

Exhibit D

Implementation Code Changes

Exhibit D-1

Changes to ICC 3.40

ordinary high water mark (OHWM); this area is within the Shoreline jurisdiction, and is based on the Shoreline Master Program; and there must be no structures within 200 feet from the edge of an associated wetland boundary. If there is a bluff, any buildings must be at least 200 feet back from the edge of the bluff in a "Natural" Shoreline Environment. Eligibility for this resource category cannot overlap with the "Conservancy Shoreline Environment" category or other wetland categories of the Public Benefit Rating System.

E. Significant Fish and Wildlife Habitat Conservation Areas, Species and Habitats of Local Importance, Category A and B Wetlands and Special Plant Sites

1. Definitions

- a) **Significant Fish and Wildlife Habitat Conservation Areas.** Those areas identified as being of critical importance to the maintenance of fish and wildlife species including areas with which endangered, threatened, and sensitive species have a primary association; habitats and species of local importance; streams; commercial and recreational shellfish areas; kelp and eelgrass beds; herring and smelt spawning areas; state natural area preserves, and state natural resource conservation; or
- b) **Species and Habitats of Local Importance**
 - (i) Those areas containing vascular plant species as identified and listed in the Natural Heritage Program as being either endangered, threatened, or sensitive and areas identified in the Natural Heritage Program as high quality ecosystems.
 - (ii) Those areas or species designated as Species or Habitats of Local Importance set forth in Chapter 17.02-ICC. 17.02B ICC
- c) **Category A and B Wetlands.** Wetlands that are classified Category "A" or "B" by Chapter 17.02A ICC and "A" by Chapter 17.02 ICC.
- d) **Special Plant Sites**
 - (i) Those sites where preservation, restoration or enhancement of native plant communities is maintained subject to an approved management plan, or
 - (ii) Those areas where Blue Flag Iris (*Iris missouriensis*) can be identified or where the property owner proposes a management plan to introduce and maintain a population of Blue Flag Iris.

2. Sources

- a. Those areas containing vascular plant species as identified and listed in Department of Natural Resources (DNR) the Natural Heritage Program as being either an endangered, threatened, or sensitive and areas identified in the Natural Heritage Program as high quality ecosystems.
- b. Those features identified on the Critical Area Maps maintained by Island County.

Comment [WU1]: Changes to reflect updated code
WS 5-7-14

3. Eligibility

- a) Areas which have a primary association with federally- or state-listed endangered, threatened, or sensitive species of fish or wildlife, and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term. A Habitat Management Plan shall be submitted which identifies the area to be protected and appropriate mitigation, management and/or protection strategies that will be employed.
- b) Habitats and species of local importance are to be based on the following criteria:
 - (i) The species or habitat is native to the County;
 - (ii) Locally declining populations that are in danger of extirpation;
 - (iii) Sensitivity to habitat manipulation; and
 - (iv) Commercial, game, other special value.
 - (v) A Habitat Management Plan shall be submitted which identifies the area to be protected and appropriate mitigation, management and/or protection strategies that will be employed.
- c) Streams, provided that the stream buffer is at least twice the size of that required under Chapter 17.02B ICC. Buffer averaging shall not be utilized;
- d) Commercial and recreational shellfish areas, provided that the fish and wildlife habitat conservation area buffer is at least twice the size of the largest applicable buffer that required under Chapters 17.02 or 17.02B ICC. Buffer averaging shall not be utilized;
- e) Kelp and eelgrass beds; herring and smelt spawning areas, provided that the fish and wildlife habitat conservation area buffer is at least twice the size of that the largest applicable buffer required under Chapters 17.02 or 17.02B ICC. Buffer averaging shall not be utilized;
- f) State natural area preserves and natural resource conservation areas;
- g) Sites listed in the Natural Heritage database as containing endangered, threatened, or sensitive vascular plant species or high quality ecosystems, or which are verified by an expert in the field as containing the same plants or communities and which are acceptable by the state agency for addition to the database. A Habitat Management Plan shall be submitted which identifies the area to be protected and appropriate mitigation, management and/or protection strategies that will be employed; and
- h) Eligible sites are those wetlands classified Category "A" or "B" by Chapter 17.02A ICC or Category "A" by Chapter 17.02 ICC.

Items a) through h) listed above require protection through easements, or voluntary buffers in those cases where buffers are not established through Chapter 17.02 or 17.02A or 17.02B ICC and, in certain cases, shall require preparation and submittal of

Comment [WU2]: Changes to reflect updated code
-WS 5-7-14

Comment [WU3]: Changes to reflect updated code
-WS 5-7-14

Comment [WU4]: Changes to reflect updated code
-WS 5-7-14

Comment [WU5]: Changes to reflect updated code
-WS 5-7-14

Exhibit D-2

Changes to ICC 16.06

16.06.040 Definitions

Whenever the following words and phrases appear in this Chapter, they shall be given the meaning attributed to them by this section. When not inconsistent with the context, words used in the present tense shall include the future; the singular shall include the plural and the plural the singular; the word "shall" is always mandatory and the word "may" indicates a use of discretion in making a decision. Capitalized words and phrases identify terms defined in this Chapter, other Chapters in Title 16 or Chapters contained in Title 17 ICC.

Alteration: Any change to the boundaries of Lots within a recorded Final Short Plat or Final Plat which does not qualify as a Boundary Line Adjustment, Lot Combination, boundary line correction, Withdrawal or Vacation; any change in easements or areas dedicated to the public; or, any change in conditions of approval of such a Plat.

Alteration of a Critical Area: As defined in Chapters 17.02, 17.02A, or 17.02B ICC as such Chapters may be amended.

Comment [WU1]: Changes to reflect updated code - BJ - 5-6-2014

Applicant: Any Person who files an Application for Land Division who is either the Person(s) identified in the Assessor's Records as the Owner of Property on which that proposed activity would be located; or the authorized agent of such a Person.

Application: The information required to complete the review of a Land Division under this Chapter as set forth in ICC 16.06.060.

Block: A group of Lots, Tracts, or Parcels within well defined and fixed boundaries.

Boundary Line Adjustment: The adjustment of boundary lines between platted or unplatted Lots or both, which creates no additional Lot, or which creates no additional Lot that contains insufficient area and dimension to meet minimum requirements for width and area for a building site. The combination of two or more Lots where no public Dedication is modified, is a Lot Combination and is not a Boundary Line Adjustment.

Certificate of Title: A certificate from a title company identifying the record Owner(s) of property and any Person or entity having a legal interest in the property.

Contiguous: Land adjoining and touching other property including lands separated from each other by Private Road or private right-of-way.

Critical Areas: As defined in Chapters 17.02, 17.02A, or 17.02B ICC as such Chapters may be amended.

Comment [WU2]: Changes to reflect updated code - BJ - 5-6-2014

Dedication: The deliberate appropriation of land by an Owner for any general and public uses, reserving to himself no other rights than such as are compatible with the full exercise and enjoyment of the public uses to which the property has been devoted. Acceptance of a Dedication by the County is evidenced by the recording of a Final Plat or Short Plat.

Facilities Providing Personal Wireless Services: Unstaffed facilities that are used for the transmission or reception, or both, of wireless communication services including, but not necessarily limited to, antenna arrays, transmission cables, equipment shelters, and support structures.

Final Plat: The final drawing of the Subdivision and Dedication prepared for filing of record with the Island County Auditor, and containing all elements and requirements set forth in this Chapter.

ICC 16.06.060

11. Reports and determinations that are required by County Critical Area Regulations, Chapters 17.02, 17.02A, and 17.02B ICC:

Comment [WU3]: Changes to reflect updated code - BJ - 5-6-2014

B. Boundary Line Adjustments. All Applications for Boundary Line Adjustments shall include:

1. The Application requirements set forth in subsection A.1.a) through d) and A.2 also apply to Boundary Line Adjustments.
2. Legible Boundary Line Adjustment map prepared, on paper not larger than 8.5" by 14", drawn to scale, which shall include the following for all Lots involved in the adjustment. Where location of a feature or Structure is required, a site specific survey by a registered land surveyor is encouraged but not required. If the proposed boundaries are not determined by site specific survey, a notation shall be placed by the County on the face of the map approved by the Planning Director stating that the boundaries have not been formally surveyed:
 - a) North indicated with an arrow;
 - b) Use a scale such as; 1" to 100 feet; or whatever engineering or architectural scale which will allow the greatest detail on a single map;
 - c) Approximate area calculations for the existing and proposed Lots;
 - d) Approximate location of any significant natural features, such as Critical Areas and their associated buffers;
 - e) Section, Township, Range and Assessor's Parcel Number for all Parcels;
 - f) Names of adjacent streets and easements with access shown to the adjusted Parcels;
 - g) Approximate location of all existing Structures;
 - h) Approximate location of drainfields and well sites; and
 - i) Signature and address of Person who prepared the map.
3. Legal Description of each revised Lot or Parcel.

Formatted: Indent: Left: 0.75", Hanging: 0.38"

Comment [WU4]: Added reference to critical areas and their buffers. This is important because 17.02B does not allow lots to be created that are entirely constrained by Critical Areas and Critical Area buffers. We wouldn't want to allow lots to be created through a BLA that are not buildable so this information needs to be included in the application materials and shown on the proposed map.

C. Modification of Application Requirements. The Planning Director may waive or modify any Application requirements deemed unnecessary or redundant to the purposes of this Chapter, to adapt to specific and unique site conditions, or to allow adjustment for projects of limited scale and impact. Provided that any action taken by the Planning Director pursuant to this Section may be appealed as provided in ICC 16.06.050.

16.06.070 Boundary Line Adjustments

- A. Criteria for Approval of a Boundary Line Adjustment. The Planning Director shall approve all complete Boundary Line Adjustment Applications for adjustments which are consistent with the following criteria:
1. The Lots involved in the adjustment are Contiguous legally created Lots;

ICC 16.06.070.A

2. The proposed adjustment would not create any additional Lot, Tract or Parcel and will not create a split-Zoned Parcel;
3. Except as provided in subsection 8 below, the proposed adjustment would not create a Lot of insufficient width or dimension to meet the minimum Lot size required in the Zone in which the Lot(s) is/are located;
4. Except as provided in subsection 8, the proposed adjustment would not cause an existing Structure to fail to comply with required setbacks;
5. Except as provided in subsection 8, the adjustment would not violate the conditions of another permit or approval issued by County;
6. Legal means of access to a public or Private Road is clearly provided for or waived by the Applicant. Waiver shall be noted clearly on the face of the map approved by the Planning Director;
7. The Applicant acknowledges in writing that compliance with all applicable County Codes including those contained in Titles 8, 11, 13 and 17 ICC will be required before development of the modified Lots is permitted. This statement shall be noted by the County clearly on the face of the map approved by the Planning Director.
8. Adjustment among existing Lots. For adjustments among two (2) or more Lots in which one (1) or more of the Lots involved in the adjustment is smaller than the current zoning classification, the adjustment would allow a Lot to more nearly conform to the Lot size or setback requirements of Chapter 17.03 ICC or create more buildable Lot configurations. For example, a smaller Lot may be made larger by reducing the size of a larger Lot so that, on balance, greater conformity is achieved.
9. The adjustment shall not result in the creation of a lot which lacks an Adequate Building Site as defined in Chapter 17.02B ICC.

Formatted: Font: Not Bold

Comment [WU5]: Needed for consistency with ICC 17.02B.400.A

B. Approval of a Boundary Line Adjustment.

The Planning Director shall affix an official stamp or statement to the map stating that the adjustment is consistent with this section. The approved Boundary Line Adjustment Application, map, and legal descriptions shall be recorded with the Island County Auditor. If the Lots involved in the adjustment are in separate Ownership, proper transfer of title of the property shall be recorded. The Boundary Line Adjustment becomes final upon recording.

16.06.080 Lot Combinations and Boundary Line Corrections

Any proposed adjustment of boundary lines which meets the criteria established in this Section may be recorded with no review by the County.

A. Boundary line corrections must meet all of the following criteria:

1. Survey by a land surveyor determines that:

Exhibit D-3

Changes to ICC 16.13

ICC 16.13.100

4. Flood elevation variances and appeals of administrative decisions/interpretations of the Flood Damage Prevention Ordinance;
5. Administrative appeals regarding Zoning Code enforcement; Zoning variances; interpretations of the Zoning Code; certificates of Zoning Compliance; and Zoning Setback Reduction;
6. All State Environmental Policy Act (SEPA) Threshold Determination appeals;
7. Appeals of enforcement orders issued by the Planning Director, including those orders where the civil penalties for violation are set forth in RCW 90.58.210;
8. Revocation of Approvals or Permits issued under Title 16 or 17 ICC;
9. Appeal of Site Plan Review for Conditional Uses classified as a Type II Decision under Chapters 17.03 and 16.19 ICC;
10. Appeals of charges pursuant to ICC 15.02.130 and 15.02.075.B.4 regarding the Storm and Surface Water Utility, Marshall Drainage Basin, and appeals of rate adjustments and classification changes pursuant to ICC 15.03.130 and 15.03.075.B.4;
11. Appeals of decisions of the Public Works Director under Chapters 11.02, 11.03 and 11.04 ICC; and
12. Appeals of decisions of the Island County Building Official under Chapter 14.01A ICC;
13. Appeals of Type II Decisions issued under Chapter 17.02B ICC;

Comment [WU6]: Added this provision in order to allow Examiner to hear appeals of Type II Critical Areas Permits (Permitted Alteration Permits). - BJ - 5-6-2014

B. Appealable Decisions (Type III). The decision of the Examiner on the following matters shall be final unless such decision is appealed as provided in ICC 16.19.170, WAC 173-17-060 (Shoreline Civil Penalties), or Chapter 16.21 ICC (Shoreline Administration); or is appealed in accordance with RCW 90.58.180 (Shorelines Hearings Board appeals):

1. Shoreline substantial development permit, Conditional Use, and variance permits when the underlying permit requires a hearing; rescission of such permits;
2. Preliminary Plat applications;
3. Critical Area alterations as provided in Chapter 17.02 ICC;
4. Site Plan Review for Conditional Uses classified as Type III Decisions in Chapters 17.03 and 16.19 ICC;
5. Planned Residential Development applications for five (5) or more Dwelling Units;
6. Civil penalties associated with shoreline cease and desist orders;
7. Commercial Agriculture Zoning verifications; and
8. Rezones classified Type III Decisions by Chapters 17.03 and 16.19 ICC;
9. Critical Area Variance requests as provided in Chapter 17.02B ICC;

Comment [WU7]: Added this provision to grant the examiner the authority to issue decisions on Type III Critical Area Variances - BJ - 5-6-2014

16.13.110 Limited Jurisdiction

The Examiner shall have no jurisdiction over:

Exhibit D-4

Changes to ICC 16.14C

16.14C.030 Additional Definitions

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

- A. **Department** means any division, subdivision or organizational unit of the County established by ordinance, rule, or order.
- B. **SEPA rules** means Chapter 197-11 WAC adopted by the Department of Ecology.
- C. **Ordinance** means the ordinance, resolution, or other procedure used by the County to adopt regulatory requirements.
- D. **Early notice** means the County's response to an applicant stating whether it considers issuance of a determination of significance likely for the applicant's proposal (mitigated determination of nonsignificance [DNS] procedures).
- E. **Lands Covered by Water:** As used in Chapter 197-11 WAC, lands covered by water refers to wetlands, streams and deep water habitat regulated by Chapters 17.02, 17.02A and 17.02B ICC and to lands below the ordinary high water mark of shorelines regulated by the Shoreline Master Program.

