pursuant to Section 11.02.170 Island County Code (ICC), this covenant is to be signed by the site owner(s) and acknowledged prior to issuance of any permit or approval in a geologically hazardous area or other area of potential hazards due to soils, erosion, or drainage conditions. Following permit issuance, this covenant is to be filed for record with the Island County Auditor by the PROPERTY OWNER, at the expense of the PROPERTY OWNER, so as to become part of the Island County real property records.*
2. *The PROPERTY OWNER hereby acknowledges that the activity proposed through the referenced permit application is located within a geologically unstable area. Geologically unstable areas include those areas susceptible to the effects of erosion, sliding, earthquake, or other geologic events. These unstable areas pose a threat to the health and safety of citizens when incompatible residential, commercial, industrial, or infrastructure development is sited in such areas. Geologic hazards also 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.*
3. *The PROPERTY OWNER acknowledges that some geologic hazards can be reduced or mitigated, but not eliminated, through proper engineering, design, or modified construction practices so that risks to health and safety are acceptable.*
4. *To this purpose, for the protection of the general public and not any specific individual or class of individuals, Island County places certain restrictions on development and use within geologically unstable areas.*
5. *The PROPERTY OWNER recognizes that the property is considered to be unstable and is subject to periodic failure. Issuance of an Island County permit does not guarantee stability. The permit may establish conditions of development reflecting natural processes, geology, and long term erosion rates which may have been identified by qualified privately contracted professionals who have been hired by the PROPERTY OWNER. The PROPERTY OWNER, his or her heirs, executors, administrators, successors and assigns, jointly and severally,*

*understand and accept the responsibility for the risks associated with development on property located within a geologically hazardous area or other unstable area and agree to those conditions stipulated in the permit and agree to conform to those conditions.*

6. *As applicable, the PROPERTY OWNER, successors and assigns agree to inform potential purchasers and lessees of the risks associated with the referenced property pursuant to the disclosure requirements of Section 11.02.180 ICC, attached hereto as Attachment 1.*
7. *The PROPERTY OWNER, for himself or herself, his or her heirs, executors, administrators, successors and assigns, jointly and severally, does hereby waive the right to assert any claim against Island County, its officials, agents, employees, and contractors, by reason of or arising out of issuance of the permit 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.*
8. *This constitutes a covenant that runs with the herein-described land.”*

Following are specific instructions on obtaining, recording, and returning your covenant form.

#### **How do I get the Covenant form?**

The contact person listed on the permit application will be contacted prior to issuance of the Clearing and Grading Permit or underlying permit. The contact person will be given a covenant that must be signed and notarized by the property owner and recorded with the auditor's office. The contact person is then responsible for bringing a copy of the recorded covenant to the Planning and Community Development Permit Center; after that the Clearing and Grading Permit may be issued.

#### **What do I do with the Covenant form?**

- Read and understand the Covenant form.
- Sign the Covenant form and have it notarized.
- Bring 2 copies of your notarized Covenant form (the Auditor's office will retain 1 copy), Parcel Summary Report, and a copy of your parcel's legal description to the Auditor's Office to be recorded.
- Bring one copy of the notarized Covenant and a receipt from the Auditor's Office (stating the covenant has been recorded) to the Planning and Community Development Permit Center.

#### **How do I obtain my parcels' legal description?**

If you do not already have a copy of your parcels' deed you may contact any of the following three agencies. These agencies have asked that you have your tax parcel number (a series of numbers beginning with the letter "R" or "S") available and last name of the parcel owner. Call one of the below agencies and ask for Customer Service and they will be happy to assist you. The legal description may be mailed, faxed, or picked up in person, however the agencies prefer 1 to 2 days advance notice. The service is free, however, if you do not have a tax parcel number there may be a charge.

- First American Title of Island County

265 Kettle Street, Oak Harbor  
(360) 675-2286

- Island Title Company  
770 NE Midway Blvd., Oak Harbor or 5589 S. Harbor Avenue, Freeland  
(360) 675-0733 (360) 331-8131
- Land Title Company of Island County  
1080 NE 7<sup>th</sup> Avenue, Oak Harbor or Freeland  
(360) 675-2246 (360) 331-4838

**Where is the Auditor's Office?**

The Auditor's Office is located on the first floor of the Administration Building in Coupeville.

**How do I disclose this information to future landowners?**

Prior to selling, leasing, or offering for sale or lease any property within a geologically hazardous area that has been the subject of a geotechnical report required by Island County, the prospective buyer or lessee must be given notice of the property condition and any restrictions that may apply. A sample disclosure form will be included with the covenant form.

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*IMPORTANT NOTE - "Development Information Bulletins" (DIBs) are intended to assist the general public in understanding the effect of codes and regulations. DIBs are not complete statements of the laws and rules and should not be used as a substitute for them. If conflicts and questions arise, the code and regulations are the final authority. Because these regulations may be revised or amended at any time, consult Island County staff to be sure you understand all current requirements before beginning any work. It is the responsibility of the applicant to ensure that the project meets requirements of all current codes and regulations.*

**ISLAND COUNTY PLANNING & COMMUNITY DEVELOPMENT DIVISION**

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