Comment [WU8]: Added to reflect new code chapter - BJ - 5-6-2014

16.14C.040 Designation of Responsible Official

- A. For those proposals for which the County is the lead agency, the responsible official shall be the Island County Planning Director.
- B. For all proposals for which the County is the lead agency, the responsible official shall make the threshold determination, supervise scoping and preparation of any required environmental impact statement (EIS), and perform any other functions assigned to the lead agency or responsible official by those sections of the SEPA rules that were adopted by reference in WAC 173-806-020.
- C. The County shall retain all documents required by the SEPA rules (Chapter 197-11 WAC) and make them available in accordance with Chapter 42.14 RCW.

16.14C.050 Lead Agency Determination and Responsibilities

- A. The Department within the County receiving an application for or initiating a proposal that involves a nonexempt action shall determine the lead agency for that proposal under WAC 197-11-050 and 197-11-922 through 197-11-940, unless the lead agency has been previously determined or the Department is aware that another Department or agency is in the process of determining the lead agency.
- B. When the County is not the lead agency for a proposal, all Departments of the County shall use and consider, as appropriate, either the DNS or the final EIS of the lead agency in making decisions on the proposal. No County Department shall prepare or require preparation of a DNS or EIS in addition to that prepared by the lead agency, unless required under WAC 197-11-600. In some cases, the County may conduct supplemental environmental review under WAC 197-11-600.

16.14C.160

11. Historic Preservation Districts Ordinance (Chapter 16.18A ICC);^{8B}
12. Shoreline Management Ordinance and Shoreline Management Master Program and Master Program Use Requirements (Chapters 16.21 and 17.05 ICC);
13. Zoning Ordinance (Chapter 17.03 ICC);
14. Comprehensive Plan (Chapter 16.10 ICC);
15. Storm and Surface Water Utility Ordinance (Chapters 15.01 and 15.02 ICC);
16. Memorandum of Understanding between DOE and Island County re Water Source Coordination dated 12/10/90;
17. Island County Protocol for Review of Applications within Areas of Archaeological Significance;
18. Gravel Mining Operation Policy; and
19. Critical Area Regulations (Chapter 17.02 ICC).
20. Critical Area Regulations (Chapter 17.02A ICC);
21. Critical Area Regulations (Chapter 17.02B ICC);

- E. Except for permits and variances issued pursuant to Chapters 16.21 and 17.05 of the Island County Code, when any proposal or action is conditioned or denied on the basis of SEPA by a nonelected official, the decision may be appealed as provided in Chapter 16.19 ICC.
- F. Any decision to approve, deny, or approve with conditions pursuant to RCW 43.21C.060 shall be contained in the approving authorities' decision document. The written decision will contain facts and conclusions based on the proposal's specific adverse environmental impacts (or lack thereof) as identified in an environmental checklist, EIS, threshold determination, other environmental document including a County staff report and recommendation to a decision maker, or findings made pursuant to a public hearing authorized or required by law or ordinance. The decision document will state the specific plan, policy or regulation which supports the SEPA decision and, if mitigation beyond existing development regulations is required, the specific adverse environmental impacts and the reasons why additional mitigation is needed to comply with SEPA.

16.14C.170 Appeals

Administrative and judicial appeals of procedural and substantive determinations under SEPA shall be as set forth in Chapter 16.19 ICC.

16.14C.173 Notice/Statute of Limitations

^{8B} **Reviser's Note:** Historic Preservation Districts Ordinance (Chapter 16.18A ICC) repealed by Ord. C-84-05 [PLG-017-04], July 25, 2005. See Chapter 17.04 ICC for development standards as they pertain to Ebey's Landing National Historical Reserve.

Comment [WU9]: Reference to 17.02A was needed. Not part of this update effort but is a simple fix.

Comment [WU10]: Included reference to new critical areas Chapter - BJ - 5-6-2014

197-11-928	Lead Agency for Public and Private Proposals
197-11-930	Lead Agency for Private Projects with One Agency with Jurisdiction
197-11-932	Lead Agency for Private Projects Requiring Licenses From More Than One Agency, When One of the Agencies is a County/City
197-11-934	Lead Agency for Private Projects Requiring Licenses From a Local Agency, Not a County/City, and One or More State Agencies
197-11-936	Lead Agency for Private Projects Requiring Licenses From More Than One State Agency
197-11-938	Lead Agencies for Specific Proposals as amended on 11/10/97
197-11-940	Transfer of Lead Agency Status to a State Agency
197-11-942	Agreements on Lead Agency Status
197-11-944	Agreements on Division of Lead Agency Duties
197-11-946	DOE Resolution of Lead Agency Disputes
197-11-948	Assumption of Lead Agency Status as amended on 11/10/97

16.14C.190 Environmentally Sensitive Areas

A. Island County may designate environmentally sensitive areas under the standards of WAC 197-11-908 and shall file maps designating such areas, together with the exemptions from the list in WAC 197-11-908 that are inapplicable in such areas, with the Island County Auditor and the Department of Ecology, Headquarters Office, Olympia, Washington. The environmentally sensitive area designations shall have full force and effect of law as of the date of filing.

B. Island County has selected the following categorical exemptions that will not apply in Critical Areas as defined in Chapter 17.02B ICC:

1. WAC 197-11-800(1); and
2. WAC 197-11-800(2)(a) through (g); and
3. WAC 197-11-800(6)(a); and
4. WAC 197-11-800(23)(a) through (d); and
5. WAC 197-11-800(24)(g)

C. The scope of environmental review associated with actions within the areas identified above shall be limited to the following:

1. Documenting whether the proposal is consistent with the requirements of Chapter 17.02B ICC; and
2. Evaluating potentially significant impacts on the Critical Area resources not adequately addressed by Island County Code requirements and permit application

Comment [WU11]: This section was added in order to implement ICC 17.02B.040.C
Formatted: Tab stops: 0.75", Left

Formatted: Indent: Left: 0", Hanging: 0.75", Tab stops: 0.38", Left

Formatted: Tab stops: 0.75", Left

Comment [WU12]: These exemptions were chosen from the list in the applicable WAC to exclude those activities which are related to routine maintenance, or which Island County typically has no jurisdiction over. Those activities which do not involve any material change or construction were also excluded.

Formatted: Indent: Left: 0.38"

16.14C.190

materials, if any, including any additional mitigation measures needed to protect Critical Areas in order to achieve consistency with SEPA and other applicable environmental review laws.

- DB. The County shall treat proposals located wholly or partially within an environmentally sensitive area no differently than other proposals under this Chapter, making a threshold determination for all such proposals. The County shall not automatically require an EIS for a proposal merely because it is proposed for location in an environmentally sensitive area.
- EC. Certain exemptions do not apply on lands covered by water, and this remains true regardless of whether lands covered by water are mapped.

16.14C.200 Fees

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

- A. **Threshold determination.** For every environmental checklist the County will review when it is lead agency, the County shall collect a fee pursuant to the fee schedule adopted by the Board of County Commissioners from the proponent of the proposal prior to undertaking the threshold determination. The time periods provided by this Chapter for making a threshold determination shall not begin to run until payment of the fee. When the County completes the environmental checklist at the applicant's request or under ICC 16.14C.090.C of this Chapter, an additional fee pursuant to the above-referenced fee schedule shall be collected.
- B. **Environmental impact statement.**
 - 1. When the County is the lead agency for a proposal requiring an EIS and the responsible official determines that the EIS shall be prepared by employees of the County, the County shall charge and collect a reasonable fee from any applicant to cover costs incurred by the County in preparing the EIS. The responsible official shall advise the applicant(s) of the projected costs for the EIS prior to actual preparation; the applicant shall post bond or otherwise ensure payment of such costs.
 - 2. The responsible official may determine that the County will contract directly with a consultant for preparation of an EIS, or a portion of the EIS, for activities initiated by some persons or entity other than the County and may bill such costs and expenses directly to the applicant. The County may require the applicant to post bond or otherwise ensure payment of such costs. Such consultants shall be selected by mutual agreement of the County and applicant after a call for proposals.
 - 3. If a proposal is modified so that an EIS is not longer required, the responsible official shall refund any fees collected under 1 or 2 of this subsection which remain after incurred costs are paid.
- C. The County may collect a reasonable fee from an applicant to cover the cost of meeting the public notice requirements of this Chapter relating to the applicant's proposal.

Exhibit D-5

Changes to ICC 16.15

16.15.040.A

16. Copies of soil logs registered with the County Health Department as required by Chapter 8.07 ICC;
17. If available, as-built drawings for Existing septic systems;
18. Documents that show means of legal access if the property does not abut a public road;
19. Environmental Checklist if required by Chapter 16.14C and Chapter 197-11 WAC; and
20. Reports and determinations that are required by the County Critical Areas Ordinance, Chapters 17.02, 17.02A, and 17.02B ICC;

Comment [WU13]: Revised to include 17.02A and 17.02B - BJ - 5-6-2014

- B. A legible map that shall include or show the requirements listed below. Where location of a feature or Structure is required, a site specific survey by a registered land surveyor is encouraged but not required:
1. Location and approximate dimensions of boundaries of land proposed to be developed, showing the full extent of the Parcel(s) upon which the proposed Site Plan is located;
 2. All contiguous property in ownership of Applicant;
 3. If applicable, location of proposed Open Space;
 4. Approximate location and dimensions of Existing and proposed Structures and other improvements, such as drainfields, wells, driveways, and fences;
 5. Approximate location of Existing and any accesses proposed to all Lots. Include, if available, Existing access permit numbers;
 6. Approximate location, width, and name of every recorded easement, right-of-way for public service or utilities, serving or affecting the subject property and Existing and proposed Public and Private Roads within or adjacent to the proposal;
 7. Approximate location of Existing drainage patterns and systems;
 8. If applicable, nature and location of proposed temporary and permanent stormwater systems;
 9. Approximate location of Existing and proposed utilities, including well sites;
 10. Approximate location of soil test holes;
 11. Approximate location, to scale appropriate map, of the natural features of the site, including but not limited to:
 - a) Ravines and slopes greater than thirty-five percent (35%) with tops and toe of slope identified;
 - b) Critical areas and their buffers on site or off-site when they may affect the proposal; and
 - c) Shorelines and approximate line of ordinary high water mark;

16.15.060

health, safety, or welfare of the County in conformance with the standards of this Chapter, Chapter 17.02 ICC, ~~Chapter 17.02A ICC, Chapter 17.02B ICC,~~ and Chapter 17.03 ICC.

Comment [WU14]: Revised to reference ICC 17.02A and ICC 17.02B

- F. The proposed use and its design fulfill the definition of rural character as defined in Chapter 17.03 ICC.
- G. Proposals within the Rural Agriculture or Commercial Agriculture Zones shall not be located on prime agricultural soils or interfere with agricultural use of the land.

16.15.070 Decision Making Authority

In approving an application for a Nonresidential conditional use in the R, RR, RA, RF, or CA Zones, including home industries, the decision-making authority may impose conditions to protect the rural character surrounding the proposed use and to preserve the purpose of the underlying zone. Any such conditions shall be supported by a written finding and have a direct nexus to and be limited to those specific actions necessary to protect the rural character for any specific project. These conditions may include, but are not limited to, the following:

- A. Increasing the required parcel size, buffer width or yard dimensions;
- B. Limiting the height, size, or location of buildings and structures;
- C. Controlling the location and number of vehicle access points;
- D. Limiting the hours and days of operation;
- E. Increasing the number of required off-street parking or loading spaces;
- F. Limiting the number, size, location or lighting of signs;
- G. Requiring fencing, screening, or landscaping to protect adjacent or nearby property;
- H. Prescribing exterior finish for buildings or additions thereto;
- I. Designating areas for open space;
- J. Prescribing a time limit within which to fulfill any established conditions; and
- K. Such conditions shall be recorded against the title of the property with the Island County Auditor.

16.15.080 Criteria for Approval

- A. No application for Site Plan Review shall be approved unless it meets the requirements of this section. No development pursuant to an approved Site Plan shall be undertaken unless it meets the requirements of Titles 8, 11, 13 and 17 ICC pertaining to such development.
 - 1. Open Space. Provide Open Space in the amount required by Chapter 17.03 ICC. The location, use and design shall meet the following standards:
 - a) Include critical areas designated and regulated by Chapters 17.02, 17.02A, and 17.02B ICC; and
 - b) Include areas of prime soils identified by NRCS.

Exhibit D-6

Changes to ICC 16.17

16.17.040.A

5. Legal description of the real property;
 6. Zoning classification;
 7. Approximate size (acreage or square feet) of the total property;
 8. If known by the applicant, date the Parcel(s) were created as legal Lot;
 9. If applicable, number of Lots to be created;
 10. Proposed source of water supply, including the name of the provider if to be served by a public system;
 11. Proposed method of sewage disposal, including the name of the district with jurisdiction, if to be served by sanitary sewer;
 12. Such fees as set by the Board;
 13. If applicable, Certificate of Transportation Concurrence;
 14. Assessor's Quarter Section Maps including the following information:
 - a) Subject property;
 - b) Contiguous properties in the same ownership;
 - c) All Parcels within a three-hundred (300) foot radius of the subject property; and
 - d) Names and mailing addresses of property owners of Parcels referenced above.
 15. Copies of soil logs registered with the Island County Health Department as required by Chapter 8.07 ICC;
 16. If available, as-built drawings for existing septic systems;
 17. Documents that show means of legal access if the property does not abut a public road;
 18. Environmental Checklist if required by Chapter 16.14C and Chapter 197-11 WAC; and
 19. Reports and determinations that are required by Island County Critical Area Ordinance, regulations under Chapters 17.02, 17.02A, and 17.02B ICC.
- B. A legible map that shall include or show the requirements listed below. Where location of a feature or Structure is required, a site specific survey by a registered land surveyor is encouraged but not required:
1. Location and approximate dimensions of boundaries of land proposed to be developed, showing the full extent of the Parcel(s) upon which the proposed PRD is located;
 2. All contiguous property in ownership of Applicant;
 3. Location of proposed Open Space, Community Area and recreation areas;

Comment [WU15]: Added to include updated regulations - BJ - 5-6-2014

16.17.070 Specific Criteria for Approval

A. No application for PRD approval shall be approved unless it meets the requirements of this section. No development pursuant to an approved PRD shall be undertaken unless it meets the requirements of Titles 8, 11, 13, 16 and 17 ICC.

1. Preservation of natural features.

- a) Proposed Structures, Uses and Roads shall be located to minimize disturbance to natural features by, for example, minimizing tree and soil removal.
- b) Open Space, in the amount required by Chapter 17.03 ICC, shall be clearly defined and protect natural features in the following order of importance or priority:
 - (i) first, include critical areas designated and regulated by Chapters 17.02, 17.02A, and 17.02B ICC;
 - (ii) second, for CA and RA zoned lands include areas of prime agricultural soils identified by NRCS;
 - (iii) third, include areas useful for wildlife and fish and wildlife habitat; and
 - (iv) fourth, include natural features, identified by the Applicant, that are important to the overall design of the PRD.
- c) When site conditions permit, Open Space aggregation is encouraged into one contiguous area and shall not include private yards.

2. Relationship of proposed Structures, Uses and Roads to site and surrounding area.

- a) Dwelling units shall be grouped in Clusters with each Dwelling Unit having visual and/or physical access to Open Space.
- b) No more than six (6) Dwelling Units shall be included in a Cluster.
- c) A Cluster shall be separated from other Clusters by at least two hundred (200) feet of Open Space, except this requirement may be reduced if required to protect natural features or if the proposed separation provides a sight obscuring Buffer.
- d) When natural vegetation exists, Structures, Uses and roads shall be located so they are Screened from Public Roads and Adjacent Properties.
- e) Placement of Structures, Uses or Roads on undisturbed, forested ridgelines should be sited to minimize tree and soil removal.
- f) Lighting fixtures shall be shielded, hooded and oriented towards the ground so that direct rays of light from the lighting sources are not visible past the property boundaries. The maximum number of lighting fixtures should be adequate to light the Use for safety, security, operations and visibility, appropriate to the type of Use.

Comment [WU16]: Revisions to reflect new regulations - BJ - 5-6-2014

Exhibit D-7

Changes to ICC 16.19

16.19.040.B

TABLE B
Permit Classifications

CODE CHAPTER	I	II	III	IV
Chapters 11.02, 11.03, 11.04, 14.01A, 16.06, 16.14, 16.15, 16.17, 17.02, 17.02A, 17.02B, 17.03, 17.05		Any otherwise Type I application/decision not exempt from SEPA threshold determinations		
Chapters 11.02, 11.03 and 11.04	Administrative Determinations exempt from SEPA threshold determinations			
Chapter 14.01A	Building Permits exempt from SEPA threshold determinations			
Chapter 15.02	Storm and Surface Water Utility Charges			
Chapter 15.03	Clean Water Utility Rate Adjustments and/or Classification Changes			
Chapter 16.06	Administrative Determinations Boundary Line Adjustments Final Subdivision and Short Subdivision Decisions that are all exempt from SEPA threshold determinations	Preliminary Short Subdivision Decisions Alterations, Withdrawal or Vacation of a Short Subdivision	Preliminary Subdivision Decisions Alterations, Withdrawal or Vacation of a Subdivision	
Chapter 16.14C	SEPA categorical exemption decisions for Type I Decisions	SEPA categorical exemption decisions and SEPA threshold determinations for Type II Decisions	SEPA categorical exemption decisions and SEPA threshold determinations for Type III Decisions	
Chapter 16.15	Administrative Determinations exempt from SEPA threshold determinations	Administrative Conditional Uses (see 16.15 and 17.03)	Quasi-Judicial Conditional Uses (see 16.15 and 17.03)	

Comment [WU17]: Added notation to reflect new code chapter - BJ - 5-6-2014

-- CONTINUED ON NEXT PAGE --

16.19.040.B

TABLE B (Continued)
Permit Classifications

CODE CHAPTER	I	II	III	IV
Chapter 16.17	Administrative Determinations exempt from SEPA threshold determinations Permitted Use/Reasonable Use Determinations Adaptive Management Orders Administrative Determinations Single Family On Existing Lot Wetland Map Corrections Rural Stewardship Plans Voluntary Improvement Plans that are all exempt from SEPA threshold determinations Exemption Authorizations	PRDs of 4 or less units Permitted Use/Reasonable Use Determinations Reasonable Use Compliance Restoration Plans Permitted Alteration Permits	PRDs of 5 or more units Alterations of Deepwater Habitat or FWHCA Permitted Use/Reasonable Use Determinations Base Density Exceptions Critical Area Variances	Designation of Habitats or Species of Local Importance
Chapter 17.02, and 17.02A, and 17.02B	Animal Management Plan RA, and RF Rezones Temporary Use Approvals Permitted Uses Farm (BMP) Management Plan that are all exempt from SEPA threshold determinations	Zoning Code Interpretations Zoning Variances Zoning Setback Reductions Certificates of Zoning Compliance Administrative Conditional Uses Enforcement Orders	Quasi-Judicial Conditional Uses CA, RA and RF Rezones Revocations of Permits and Approvals	Special Review District Approvals Zoning Code Amendments Farm/EDU Management Plan Approvals CA/RA/RF Verifications Designation of Existing Master Planned Resorts
Chapter 17.03	Shoreline Exemptions Administrative Determinations exempt from SEPA threshold determinations	Shoreline Substantial Development Permits Shoreline CUP and Variances	Shoreline Permit Approvals for Quasi-Judicial Uses	Shoreline Master Program Amendments

Exhibit D-8

Changes to ICC 17.02

**TITLE XVII
ZONING**

Chapters:

- 17.02 Old Island County Critical Areas Ordinance**
- 17.02A New Island County Critical Areas Ordinance**
- 17.02B Island County Critical Areas Regulations**
- 17.03 Island County Zoning Code**
- 17.04 Ebey's Landing National Historical Reserve (Superseded by 17.04A)**
- 17.04A Ebey's Landing National Historical Reserve Design Review and Community Design Standards**
- 17.05 Shoreline Use Regulations**

Comment [WU1]: Added new chapter title to reflect addition of 17.02B

17.02.040

2. Unless an Owner or applicant elects voluntarily to comply with the Critical Area requirements of Chapter 17.02A ICC, all Agricultural practices, on lands that contain or are affected by Critical Areas or Critical Area Buffers, shall comply with this Chapter.

B. **Applicability.** This section shall apply to all properties referenced in subsection A which contain or are affected by Critical Areas or Critical Areas Buffers except as specifically noted below. Designated critical areas are:

1. Wetlands. Wetlands are regulated pursuant to the Wetlands Overlay Zone, ICC 17.02.050.A, the Land Use Standards governing wetlands, deepwater habitats and their surrounding buffers, ICC 17.02.060, 17.03.260.I and the Land Development Standards, Chapter 11.01 ICC.
2. Fish and Wildlife Habitat Conservation Areas. ~~Fish and Wildlife Habitat Conservation Areas are regulated pursuant to the Fish and Wildlife Habitat Conservation Areas Overlay Zone, ICC 17.02.050.C, the health regulations governing the design and installation of on-site sewage systems, Chapter 8.07D ICC, and the Land Development Standards, Chapter 11.01 ICC.~~ Fish and Wildlife Habitat Conservation Areas shall be regulated as follows:
 - a) Until such time that the updated Island County Shoreline Master Program adopted by Resolution C-125-12 is approved by the Washington State Department of Ecology, Fish and Wildlife Habitat Conservation Areas within the jurisdiction of the Island County Shoreline Master Program (SMP) and the Washington State Shoreline Management Act (SMA) shall be regulated by this Chapter.
 - b) Upon approval by the Washington State Department of Ecology of the updated Shoreline Master Program adopted by Resolution C-125-12, Fish and Wildlife Habitat Conservation Areas within the jurisdiction of the Island County Shoreline Master Program (SMP) and the Washington State Shoreline Management Act (SMA) shall be regulated by the Island County SMP.
 - c) Fish and Wildlife Habitat Conservation Areas outside of the jurisdiction of the Island County Shoreline Master Program (SMP) and the Washington State Shoreline Management Act (SMA) shall be regulated by the provisions of Chapter 17.02B ICC.
 - d) Fish and Wildlife Habitat Conservation Areas shall also be regulated pursuant to health regulations governing the design and installation of on-site sewage systems, Chapter 8.07D ICC, and the Land Development Standards, Chapter 11.01 ICC.
3. Geologically Hazardous Areas. Geologically hazardous areas are regulated pursuant to ICC 17.02.050.B, and Chapters 11.02 and 11.03 ICC. Geologically Hazardous Areas include Erosion Hazard Areas, Landslide Hazard Areas, Seismic Hazard Areas, Coal Mine Hazard Areas, Volcanic Hazard Areas, and Tsunami Hazard Areas.
4. Frequently Flooded Areas or Floodplains. Frequently flooded areas, also referred herein to as floodplains, are regulated pursuant to the Flood Damage Prevention Ordinance, Chapter 14.02A ICC.

Formatted: Indent: Left: 0.75", Hanging: 0.25"

Comment [WU2]: These changes were needed in order to clarify applicability of various protection standards until the updated SMP is approved by DOE. BJ - 5-8-2014

Exhibit D-9

Changes to ICC 17.02A

17.02A.090 Wetlands

- A. Regulated Wetlands
- B. Wetland Mapping
- C. Wetland Identification
- D. Land Use Intensity
- E. Wetland Classification System
- F. Wetland Buffers
- G. Wetland Buffer Modification
- H. Wetland Mitigation Standards
- I. Wetland Mitigation Ratios
- J. Wetland Mitigation Plan
- K. Wetland Mitigation Banks

17.02A.100 Fish and Wildlife Habitat Conservation Areas (see Chapter 17.02 ICC)

17.02A.110 Severability

17.02A.120 Effective Date

17.02A.010 Authority

- A. This Chapter shall be known as the New Island County Critical Areas Ordinance (New CAO) and is hereby adopted under the authority of Chapters 36.70, 36.70A, 39.34, 43.21C, 58.17, 76.09, 84.33, 84.34 and 90.58 RCW.
- B. The New CAO is to be administered flexibly with attention to site-specific characteristics of Critical Areas. The New CAO shall not make any parcel or Lot unusable; or deny an Owner Reasonable Use; or prevent the provision of needed public transportation and utility projects.

17.02A.020 Designated Critical Areas

This Chapter shall apply to all properties located in Island County that contain or are affected by designated Critical Areas or Critical Area Buffers except as noted below. Designated Critical Areas are:

- A. Wetlands. Wetlands are regulated by this Chapter, Chapters 17.02 and 17.03 ICC; the health regulations governing the design and installation of on-site sewage systems; the Land Development Standards Ordinance, Chapter 11.01 ICC; the Clearing and Grading Ordinance, Chapter 11.02 ICC; the Storm Water Management Ordinance, Chapter 11.03 ICC; and the Shoreline Master Program, Chapter 17.05 ICC.
- B. Fish and Wildlife Habitat Conservation Areas. Fish and Wildlife Habitat Conservation Areas shall be regulated as follows:
 - 1. Until such time that the updated Island County Shoreline Master Program adopted by Resolution C-125-12 is approved by the Washington State Department of Ecology, Fish and Wildlife Habitat Conservation Areas within the jurisdiction of the Island County Shoreline Master Program (SMP) and the Washington State Shoreline Management Act (SMA) shall be regulated by Chapter 17.02 ICC.

Formatted: Indent: Left: 0.5"

17.02A.020

2. Upon approval by the Washington State Department of Ecology of the updated Shoreline Master Program adopted by Resolution C-125-12, Fish and Wildlife Habitat Conservation Areas within the jurisdiction of the Island County Shoreline Master Program (SMP) and the Washington State Shoreline Management Act (SMA) shall be regulated by the Island County SMP.
3. Fish and Wildlife Habitat Conservation Areas outside of the jurisdiction of the Island County Shoreline Master Program (SMP) and the Washington State Shoreline Management Act (SMA) shall be regulated by the provisions of Chapter 17.02B ICC.
4. Fish and Wildlife Habitat Conservation Areas shall also be regulated pursuant to health regulations governing the design and installation of on-site sewage systems, Chapter 8.07D ICC, and the Land Development Standards, Chapter 11.01 ICC. Fish and Wildlife Habitat Conservation Areas are regulated by Chapters 17.02 and 17.03 ICC; the health regulations governing the design and installation of on-site sewage systems, Chapter 8.07D ICC; and the Land Development Standards, Chapter 11.01 ICC.

Comment [WU3]: These changes were needed in order to clarify applicability of various protection standards until the updated SMP is approved by DOE. BJ - 5-8-2014.

- C. Geologically Hazardous Areas. Geologically hazardous areas are regulated by Chapters 11.02 and 11.03 ICC.
- D. Frequently Flooded Areas or Floodplains. Frequently flooded areas, also referred to herein as floodplains, are regulated by the Flood Damage Prevention Ordinance, Chapter 14.02A ICC.
- E. Areas with a Critical Recharging Effect on Aquifers Used for Potable Water or Aquifer Recharge Areas. Areas with a critical recharging effect on aquifers used for potable water, also referred to herein as aquifer recharge areas, are regulated by sections ICC 8.09.097 and 8.09.099 of Potable Water Source and Supply regulations and the Land Development Standards, Chapter 11.01 ICC.

17.02A.030 Definitions

Unless expressly noted otherwise, words and phrases that appear in this Chapter shall be given the meaning attributed to them by this section. When not inconsistent with the context, words used in the present tense shall include the future; the singular shall include the plural and the plural the singular; the word "shall" is always mandatory and the words "may" and "should" indicate a use of discretion in making a decision. Capitalized words and phrases identify a term defined in this Chapter; other Chapters of Title 17; or Chapters contained in Title 16.

Accessory Use or Structure: A Use or Structure customarily considered incidental to or secondary to a Permitted Use or an approved Conditional Use on a Lot or on adjacent Lots under the same ownership. Examples of Accessory Structures include, but are not limited to, sheds, shops, garages, greenhouses, barns, Guest Cottage, etc.

Adaptive Management: A systematic process for continually improving management policies, regulations and practices by learning from the outcomes of previous policies, regulations and practices.

17.02A, 030

Growing Season: The time of year where natural conditions permit the growth of vegetation. Typically the Growing Season begins in mid to late February and ends by October 31.

Habitat: The physical location or type of environment in which a species lives or occurs. One Wetland Function is to provide Habitat for Wetland Dependent Species.

Habitat Management Plan: For Wetlands, a site-specific plan for Maintaining, Re-establishing, Rehabilitating, Enhancing, Creating or Preserving Habitat for a Wetland Dependent Species. For Fish and Wildlife Habitat Conservation Areas, specific requirements for a Habitat Management Plan (HMP) are set forth in Chapter 17.02B ICC.

Comment [WU4]: Added citation

Habitat of Local Importance: An area designated by the County pursuant to Chapter 36.70A RCW. Once designated a Habitat of Local Importance the area becomes a Critical Area. The procedure and criteria for such designations are set forth in Chapter 17.02 ICC and the areas that have been designated are listed in Appendix A to that Chapter.

Habitat Rating System: The procedure for assigning a Habitat score to a Wetland, as defined by the *Washington State Wetland Rating System for Western Washington – Revised* or a comparable procedure established by the County.

High Intensity Agriculture: Shall mean existing and on-going agriculture including dairies, animal feeding operations and concentrated animal feeding operations as those terms are used in federal and state regulations and livestock operations with an Animal Unit density greater than three (3) per acre.

Highly Erodible Soils: Soils that show extensive ongoing erosion as a result of land uses, or that have a “severe” or “very severe” susceptibility to erosion from water according to the NRCS. These include the following mapped soil series:

- Alderwood fine sandy loam (Ab)
- Alderwood fine sandy loam (Ac)
- Alderwood gravelly sandy loam (Af)
- Bow loam (Bc)
- Bozarth fine sandy loam (Be)
- Carbondale muck (Ca)
- Casey fine sandy loam (Cc, Cd)
- Casey loam (Cf, Cg)
- Coveland loam (Cn, Co)
- Everett gravelly sandy loam (Ee)
- Greenwood peat (Ga)
- Hovde sand (Ha)
- Hoypus coarse sandy loam (Hd)
- Hoypus gravelly loamy sand (Hg)
- Indianola loamy sand (Ib, Ic)
- Keystone loamy sand (Kd, Ke)
- Mukilteo peat (Mb, Mc)
- Pondilla fine sand (Pa)
- Rifle peat (Ra, Rb)
- Semiahoo muck (Sc, Sd)
- Swantown loam (Sm)

Native Species: Plants and animals which are indigenous to Island County. Plant species are defined in *Flora of the Pacific Northwest* (C. Leo Hitchcock and Arthur Cronquist, University of Washington Press).

Non-Native Plant Species: Plant species which have been introduced into Island County. For plants, Non-Native Species are defined in *Flora of the Pacific Northwest* (C. Leo Hitchcock and Arthur Cronquist, University of Washington Press).

Non-Residential: Describes the Use of a Structure for Commercial, Institutional, Light Manufacturing or similar Uses. Non-Residential is not used to characterize Agricultural or Forest Uses.

NRCS BMPS: Shall mean the current adopted and recommended farm management practices of the Natural Resource Conservation Service.

Planning Director: The Planning and Community Development Director of Island County, Washington, or his or her authorized representative, referred to herein as Director or Planning Director.

Practical: As used herein, appropriate; useful; sensible; or likely to be effective.

Preservation: A Mitigation action or actions that remove a threat to or prevent the decline of a Category A, B or C Wetland that would otherwise be Altered by a Development Proposal. Preservation is also referred to as protection or maintenance. *See*, Mitigation.

Protected Species: Species of flora and fauna listed by the federal government or the State of Washington as endangered, threatened or sensitive which are present in Island County and those species of flora and fauna which, while not necessarily endangered or threatened, are determined by Island County to be worthy of a higher level of protection than other species and are designated as Species of Local Importance under Chapter 17.02B ICC.

Comment [WU5]: Changed citation

Re-establishment: An action or actions that return natural or historic Functions to a former Wetland or Wetland Buffer. *See*, Mitigation.

Reasonable: As used herein, rational; logical; realistic; in accordance with common sense; or not expecting more than is possible or achievable.

Reasonable Use: The logical or rational use of a specific Parcel of land which a person can be expected to conduct or maintain fairly and appropriately under the specific circumstances, considering the size of the Lot, the type of Use or Structure proposed and similar Uses and Structures in the general vicinity of the Lot, that are Permitted Uses consistent with and conforming to current regulations.

Rehabilitation: An action or actions that repair or revitalize natural or historic Functions of a degraded Wetland or Wetland Buffer. *See*, Mitigation.

Relict Bog: A Wetland comprised predominantly of plants that are listed as Bog species in Table 3 of the *2004 Wetland Rating System* prepared by the Washington State Department of Ecology but otherwise does not meet the definition of Bog.

Resident Salmonid Stream: A fresh water Stream that has been determined by the County to contain resident salmonids. A Resident Salmonid is a member of the salmonid family whose life history, *i.e.*, spawning, rearing and maturation, occurs in freshwater. Cutthroat

17.02A.030

trout and steelhead trout are members of the salmonid family. North Bluff, Dugualla and Chapman Streams have been designated Resident Salmonid Streams. County maps identify the location of these Resident Salmonid Streams.

Resident Salmonid Stream Wetland: A Wetland that has a Wetland Outlet that connects the Wetland directly to a Resident Salmonid Stream or is within 500 feet of a Resident Salmonid Stream in an uphill direction and within the same Watershed.

Residential: Describes the Use of a Structure by a Family as a Dwelling Unit and may also include Home Occupation, Accessory Uses, or Structures. Residential is also used to describe a geographic area where Permitted Uses are typically Residential in character.

Restoration: An action or actions to repair, revitalize or otherwise return to their previous functioning condition Critical Areas or Critical Area Buffers. Restoration is required for Critical Areas or Critical Area Buffers when it is not Practical and Reasonable to avoid or reduce a proposed Alteration or which have been lost or damaged through unauthorized Alteration activities and natural regeneration processes are found to be inadequate to restore the functions of the Critical Area or Critical Area Buffer. Restoration requirements for unauthorized Alterations are found in ICC 17.03.260.I.

Rural Stewardship Plan: A detailed site plan prepared voluntarily by or for an Owner that establishes the location for authorized Permitted Uses, the location and classification of Critical Areas and Critical Area Buffers and Best Management Practices for the long term Use of the property. A Rural Stewardship Plan is a voluntary option available to all Owners of Lots one (1) acre or larger in size.

Single-Family Dwelling: A Structure designed or used for residential purposes by not more than one (1) family and containing one (1) Dwelling Unit. A Mobile Home or Mobile/Manufactured home, including a Modular Home, shall be considered a Single-Family Dwelling.

Slope Gradient: The average slope, expressed as a percent, found within a Contributing Area measured from Wetland Edge to the nearest part of the Development Proposal. LiDAR imagery available from the Department may be used in this determination.

Small Contributing Area: A Contributing Area for a Wetland that is less than 10 times the surface area of the Wetland. A Wetland with a Small Contributing Area will require a larger Wetland Buffer because it is likely to be more sensitive to changes in water quality.

Small Ponded Wetland: A non-Estuarine Wetland with visible evidence of water forming a contiguous surface area of at least one (1) acre in any part of the Wetland during most of the Growing Season for a normal year. See, Large Ponded Wetland.

Source Identification: Sampling that is specific to an identified Watershed or portion of a Watershed intended to determine the source of an Exceedence in Water Quality Standards or Thresholds or the source of any other impairment of a Wetland.

Species of Local Importance: Plants or animals designated by the County pursuant to Chapter 36.70A RCW. The procedure and criteria for such designations are set forth in Chapter 17.02B ICC and the designated Species of Local Importance are listed in Appendix A to that Chapter.

Comment [WU6]: Changed citation

building permit is required. Residential Agriculture includes uses that are considered Accessory Uses under Chapter 17.03 ICC. Accessory Uses must be incidental to or secondary to a single family dwelling. Examples of Residential Agriculture include vegetable/flower gardens or orchards normally associated with a rural home and animal husbandry involving less than one (1) Animal Unit per two and one-half (2.5) acres. This Exemption does not allow further intrusion into a Wetland, Fish and Wildlife Habitat Conservation Area, Geologically Hazardous Area or their Buffers.

- G. **Selective Vegetation Removal.** Removal of the following vegetation from Critical Areas and/or Critical Area Buffers provided that, the following conditions are met:
1. The removal or control of noxious weeds listed in Chapter 16-750 WAC; and
 2. The removal or control of Invasive Species including, Himalayan Blackberry and Evergreen Blackberry shall be with hand labor, herbicides and/or light equipment. Use of heavy equipment may be allowed if approved by the Planning Director. All herbicide applications in aquatic environments shall conform to the rules of the Department of Ecology, Department of Agriculture and Department of Natural Resources, pursuant to Chapters 173-201, 16-228, and 222 WAC; and
 3. All noxious weeds or Invasive Species removed from a Critical Area or Critical Area Buffer shall be removed using Best Management Practices and shall be taken away and disposed of appropriately. Revegetation with appropriate Native plant Species at natural densities is allowed in conjunction with the removal.
- H. **Passive Activities.** Provided no gasoline powered, motorized boats or equipment are used, conservation, recreation, education and scientific research activities within Critical Areas and Critical Area Buffers including fishing, hunting, hiking and bird watching. Installation of fences to protect Habitat and trails in Buffers is allowed provided Best Management Practices adopted by the County are implemented.
- I. **Removal of Beaver.** The control, trapping and removal of Beaver from Critical Areas or Critical Area Buffers provided no Alteration occurs except the removal of the Beaver dam and the control, trapping or removal is authorized by the Washington State Department of Fish and Wildlife (DFW) through the issuance of a Hydraulic Project Approval (HPA).

17.02A.070 Critical Area Mitigation

A. General Mitigation Standards

1. Mitigation shall be required to compensate for any approved Alteration of a Wetland or Fish and Wildlife Habitat Conservation Area or Buffer for these Critical Areas. Mitigation requirements shall be established after determining that the Alteration cannot be avoided, reduced or Restored as required by ICC 17.02A.040.A.5.
2. Unless clearly specified otherwise, all Mitigation required under this Chapter shall be based on an approved Mitigation Plan. Mitigation Plan requirements for Wetlands are set forth in ICC 17.02A.090 and for Fish and Wildlife Habitat Conservation areas in Chapter 17.02B ICC. All Mitigation shall be Monitored, typically by the Applicant, and a Contingency Plan shall be required for any approved Mitigation.

Comment [WU7]: changed citation

3. All Mitigation projects shall be Monitored, typically by the applicant, for a time period necessary to establish that Mitigation goals and benchmarks have been met. The Monitoring time period shall be established based on the type, complexity and uncertainty of the proposed Mitigation. Five years of Monitoring will usually be the minimum required to establish whether Mitigation has successfully achieved equal or improved Wetland Functions. Ten years may be typical for Re-establishment, Rehabilitation or Creation.
4. Reports shall be submitted at a frequency established by the Planning Director for the Monitoring time period to document the achievement of Mitigation goals and benchmarks and recommended actions relating to the Mitigation.

K. Wetland Mitigation Banks

The County may approve Mitigation in advance of Development Proposals through an approved Mitigation Bank. Mitigation Banks may be approved by the County when:

1. The bank is certified by the Washington State Department of Ecology;
2. The Planning Director determines that the Wetland Mitigation Bank provides appropriate compensation for the authorized Alteration;
3. The Proposed use of credits is consistent with the terms and conditions of the Bank's certification;
4. Replacement ratios for projects using Bank credits shall be consistent with replacement ratios specified in the Bank's certification;
5. Credits from a certified Wetland Mitigation Bank may be used to compensate for impacts located within the service area specified in the Bank's certification. In some cases, the service area of the Bank may include portions of more than one adjacent Drainage Basin for specific Wetland Functions.

17.02A.100 Fish and Wildlife Habitat Conservation Areas (See ICC 17.02.050C and Chapter 17.02B ICC)

Comment [WU8]: added citation

17.02A.110 Severability

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

17.02A.120 Effective Date

Chapter 17.02A ICC shall go into effect on July 1, 2008.

Exhibit D-10

Changes to ICC 17.03

- O. Permit a broad range of development design opportunities with flexibility to encourage more creativity in balancing the needs of environmental protection with the accommodation of future growth;
- P. Provide for timely and predictable regulatory review processes which are proportional in scale, time and cost, to the scope and scale and costs of proposed development actions;
- Q. Provide predictability so that landowners can make appropriate and reasonable use of their land;
- R. Protect the County's environmental resources; and
- S. Ensure that archaeological resources are protected as required by state statutes, the County's Comprehensive Plan and the implementation of development regulations.

17.03.030 User Guide

Three different sections of the Zoning Code need to be consulted to understand what land Use activity can be conducted in the County. First, turn to the applicable Zone classification. You will find both Permitted and Conditional Uses. Second, once you have located your intended Use, check the definition section for the definition of special terms, ICC 17.03.040. Capitalized words and phrases identify a defined term. Third, check to see if special conditions or land Use standards are applicable to the Use. You will find these standards in the land Use standards section, ICC 17.03.180. If you find no special standards for a listed Use, then none are expressly required by this Zoning code. Though not typically used, site specific conditions may be imposed to address impacts of a proposal. Other Chapters of Title 17 may also require compliance. Chapters 17.02, 17.02A, and 17.02B Critical Areas and Chapter 17.05 Shoreline Use Regulations may impose special standards and in some cases limit Uses otherwise allowed by the Zoning Code. For example, Chapter 17.05 ICC provides for and establishes standards for some specific shoreline uses. Other titles of the Island County Code may also need to be consulted as well, such as Health (Title 8), Land Development Standards (Title 11), Public Works (Title 13), Building (Title 14) and Planning and Subdivision (Title 16).

- B. A user may wish to consult the Island County Comprehensive Plan to understand the applicable goals and policies. Under state law, the Zoning Code must be consistent with, and implement the Comprehensive Plan. Therefore, if a conflict between the Plan and the Zoning Code arises, the Plan will control. Any other conflict will be resolved by applying the more stringent code standard.
- C. Three summary charts are included in this section listing uses covered expressly by the Zoning Code: ICC 17.03.035A, Agricultural and Forest Uses; ICC 17.03.035B, Rural Uses; and ICC 17.03.035C, Rural Non-Residential Uses. Do not assume, because a Use is not listed that it is prohibited. Through code interpretation, ICC 17.03.190, the Planning Director is authorized to determine the appropriate classification for Uses not listed expressly in the Zoning Code.

17.03.035 Use Tables

17.03.035A Permitted and Conditional Uses in the Rural Agriculture and Commercial Agriculture Zones

How to use this chart: This chart is intended to assist you in learning what uses may be established in the Rural Agriculture (RA) and Commercial Agriculture (CA) Zones and the type of permit that may be required. Within the columns that are labeled "Permitted" and "Conditional" you will see a I, II, III or

17.03.040 Definitions

Unless expressly noted otherwise, words and phrases that appear in this Chapter shall be given the meaning attributed to them by this section. When not inconsistent with the context, words used in the present tense shall include the future; the singular shall include the plural and the plural the singular; the word "shall" is always mandatory and the words "may" and "should" indicate a use of discretion in making a decision. Capitalized words and phrases identify a term defined in this Chapter; other Chapters of Title 17; or Chapters contained in Title 16. Unless otherwise noted, the words and phrases defined in this section shall apply, unless a more specific definition is provided in another Title or Chapter of Island County Code.

Accessory Living Quarters: A separate living quarters contained within the primary residence. Accessory living quarters are subject to the requirements and conditions provided in ICC 17.03.180.

Accessory Use or Building: A Use, Structure or Building customarily considered to be incidental to or secondary to a Permitted Use or an approved Conditional Use on the property or on adjacent properties under the same Ownership. Examples of accessory Buildings or Structures include, but are not limited to, sheds, shops, garages, greenhouses, barns, Guest Cottage, etc. Examples of accessory uses include Home Occupation and Bed and Breakfast Room in the Rural Zone and Office and Food Service in the Light Manufacturing Zone.

Adjacent Property: Properties which share all or part of a common Lot Line.

Adult Family Home: A regular family abode of a person or persons who are providing personal care, room, and board to more than one but not more than four (4) adults who are not related by blood or marriage to the person or persons providing the services; except that a maximum of six (6) adults may be permitted if DSHS determines that the home is of adequate size and the home and the provider are capable of meeting standards and qualifications set forth in Chapter 18.22 Langley Municipal Code.

Affordability Covenant: A recorded legal restriction that runs with the land and imposes a limitation on rental or sale of a Dwelling Unit which has been used by an Owner to secure the approval of bonus density for Affordable Housing.

Affordable Housing: Attached or Detached Dwelling Units committed by recorded Affordability Covenant to allow renters or Owners with a median income less than eighty (80) percent of Island County median income, as established by the U.S. Census, to spend no more than thirty (30) percent of gross income on housing costs.

Aggrieved Person: A qualified Person who uses the County's administrative appeal process to appeal a decision of the County, pursuant to Chapter 16.19 ICC.

Agricultural Zone, Commercial: The zoning classification applied to certain designated lands of long term commercial significance in order to protect and encourage their long term productive use.

Agriculture Zone, Rural: The zoning classification applied to certain designated lands of local importance in order to protect and encourage their long term productive use.

Agricultural/Farm Use: The current Use of land for the primary purpose of raising, harvesting and/or selling crops or the feeding, breeding, management and/or sale of, or the production of, Livestock, poultry, fish, fur-bearing animals or honeybees or for dairying and/or the sale of dairy products or any other agricultural or horticultural Use or animal husbandry or any combination thereof. Farm Use includes the preparation and Storage of the products raised on such land for human Use and

Comment [WU1]: This statement is included to make it clear that the more specific definitions contained in other code Chapters such as 17.02B take precedence over this section. - BJ - 5-7-2014

17.03.050.C

established in this Chapter and Chapter 16.19 ICC. Prior to the effective date of this Chapter, one (1) copy of a series of maps at a scale of 1" = 1000 ft. shall be filed with the Island County Auditor to illustrate the Zoning Atlas. Thereafter, an updated map shall be filed with the Auditor annually.

3. Specific source maps for zoning classifications include:
 - a) Island County Soil Survey, Soil Conservation Service, (Scale 1" = 2,640 feet), August, 1958, Agriculture.
 - b) Productivity, Operability Overlay, Wash. State Department of Natural Resources, (Scale 1" = 1,000 feet), prepared for Wash. Department of Revenue for private forest land Grading to implement Chapter 187, Laws of 1974.
 - c) 1997 aerial photographs prepared by Walker and Associates.
4. Certain areas have also been mapped as Overlay Zones. Generally, except for the potential UGA Expansion Area Overlay these areas are defined and regulated by Chapters 17.02, 17.02A, and 17.02B ICC. Shoreline areas are also subject to additional regulations and mapped shoreline environment designations. Uses in these areas are governed by Chapter 17.05 ICC.
5. Designation criteria have been established for certain Zone classifications. These written criteria control when there is a conflict between the criteria and the Zone depicted in the Zoning Atlas.

Comment [WU2]: Added reference to other critical area chapters - BJ - 5-8-2014

D. **Interpretation of Boundaries.** The following rules shall be used to determine the precise location of any Zone boundary shown on the Official Zoning Map of Island County:

1. Boundaries shown as following or approximately following the limits of any city or town shall be construed as following such limits.
2. Boundaries shown as following or approximately following streets shall be construed to follow the centerlines of such streets.
3. Boundary lines which follow or approximately follow platted Lot Lines, Assessor's Parcel property lines or other established property boundaries shall be construed as following such lines.
4. Boundaries shown as following or approximately following section lines, half-section lines, or quarter-section lines shall be construed as following such lines.
5. Boundaries shown as following or approximately following shorelines of any lakes or Puget Sound shall be construed to follow the mean high waterlines of such bodies of water, and, in the event of change in the mean high waterline, shall be construed as moving with the actual mean high waterline.
6. Boundaries shown as following or approximately following the centerlines of streams, rivers, or other continuously flowing water courses shall be construed as following the channel centerline of such water courses taken at mean low water, and, in the event of a natural change in the location of such streams, rivers, or other water courses, the zone boundary shall be construed as moving with the channel centerline.
7. Boundaries shown as separated from, and parallel or approximately parallel to, any of the features listed in paragraphs 1 through 6 above shall be construed to be parallel to such features and at such distances therefrom as are shown on the map.

17.03.050.c

established in this Chapter and Chapter 16.19 ICC. Prior to the effective date of this Chapter, one (1) copy of a series of maps at a scale of 1" = 1000 ft. shall be filed with the Island County Auditor to illustrate the Zoning Atlas. Thereafter, an updated map shall be filed with the Auditor annually.

3. Specific source maps for zoning classifications include:
 - a) Island County Soil Survey, Soil Conservation Service, (Scale 1" = 2,640 feet), August, 1958, Agriculture.
 - b) Productivity, Operability Overlay, Wash. State Department of Natural Resources, (Scale 1" = 1,000 feet), prepared for Wash. Department of Revenue for private forest land Grading to implement Chapter 187, Laws of 1974.
 - c) 1997 aerial photographs prepared by Walker and Associates.
4. Certain areas have also been mapped as Overlay Zones. Generally, except for the potential UGA Expansion Area Overlay these areas are defined and regulated by Chapters 17.02, 17.02A, and 17.02B ICC. Shoreline areas are also subject to additional regulations and mapped shoreline environment designations. Uses in these areas are governed by Chapter 17.05 ICC.
5. Designation criteria have been established for certain Zone classifications. These written criteria control when there is a conflict between the criteria and the Zone depicted in the Zoning Atlas.

Comment [WU2]: Added reference to other critical area chapters - BI - 5-8-2014

D. Interpretation of Boundaries. The following rules shall be used to determine the precise location of any Zone boundary shown on the Official Zoning Map of Island County:

1. Boundaries shown as following or approximately following the limits of any city or town shall be construed as following such limits.
2. Boundaries shown as following or approximately following streets shall be construed to follow the centerlines of such streets.
3. Boundary lines which follow or approximately follow platted Lot Lines, Assessor's Parcel property lines or other established property boundaries shall be construed as following such lines.
4. Boundaries shown as following or approximately following section lines, half-section lines, or quarter-section lines shall be construed as following such lines.
5. Boundaries shown as following or approximately following shorelines of any lakes or Puget Sound shall be construed to follow the mean high waterlines of such bodies of water, and, in the event of change in the mean high waterline, shall be construed as moving with the actual mean high waterline.
6. Boundaries shown as following or approximately following the centerlines of streams, rivers, or other continuously flowing water courses shall be construed as following the channel centerline of such water courses taken at mean low water, and, in the event of a natural change in the location of such streams, rivers, or other water courses, the zone boundary shall be construed as moving with the channel centerline.
7. Boundaries shown as separated from, and parallel or approximately parallel to, any of the features listed in paragraphs 1 through 6 above shall be construed to be parallel to such features and at such distances therefrom as are shown on the map.

17.03.082.G

1. Minimum lot area: No limitation
2. Minimum lot width: No limitation
3. Minimum lot depth: No limitation
4. Minimum front yard: Thirty-five (35) feet
5. Minimum side yard: No limitation, except when abutting a residentially zoned property then ten (10) feet each. For corner lots, a side yard abutting a public street shall be thirty-five (35) feet EXCEPT that the Director may approve a setback reduction of not less than twenty (20) feet or the established building line on adjoining property, whichever is greater.
6. Minimum rear yard: No limitation except when abutting a public street, then thirty-five (35) feet.
7. Maximum building height: Thirty-five (35) feet
8. Maximum lot coverage: No limitation

G. Land Use Standards

All projects shall comply with applicable use standards of ICC 17.03.180 unless modified by this Section; Critical Area Standards, Chapters 17.02, 17.02A, and 17.02B ICC; and Island County AICUZ Standards.

Comment [WU5]: Added cross references

17.03.083 Oak Harbor - Highway Service Commercial (OH-HSC) Zone

The Highway Service Commercial Zone (OH-HSC) is intended to permit the establishment of facilities within the Oak Harbor Municipal Urban Growth Area oriented toward uses dependent upon highway location. It is intended that such districts should be placed at locations providing the highest degree of usefulness to the traveling public and maintain an attractive, functional and safe highway corridor within the Oak Harbor UGA.

A. Permitted Uses

Shall not exceed twelve thousand (12,000) square feet of gross floor area per lot, tract or parcel and shall be processed as a Type I decision pursuant to Chapter 16.19 ICC.

1. Accessory Uses;
2. Automobile and Truck Service Stations;
3. Automobile Sales and Service;
4. Boat Sales and Boat Repair;
5. Drive-in Banks;
6. Restaurants;
7. Real Estate Sales; Governmental Services; and
8. Self Storage Warehouse.

B. Conditional Uses

1. Any permitted use that exceeds twelve thousand (12,000) square feet of gross floor area may

17.03.084

following minimum setback requirements:

1. Front yard – thirty (30) feet. In cases where no parking or service occurs between the face of the building and the street, the front yard may be reduced to fifteen (15) feet.
2. Interior side yards – fifteen (15) feet or zero as established by Master plan.
3. Corner lot abutting a street – thirty (30) feet. In cases where no parking or service occurs between the face of the building and the street, the side yard may be reduced to twenty (20) feet.
4. Rear yard, fifteen (15) feet or zero as established by Master Plan.
5. When abutting any residential zoned property or any area planned for residential uses under the Oak Harbor Comprehensive Plan, the minimum setback shall be fifty (50) feet.
6. Permitted building height is determined by the distance the building is separated from any residential zone, or from any area designated in the Oak Harbor Comprehensive Plan for residential uses, as follow:
 - a) Less than one hundred (100) feet – thirty-five (35) feet in height.
 - b) One hundred One (101) feet and above – fifty (50) feet in height.
 - c) Two hundred (200) feet and above – sixty-five (65) feet in height.
7. The maximum building coverage shall not exceed forty (40) percent of the total lot area.

E. Designation Criteria

Areas designated as potential Industrial Lands on the Island County Future Land Use Map in the Goldie Road area of the Oak Harbor Joint Planning Area are designated as Planned Business Park on the 1998 Oak Harbor Comprehensive Plan Land Use Element Map.

F. Loading Areas

1. Truck loading and maneuvering areas shall not be located within the required building setback areas.
2. Truck loading and unloading shall not be permitted on streets.
3. Truck loading and unloading areas, parking and maneuvering areas shall be screened by a sign-obscuring fence eight (8) feet in height, except when stored materials cannot be seen from any public roadway or from surrounding properties.

G. Land Use Standards

All projects shall comply with applicable use standards of ICC 17.03.180 unless modified by this Section; Critical Area Standards, Chapters 17.02, 17.02A, and 17.02B ICC; and Island County AICUZ Standards.

Comment [WU7]: Added cross reference

17.03.085 Urban Growth Area - Langley (UGA-L) Zone

The purpose of the Urban Growth Area-Langley Zone (UGA-L) is to provide for the development of the lands inside the City of Langley’s Municipal Urban Growth Area at densities and uses that will provide for the efficient provision of municipal water and sewer services.

A. Permitted Uses

17.03.086

2. The maximum building coverage shall not exceed Forty (40) percent of the total lot area.
3. In a Planned Industrial Park district, all buildings and structures, except for fencing, shall meet the following minimum setback requirements:
 - a) Front yard – Thirty (30) feet. In cases where no parking or service occurs between the face of the building and the street, the front yard may be reduced to Twenty (20) feet.
 - b) Interior side yards – Fifteen (15) feet.
 - c) Corner lot side yard abutting a street – Thirty (30) feet. In cases where no parking or service occurs between the face of the building and the street, the side yard may be reduced to Fifteen (15) feet.
 - d) Rear yard – Fifteen (15) feet.
 - e) When abutting any residential-zoned property or any area planned for residential uses under the Oak Harbor Comprehensive Plan, the minimum setback shall be Fifty (50) feet.
 - f) Parking is allowed in setbacks.

E. Building Heights

Permitted building height is determined by the distance the building is separated from any residential zone, or from any area designated in the Zoning Atlas or adopted Future Land Use Map for residential uses, as follows:

1. Less than One Hundred (100) feet – Thirty Five (35) feet in height;
2. One Hundred One (101) feet and above – Fifty (50) feet in height + Ten (10) feet for mechanical equipment; and
3. Two Hundred (200) feet and above – Sixty Five (65) feet in height + Ten (10) feet for mechanical equipment.

F. Outdoor Storage

1. Outdoor storage shall not be allowed within the required building setback areas.
2. All outdoor storage areas shall not be visible from public rights of way or private streets.
3. All outdoor storage areas shall be screened from public view through landscaping, walls, and/or fencing.
4. In no event shall materials be stacked or stored higher or to exceed the height of the screening wall or fence, eight (8) feet maximum.

G. Land Use Standards

All projects shall comply with applicable use standards of ICC 17.03.180 unless modified by this Section; Critical Area Standards, Chapters 17.02, 17.02A, and 17.02B ICC; and Island County AICUZ Standards.

17.03.090 Rural Agriculture (RA) Zone

The primary purpose of the Rural Agriculture (RA) zone is to protect and encourage the long term productive Use of Island County's agricultural land resources of local importance. It is established to identify geographic areas where Commercial farming practices can be conducted in an efficient and effective manner; and to help maximize the productivity of the lands so classified. Secondly, lands

17.03.090

- b) an Existing Lot is proposed to be modified through a boundary line adjustment and will not subsequently be further modified in size or used in combination with unregulated subdivision such that new Lots are created that are less than the required minimum lot size.
 - 6. For Lots created pursuant to this section, a notation advising of the Lot creation in compliance with Chapter 16.25 ICC will be recorded and placed on the face of the boundary line adjustment, short plat, plat, or PRD.
 - 7. A division of land into Lots, Tracts or Parcels that are less than three (3) acres is permitted, when the Lot(s) are or will be used for the purpose of establishing a site for construction and operation of consumer-owned or investor-owned electric utility facilities as they are defined in ICC 16.06.030.K. Divisions of lands fulfilling these requirements shall not be subject to the Subdivision and Short Subdivision provisions of Chapter 16.06 ICC and shall be recorded in accordance with chapter 58.09 RCW. Base density requirements shall continue to apply for purposes of residential development to any Lots, Tracts, or Parcels created pursuant to this provision.
- E. **Setbacks.** Unless otherwise provided in this Chapter, Setback requirements shall be as follows:
- 1. Setbacks are specified in ICC 17.03.180.S.
 - 2. Reduced Setbacks may be approved when necessary to minimize impact on resource land pursuant to ICC 17.03.180.S.
 - 3. For permitted or Conditional Uses adjacent to lands classified AP or a Surface Mining operation:
 - a) The Setback requirements of this section may be increased to ensure that such uses do not Interfere with Permitted Uses allowed in the AP zone or a Surface Mining operation; and
 - b) A notation shall be placed on the face of any plat, short plat, PRD or building permit(s) and included in documents of conveyance and any recorded covenants as provided in Chapter 16.25 ICC.
- F. **Height.** Maximum building height shall not exceed thirty-five (35) feet. Chimneys, smokestacks, fire or parapet walls, ADA-required elevator shafts, flagpoles, utility lines and poles, water tanks, skylights, silos, communication sending and receiving devices, HVAC and similar equipment, and spires associated with places of worship are exempt from height requirements.
- G. **Verification of Rural Agriculture (RA) Zone Classification.** Parcels classified RA shall be converted to R, processed as a technical Type IV amendment pursuant to Chapter 16.19 ICC with no County permit fee charged the Owner if the Parcel is not farmable due to the critical area regulations contained in Chapter 17.02 ICC or if the Owner demonstrates that as of June 2, 1999, the Parcel did not meet the designation criteria set forth in subsection C above.

Comment [WU8]: No changes required, 17.02A and 17.02B allows existing and ongoing ag practices

17.03.100 Commercial Agriculture (CA) Zone

The primary purpose of the Commercial Agriculture (CA) zone is to protect and encourage the long term Commercially productive Use of Island County's agricultural resource lands of long term Commercial significance that have been designated pursuant to RCW 36.70A.170. It is established to identify geographic areas where a combination of soil, and topography allow Commercial farming practices to be conducted in an efficient and effective manner; to help maximize the productivity of the

17.03.100.H.3

ICC; or

4. The Owner demonstrates that, as of June 2, 1999, the Parcel did not meet the designation criteria set forth in subsection D above.

Comment [WU9]: No changes required, existing and ongoing ag practices allowed under 17.02A and 17.02B

For one-hundred-eighty (180) days after the effective date of this amendment, if a property owner files a request for a technical amendment to be removed from the CA classification, the County shall, at no cost to the Owner complete any necessary studies to verify the presence of prime soils. A technical amendment under this subsection may be processed simultaneously with a zoning amendment filed pursuant to ICC 17.03.220.

17.03.110 Rural Forest (RF) Zone

The primary purpose of the Rural Forest (RF) zone is to protect and encourage the long term productive Use of Island County's forest land resources of local Significance. It is established to identify geographical areas where Commercial Forest management practices can be conducted in an efficient manner; and to help maximize the productivity of the land so classified. Secondly, lands classified RF provide recreation opportunities, scenic Open Space, wildlife habitat and watershed management to the extent such Use is consistent with the primary purposes of the Zone.

A. Permitted Uses. Process as Type I decisions pursuant to Chapter 16.19 ICC:

1. Accessory Uses;
2. All uses and activities necessary to the production of forest products and/or the harvesting and processing of timber or which have the principal purpose of carrying out or facilitating forestry;
3. Bed and Breakfast Room;
4. Farm Produce Stand and Forest Products Stand;
5. The growing, harvesting, sale and managing of forest products or any forest crop, in accordance with the Washington Forest Practices Act and regulations adopted pursuant thereto, including, but not limited to, timber, Christmas trees, nursery stock, and floral vegetation;
6. Guest Cottage;
7. Home Occupation;
8. Livestock husbandry;
9. Minor Utilities;
10. Single Family Dwelling Unit;
11. Temporary Uses;
12. Water Tank;
13. Day Care Nursery (no more than six (6) persons);
14. Group Home (no more than six (6) persons); and
15. Accessory Living Quarters.

Provided that any Permitted Use shall be disapproved upon finding that it will Interfere with efficient management or productivity of forest management uses.

17.03.160

NOTE:

1. See Appendix A for special conditions that may apply to specific Non-Residential RAIDs. See Appendix B for illustrations of Non-Residential design guidelines.
2. Specific Logical Outer Boundaries are established in the Island County Zoning Atlas and shown in Appendix A.

17.03.160 Special Review District

- A. **Purpose.** The Special Review District (SD) zoning classification is applied to large properties at least one-hundred-fifty (150) acres in size, in single public Ownership or owned and/or managed by a non-profit organization that, because of unique site or Use characteristics, do not readily fit in any other zoning classification. It is used to establish special standards to protect lands and Structures that have historical, archaeological or environmental significance while allowing a unique combination of uses that enhance, conserve or highlight these features of significance.
- B. **Application Requirements.** The application for approval of a Special Review District designation shall be a Master Plan for the long-term development of the property to be included in the classification. The Master Plan shall contain the information required for a Site Plan set forth in Chapter 16.15 ICC, unless modified by the Planning Director pursuant to Chapter 16.15 ICC. Because of the long-term nature of the Master Plan it may not be possible to provide all of the detail called for by Chapter 16.15 ICC.
- C. **Review Process.** The review process for a Special Review District shall be the review process set forth in Chapter 16.19 ICC for a Type IV decision.
- D. **Standards.** The Site Plan approval criteria set forth in Chapter 16.15 ICC shall be applied to a Master Plan for a Special Review District. In addition, the proposed uses may be approved only upon determining that features of historical, archaeological or environmental significance will be enhanced, conserved or highlighted. Further, reasonable conditions may be required to ensure that the proposed Master Plan protects Rural Character. Unless waived or modified by the Board in its approval, the Land Use standards set forth in ICC 17.03.180 shall apply to all Uses. The following standards shall also apply:
 1. The land area that is included in the acreage calculation must consist of land that is either physically or functionally connected to the primary use of the site. The applicant must demonstrate one of the following:
 - a) All 150 acres are contiguous, or
 - b) For any land that is not contiguous, it must be demonstrated that there is an interdependence between the primary use(s) and the use of the non-contiguous property. The applicant shall describe the relationship between any properties that are not contiguous, why they are binding upon each other, and why it is necessary that the non-contiguous property must be included in order to achieve the purpose, goals and objectives of the Master Plan beyond merely meeting the minimum acreage requirement.
 2. The 150 acres may consist of any upland areas as well as any areas that consist of critical areas and their buffers as established in Chapters 17.02, 17.02A, and 17.02B ICC.
- E. **Time Limit.** The term of the Master Plan will be established by the Board in its approval, including the matters that may be modified administratively through a Type II review process and those that will require further review and approval utilizing the Type IV review process.

Comment [WU10]: Added citation

17.03.161 Au Sable Institute (SD-ASI) Zone

The Au Sable Institute (SD-ASI) Zone is applied to a one-hundred-seventy-five (175) acre site in Central Whidbey that is owned and operated by the Au Sable Institute. This zone allows for development and specific uses that have been approved through the adoption of a Master Plan. The purpose and intent of the Master Plan is to provide long term protection to environmentally, historically and archaeologically significant lands while allowing uses, activities and development that will enhance, conserve or highlight these features of significance.

All Permitted and Conditional Uses shall comply with the applicable Land Use Standards of ICC 17.03.180. For those Land Use Standards that are addressed in the approved Master Plan, standards in the Master Plan shall be applicable. For those Uses that are not specifically listed as permitted or conditional and are not specifically identified in the Master Plan, the Planning Director shall have the authority to make Code Interpretations pursuant to ICC 17.03.190. All development shall adhere to Critical Area Regulations as they are prescribed in Chapters 17.02, 17.02A, and 17.02B ICC.

Comment [WU11]: Added citation

- A. Permitted Uses. These uses, activities and standards have been approved through and are subject to the Master Plan. These uses are processed as Type I decisions pursuant to Chapter 16.19 ICC.
1. Educational instruction of up to one-hundred (100) university or college level students by up to twelve (12) professors and teachers;
 2. Environmental education and services for local schools, interested parties and the general public;
 3. Summer cabins to be used as temporary dormitory housing for university level students, faculty and scientists;
 4. Residential facilities for up to twelve (12) professors and their immediate family members;
 5. Faculty offices;
 6. Activities associated with restoration and enhancement of the native landscape, provided that any controlled burns shall be done according to a fire management plan approved by the Island County Planning and Community Development Department and any other agencies with jurisdiction;
 7. Seed and native plant production and distribution;
 8. An auditorium;
 9. Multipurpose room and offices;
 10. Environmental laboratories;
 11. Student gathering place;
 12. Storage for vehicle and farm machinery;
 13. Superintendent residence;
 14. Library;
 15. Herbarium;
 16. Kitchen;
 17. Greenhouse;
 18. Restrooms, shower houses, washer and dryer facilities;

3. Setbacks for all new structures or additions to existing structures, excluding signs, shall be a minimum of fifty (50) feet from the edge of the right-of-way of any public roads.
4. No structure shall exceed thirty-five (35) feet in height, provided that the variance process set forth in this Chapter shall be applicable to this site.

17.03.162 Casey Conference Center (SD-CCC) Zone

(Section 17.03.162, Casey Conference Center (SD-CCC) Zone, Ord. C-92-02 [PLG-015-02], December 16, 2002, vol. 46, p. 424, repealed by Ord. C-08-04, February 23, 2004, vol. 2004, p. 53)

17.03.163 Greenbank Farm Port Tract (SR-GF) Zone

The Greenbank Farm Port Tract (SR-GF) Zone (“the Greenbank Farm”) is applied to a 151 acre site in Central Whidbey Island that is owned and operated by the Port of Coupeville. The Greenbank Farm is a landmark site on Whidbey Island that continues to act as a vital working farm, scenic recreation site, marketplace for locally produced products and center for community activities while striving to maintain the core commitment of promoting sustainable and renewable agriculture and development practices. The Greenbank Farm is further committed to ongoing efforts to promote economic development and tourism in accordance with an Interlocal agreement with Island County dated September 15, 1997. The Greenbank Farm has been designated as a Special Review District in order to provide a predictable and orderly set of regulations that will direct and guide the future use of the property.

The Greenbank Farm contributes to the rich rural and scenic qualities of Central Whidbey Island. The agricultural, pastoral and historical setting provides significant aesthetic, economic and cultural value to the residents of Island County. It is a goal of the Island County Comprehensive Plan to support and promote tourism in Island County as a way of encouraging economic development and business incubator uses. The Port of Coupeville is currently achieving this goal and desires to continue to do so. The goals of the SR-GF zone are to ensure that the Farm can continue to operate in a flexible, economically viable and productive manner while ensuring that the rural, agricultural, historical and scenic qualities are preserved.

This zone allows for development and specific uses that have been approved through the adoption of a Master Plan. All permitted and conditional uses shall comply with the Land Use Standards of ICC 17.03.180 unless otherwise directed in this section or the Master Plan. If there is a conflict between standards of this section or with standards in other sections of this chapter, the Master Plan shall prevail. For those uses that are not specifically listed as permitted or conditional and are not specifically identified in the Master Plan, the Planning Director shall have the authority to make Code Interpretations pursuant to ICC 17.03.190. All development shall adhere to the Critical Area Regulations as they are prescribed in Chapters 17.02, 17.2A, and 17.02B ICC, the Land Development Standards of Title 11 and all other applicable regulations. The SR-GF Zone includes four sub-designations; Area 1 is Agriculture, Area 2 is Recreation, Area 3 is Commercial and Area 4 is Environmentally Sensitive.

Comment [WU12]: Added cross references

A. Area 1 – Agriculture

1. Permitted Uses. These uses, activities and standards have been approved through and are subject to the Master Plan. These uses are processed as Type I decisions pursuant to Chapter 16.19 ICC.
 - a) Agriculture, pursuant to Agricultural Best Management Practices;
 - b) Agricultural Buildings with a footprint that is equal to or less than 1000 square feet;
 - c) Organic Farming, pursuant to Washington State Organic Crop Production Standards;

17.03.163

- o) Community events, indoor concerts, weddings, arts and craft shows, receptions for up to 400 people;
 - p) Up to 6 festivals or outdoor concerts per year that are in excess of 400 attendees but that do not exceed 4 days in duration and 4,000 people per day;
 - q) School, subject to the School Standards of Chapter 17.03 ICC;
 - r) Park-n-Ride, provided that the surface shall not be impervious and that the Landscaping and Screening standards of Chapter 17.03 ICC are adhered to; and
 - s) Administrative offices for businesses operating at the Greenbank Farm, for the Port of Coupeville and for other non-profit and public organizations.
2. Conditional Uses. These uses shall be processed as Type II decisions pursuant to Chapter 16.19 ICC.
- a) Any use that is not specifically listed as permitted or prohibited.
3. Prohibited Uses.
- a) New structures with a building footprint that is greater than 5,000 square feet;
 - b) Cumulative building footprint of new structures that exceed 10,000 square feet; and
 - c) Expansions of existing structures beyond 10% of the gross floor area of the structure as it existed on the effective date of this ordinance.

D. Area 4 – Environmentally Sensitive

1. Permitted Uses. These uses, activities and standards have been approved through and are subject to the Master Plan. These uses are processed as Type I decisions pursuant to Chapter 16.19 ICC, however, additional permit requirements may be necessary pursuant to the Critical Area regulations set forth in Chapters 17.02, 17.02A, and 17.02B ICC, the Critical Areas Ordinance. Prior to conducting any activity or establishing any use in this area, the provisions of Chapters 17.02, 17.02A, and 17.02B ICC shall be satisfied and adhered to.
- a) Low impact trails and recreational uses;
 - b) Birding Platforms; and
 - c) Interpretive areas.
2. Prohibited Uses.
- a) Any Structure, Uses or Activity that does not meet the standards of Chapters 17.02, 17.02A, and 17.02B ICC, the Critical Areas Regulations;
 - b) Agriculture is prohibited within a regulated critical area or its buffer; and
 - c) Camping.

Comment [WU13]: Added citations and corrected language

Comment [WU14]: Added citations

E. Annual Review Amendments. Any amendment to the Master Plan, the Comprehensive Plan or to this ordinance shall be processed as an Annual Review Amendment pursuant to Chapter 16.26 ICC.

F. Setbacks and Heights

1. Setbacks from designated critical areas shall comply with buffer and setback provisions of Chapters 17.02, 17.02A, and 17.02B ICC.

17.03.180.S

- b) The required street Setback of a Dwelling Unit need not exceed the Existing or probable average of the street Setbacks of Dwelling Units on all Lots in the same Zone within one-hundred (100) feet on both sides of the proposed Dwelling Unit and on the same side of the street. On vacant Lots within the same Zone and within one-hundred (100) feet of the Lot being developed, standard Yard Setback requirements shall be used in determining the average.
- c) Administrative reductions for Dwelling Units and Accessory Structures:
 - (i) The Planning Director may administratively reduce the street Setback requirements up to ten percent (10%) except that any modifications to Setbacks where additional roadway right-of-way is being sought must be submitted to the County Engineer for his recommendation. Additionally, the Planning Director may administratively reduce the Yard Setback requirements up to thirty percent (30%). Such reductions must be based upon the standards of ICC 17.03.210.D.
 - (ii) The Planning Director may administratively reduce street Setbacks by averaging Setbacks of Existing Dwelling Units.
 - (iii) Setback reductions shall be processed as a Type II decision pursuant to Chapter 16.19 ICC.
- d) Projections from Buildings
 - (i) Architectural features such as cornices, eaves, canopies, sunshades, gutters, chimneys and flues shall not project into any required Yard Setback more than eighteen (18) inches.
 - (ii) Decks built on the ground at grade level shall not be subject to Setback requirements.
- e) Fences, retaining walls and similar Structures may be built on the property line.

7. Special Shoreline Setbacks

- a) The standard Shoreline Setback for Dwelling Units shall be fifty (50) feet landward of the OHWM except for the Conservancy and Natural Environments, where the setback shall be seventy-five (75) feet landward of the OHWM.
- b) A greater Setback may be required if necessary to comply with the grading, geologically hazardous area, erosion control and drainage requirements of Chapter 11.02 ICC and Chapter 11.03 ICC and/or the critical areas regulations contained in Chapters 17.02, 17.02A, and 17.02B ICC.
- c) For the purpose of accommodating shoreline views within existing developed areas. Setbacks for residential uses may be reduced consistent with the following:
 - (i) Where there are Existing principal residences that encroach on the established setback within two-hundred-forty (240) feet of either side of the proposed building footprint, the required setback for the proposed structure may be reduced by review and approval of the Shoreline Administrator. In such cases, the setback of the proposed residential structures may be reduced to the average of the setbacks of the existing adjacent principal residences.
 - (ii) In those instances where only one (1) Existing principal residence is within two-hundred-forty (240) feet of either side of the proposed building site, the Setback

17.03 .180.S.7.2)

of the proposed structure may be reduced (with approval of the Administrator) to the average of the Setbacks for the existing adjacent principal residence and the applicable Setback for the adjacent vacant parcel.

- (iii) The reduced setbacks applied above shall not be less than twenty-five (25) feet landward of the OHWM except for the Natural and Conservancy Environments, where the minimum shall be fifty (50) feet, unless required to comply with the Setback requirements of this Chapter and Chapters 17.02, 17.02A, and 17.02B ICC.

Comment [WU15]: Added cross reference

T. **Small-Scale Recreation and Tourist Uses.** Small-scale Recreational and Tourist Uses may be conducted in the Rural Zone upon approval of a Site Plan pursuant to Chapter 16.15 ICC, processed as Type II or Type III decision pursuant to Chapter 16.19 ICC.

1. The following uses illustrate Small-Scale Recreation or Tourist Uses
 - a) Golf courses including clubhouses and other support facilities not exceeding eighteen (18) holes, Provided that any associated Residential development shall comply with the requirements of the Rural Zone.
 - b) Equestrian Centers.
 - c) Restaurants with indoor dining facilities that do not exceed a total of forty (40) seats, including outdoor seating, and not greater than five-thousand (5,000) square feet of gross floor area. A fast food restaurant or drive-through food service is prohibited.
 - d) Wineries on Parcels ten (10) acres or larger in size that are zoned Commercial Agriculture or Rural Agriculture.
 - e) Model hobby parks and sites on Parcels ten (10) acres or larger in size that are zoned Rural.
 - f) Recreational Aerial Activities such as balloon rides, glider and parachute events.
 - g) Rural Event Centers.
2. A Small-Scale Recreation or Tourist Use shall meet the land Use standards of this Chapter and the following requirements:
 - a) A Site Plan is approved pursuant to Chapter 16.15 ICC;
 - b) Unless a larger Tract size is specified above, minimum lot size shall be five (5) acres, except for Rural Event Centers as specified in subsection 8 below; except smaller Existing legally established lots with direct access to a State highway may also be used for Tourist or Recreation Uses;
 - c) Only those Buildings or areas specifically approved by the County may be used in the conduct of the business;
 - d) Parking shall be contained on-site and provided in conformance with this section;
 - e) All activities shall be screened for the view of adjacent residential Uses and setback from all property lines at least fifty (50) feet;
 - f) All Small-Scale Recreation or Tourist Uses shall take primary access, in order of priority, off a County arterial, County Collector Road Highway, or State Highway;
 - g) Structures shall comply with the landscape, lighting, signage, site coverage, and Non-

17.03, 180.0

- b) The minimum site area of a processing operation shall be twenty (20) acres of contiguous area including the area required for setbacks and buffering.
- c) Extractive operations on sites larger than twenty (20) acres shall occur in phases to minimize environmental impacts. The size of each phase shall be determined during the review process.
- d) Extraction and processing may not be located closer than five-hundred (500) feet to any Rural Residential lands.

3. Standards - Reclamation

- a) General requirements. Reclamation of mined lands shall be carried out in accordance with the requirements of this section, the approved Reclamation plan, and Chapter 78.44 RCW. The operator shall guarantee all Reclamation work accomplished for a period of two (2) years or such greater period as may be determined necessary by the Hearing Examiner to assure the permanency of any or all physical Reclamation features.
- b) Progressive Reclamation. Reclamation of mined areas shall take place as soon as practical following completion of Surface Mining at successive locations within the mining site as specified by the Hearing Examiner in the approval of the Reclamation plan.
- c) Disposal of Overburden and Mining Waste
 - (i) Permanent piles or dumps of Overburden and Mining Waste placed on the land surface shall be made stable, shall not block natural drainage without provision for diversion, shall have an overall smooth or even profile and, where practical, shall be placed in the least visible location.
 - (ii) Overburden and Mining Waste placed below the existing or potential groundwater level shall not reduce the transmissivity or area through which water may flow unless equivalent transmissivity or area, as determined by a qualified hydrologist at the applicant's cost and approved by the County Engineer, has been provided elsewhere.
- d) Drainage, erosion and sediment control
 - (i) Any temporary stream or watershed diversion shall be restored in final Reclamation unless determined unnecessary by the Hearing Examiner, based on recommendation of the County Engineer. Stream diversions shall comply with the Critical Area requirements of Chapters 17.02, 17.02A, and 17.02B ICC.
 - (ii) Grading and revegetation shall be designed and carried out to minimize erosion, provide for drainage to natural outlets or interior basins designed for water storage. Revegetation shall reflect surrounding native plant communities.
 - (iii) Silt basins which will store water during periods of surface runoff shall be equipped with sediment control and removal facilities and protected spillways designed to minimize erosion when such basins have outlet to lower ground.
 - (iv) Final Grading and drainage shall be designed in a manner to prevent discharge of sediment above natural levels existent prior to Surface Mining.
 - (v) Upon Reclamation, no condition shall remain which will or could lead to the degradation of water quality.

Comment [WU16]: Added cross references

17.03.180.W

g) Buffer widths specified herein shall be in addition to areas encumbered by utility easements and/or areas within thirty feet (30') of the as-built centerline of the County road.

2. Oak Harbor Scenic Corridors - Reserved

3. Coupeville Scenic Corridors:

a) The purpose of the Coupeville Scenic Corridors is to protect existing stands of significant trees and understory vegetation outside the public right-of-way. The following roads within the Coupeville Joint Planning Area as shown on Map B-1 of the Island County Comprehensive Plan as subarea 2 will be afforded additional standards listed herein:

(i) State Route 20

(ii) Parker Road

(iii) Madrona Way

b) A minimum setback of fifty (50) feet is established where structures may not be constructed in subarea 2. The fifty (50) feet setback shall be measured outside of and adjacent to the right-of-way on private or public property, on each side of the identified roadways. For lots less than one (1) acre in size, the setback may be reduced as necessary to allow reasonable economic use of the property as a Type II Planning and Community Development Director decision pursuant to ICC 16.19. The setback shall not be reduced to less than twenty (20) feet unless it is necessary to achieve a Reasonable Use pursuant to ICC 17.02.107. Das defined in Chapters 17.02, 17.02A, and 17.02B ICC.

c) Landscape preservation within the required setbacks include the following forms in order of preference:

(i) Retain and preserve existing topography and natural landscape materials; or

(ii) Retain natural landscape materials to the greatest extent possible. If the natural landscape needs to be disturbed the disturbed area should be supplemented with sodded berms and planted native species such as salal, snowberry, ocean spray or wild rose; or

(iii) Leaving trees where practicable, retain as much of the native vegetation and natural contours as possible. Revegetate with flowering species such as perennials, annuals, rhododendrons, wild lilac, azaleas and groundcovers. If this option is exercised, new plantings should be informal in character and serve to complement nearby native vegetation.

4. Non-Municipal Urban Growth Area Scenic Corridors - Reserved

X. **Composting and Grinding.** The purpose of this subsection is to provide a means to reduce the amount of recyclable material discarded in landfills and allow for a beneficial use of those materials. Composting and grinding facilities may be established as Permitted or Conditional Uses as outlined below and upon approval of a Site Plan pursuant to Chapter 16.15 ICC, processed as a Type II or Type III decision pursuant to Chapter 16.19.

1. Exemptions. The following are exempt from the regulations of this section although a solid waste handling permit from the Island County Health Department may be required:

Comment [WU17]: Revised language and included new citations

17.03.180

- (iv) All structures shall comply with the Non-Residential Rural design, landscape, open space, screening, buffering, parking, access, signage, and lighting standards set forth in this section.

Y. **Existing Master Planned Resorts.** Through the Type IV decision process, Existing Master Planned Resorts may be designated provided that future development and specific uses have been approved through the adoption of a master plan. The purpose and intent of the master plan is to provide long term protection to environmentally, historically and archaeologically significant lands, while allowing uses, activities and development that will enhance, conserve or highlight these features of significance. This section is established for the purpose of allowing Existing Master Planned Resorts to be recognized in the Island County Code thereby enabling existing resorts to carry out future development plans. In the absence of this section of County code, uses that now qualify as an Existing Master Planned Resort were regulated under the provisions of the underlying zoning designation. Uses that qualify as an Existing Master Planned Resort do not conform to the underlying zoning designation and would therefore be subject to the Existing Uses section of this Chapter found in 17.03.230. The urban nature of Existing Master Planned Resorts as defined by RCW 36.70A.362 was not acknowledged or accommodated before the establishment of this section.

1. Existing Master Planned Resorts must adhere to the standards defined in RCW 36.70A.362.

- a) The master plan must show that the land is better suited, and has more long term importance, for the existing resort than for the commercial harvesting of timber or agricultural production, if located on land that would otherwise be designated as forest land or agricultural land under RCW 36.70.110 and 36.70A.170.
- b) A resort that was in existence on July 1, 1990 and that met the definition of an Existing Master Planned Resort at that time. The resort is developed, in whole or in part, as a significantly self contained and integrated development that includes short-term visitor accommodations associated with a range of indoor and outdoor recreational facilities within the property boundaries in a setting of significant natural amenities.
- c) An existing resort may include other permanent residential uses, conference facilities, and commercial activities supporting the resort, but only if these other uses are integrated into and consistent with the on-site recreational nature of the resort.
- d) No new urban or suburban land uses shall be allowed in the surrounding vicinity of the existing resort, except in areas otherwise designated for urban growth under RCW 36.70A.110 and 36.70A.362.
- e) ~~The master plan for the Existing Master Planned Resort shall be consistent with standards, requirements, and provisions of Chapters 17.02, 17.02A, and 17.02B ICC, the County Critical Areas Ordinance.~~
- f) On-site and off-site infrastructure impacts shall be fully considered and mitigated.
- g) The County may allocate a portion of its twenty year population projection, prepared by the office of financial management, to the master planned resort corresponding to the projected number of permanent residents within the master planned resort.

2. A master plan shall demonstrate how the existing resort meets the requirements of ICC 17.03.180.G(1) AND include the following:

- a) An inventory of the existing structures and land uses on the property where the proposed

Comment [WU18]: Added citations and revised language

17.03.180.4.2

Existing Master Planned Resort exists.

- b) The goals that the owner(s) of the facility has for the Existing Master Planned Resort, including:
 - (i) The owner's vision statement for the resort
 - (ii) The owner's future development goals and plans for the resort, including a statement on how the development goals and plans meet the vision statement for the resort.
 - c) A comprehensive discussion of any planned upgrades or additions to existing structures on the property.
 - d) A comprehensive discussion of any planned expansion of existing land uses on the property.
 - e) A comprehensive discussion of any new structures or land uses planned for the property. New structures and land uses shall be indicated on a site plan of the property.
 - f) A site plan using the criteria of Chapter 16.15 ICC.
 - g) A phasing plan that describes anticipated time frames for future expansions and/or redevelopment.
 - h) A resource management plan that outlines management strategies for timber or agricultural lands and sensitive or threatened species as identified in Chapter 17.02B ICC.
3. A resort seeking status as an Existing Master Planned Resort must have at least fifty (50) acres within the planning area.
 4. Approval of a master plan in no way shall be interpreted as final approval for a specific project. New structures and land uses, or changes to existing structures and land uses that are approved through the master plan must still follow the appropriate permit process and comply with all Island County development regulations in the Island County Code.
 5. Permitted Uses within the Existing Master Planned Resort are for the purpose of serving the users of the resort. All existing and proposed uses shall be set forth in the master plan. Uses that support the operations of the facility that are required per RCW 36.70A.362, such as infrastructure necessary for the support and/or mitigation of the on-site and off-site impacts of the Existing Master Planned Resort, are implicitly allowed and do not require specific approval through this subsection. Examples of permitted uses within a master plan include the following:
 - a) Staff housing;
 - b) Retreat housing;
 - c) Group housing;
 - d) Multi-use building;
 - e) Cabin;
 - f) Classroom;
 - g) Meeting space;

Comment [WU19]: Changed citation and revised language to correct grammatical error.

17.03.190

- b) A description of the Existing Use or Uses of the land and Uses of any Existing Buildings;
 - c) A description of each proposed Use of land and Buildings to be undertaken with the development;
 - d) A general Site Plan drawn to a scale of not less than one (1) inch to twenty (20) feet and not greater than one (1) inch to one-hundred (100) feet showing building envelopes, access, circulation (both vehicle and pedestrian), and Open Space or an application for Site Plan approval pursuant to Chapter 16.15 ICC or PRD approval pursuant to Chapter 16.17 ICC; and
 - e) A description of a schedule for phases of the project, should all proposed Structures not be built at the same time.
- C. **Review Process.** The review process for Use interpretation shall be the review process set forth in Chapter 16.19 ICC for Type II decisions.
- D. **Standards.** Code interpretations shall be consistent with the Comprehensive Plan and the following standards:
- 1. No interpretation shall allow the establishment of any Use which was previously considered and rejected by the Board.
 - 2. No interpretation shall permit a Use otherwise expressly prohibited in the Zone.
 - 3. No interpretation shall permit any Use in any Zone that is inconsistent with the stated purpose of the Zone.
 - 4. No interpretation shall permit any Use in a particular Zone unless such Use is substantially similar to other Uses permitted in such Zone considering:
 - a) the activities involved in or equipment or materials employed in the Use; and
 - b) the effects of the Use on the surrounding area, such as traffic impacts, noise, dust, odors, vibrations, lighting and glare.
 - 5. Any Use permitted pursuant to this section shall comply with all applicable requirements and standards imposed by this Chapter.
 - 6. Any interpretation shall be consistent with the Findings adopted by the Board in conjunction with this Chapter.
- E. **Time Limit.** Use interpretations shall remain in effect until modified by a subsequent code interpretation or code amendment.
- F. Applicability to Chapter 17.02B ICC. The procedures outlined in this section shall also be used to issue interpretations of Chapter 17.02B ICC, subject to any additional requirements or provisions set forth in ICC 17.02B.050.

(Ord. C-123-98 [PLG-037-98], September 29, 1998, vol. 43, p. 6; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

Comment [WU21]: Added this section to clarify that the code interpretation process is applicable to Chapter 17.02B ICC. This change is needed because the opening statement suggest that the code interpretation provision of this section are only applicable to "this Chapter" (Chapter 17.03 ICC). BJ - 5-8-2014

17.03.200 Temporary Use Approval

The Planning Director shall authorize by administrative decision Temporary Uses pursuant to this section.

- A. **Purpose.** This section provides a process for authorizing certain uses or activities of a non-permanent nature for a limited duration.
- B. **Application Requirements.** The application shall contain those requirements set forth in ICC 17.03.190.B.3.a) and d) and:
 - 1. A description of the proposed use, event or activity; and
 - 2. All information required by ICC 17.03.180.V.
- C. **Review Process.** The review process for a certificate of Temporary Use shall be the review process set forth in Chapter 16.19 ICC for Type I decisions.
- D. **Standards.** Temporary Uses shall be consistent with the standards set forth in ICC 17.03.180. For any Temporary Use the County shall impose such other reasonable conditions as are found necessary to ensure that the activity or Use does not disrupt the character of any of the surrounding Permitted Uses.
- E. **Time Limit.** Certificates of Temporary Use shall expire according to the terms set forth in the approval.

17.03.210 Variances

The Planning Director may authorize variances from the standards of this Chapter pursuant to this section.

- A. **Purpose.** The purpose of this section is to allow the County to consider requests to vary or adapt the strict application of any of the following provisions of this Chapter:
 - 1. Setback requirements of this Chapter.
 - 2. Parking, Signage and site coverage requirements of ICC 17.03.180.
 - 3. Height requirements of this Chapter.
 - 4. Tract or Parcel size requirements when:
 - a) The Parcel to be divided was legally established prior to the effective date of this Chapter; and
 - b) Use of the Lot(s) to be created will comply with all terms and conditions of this Chapter (other than Lot size or setback) and will comply with other pertinent requirements of the Island County Code.
 - 5. A variance may be appropriate where a Lot is exceptionally narrow or shallow or contains unusual topographic conditions, but only when strict application would result in peculiar, exceptional and undue hardship on the Owner of such property.
 - 6. Site coverage ratios may be varied the minimum necessary to ensure the provision of adequate emergency services for the area proposed to be served.
 - 7. The performance and dimensional standards of Chapter 17.02B ICC.
- B. **Application Requirements.** The application shall contain those requirements set forth in ICC 17.03.190.B.3.a) and d) and:
 - 1. A description of the specific modification from the terms of the Chapter required; and
 - 2. A description of the reasons for the variance.

Comment [WU22]: Added this subsection for consistency with ICC 17.02B.320
Formatted: 02 Indent 1. (Last), Indent: Left: 0", First line: 0"

17.03.210.

C. **Review Process.** The review process for variances shall be the review process set forth in Chapter 16.19 ICC for Type II decisions and for Type III decisions for height variances and Critical Areas Variances issued pursuant to the provisions of Chapter 17.02B, ICC.

Comment [WU23]: Change required in order to clarify the processing procedures

D. **Standards.** No variance shall be granted unless the County makes findings of fact showing that the following circumstances exist:

1. For all variance requests, the applicant demonstrates, and the County finds that:
 - a) The granting of the variance shall be consistent with the purpose and intent of this Chapter and conditions shall be imposed to ensure compatibility with surrounding Permitted Uses.
 - b) The granting of the variance will not permit the establishment of any Use which is prohibited by this Chapter.
 - c) The granting of the variance will not impair or substantially diminish property values of surrounding neighborhood properties.
 - d) The granting of the variance will not confer on the applicant any special privilege that is denied by this Chapter to other lands or Buildings in the same zoning classification.
 - e) Any variation in Setback and/or height is established based upon the factors set forth in ICC 17.03.180.S.4.
 - f) The granting of the variance shall not knowingly harm, destroy, injure, damage, or deface any archaeological resource.
2. For variance requests allowed pursuant to A.1, A.2 Parking and Signage requirements, A.4, A.5 or A.6 of this section, the applicant demonstrates, and the County finds that:
 - a) The granting of the variance must be necessary for the Reasonable Use of the land or Building and the variance as granted by the County is the minimum variance that will accomplish this purpose. The findings shall fully set forth the circumstances by which this Chapter would deprive the applicant of a Reasonable Use of his land. Mere loss in value shall not justify a variance.
3. For variance requests allowed pursuant to A.3 of this section, the applicant demonstrates, and the County finds that:
 - a) For residential structures:
 - (i) Any variation in height does not adversely impact the surrounding community. The following factors shall be considered:
 - (1) Visual Compatibility with the surrounding area;
 - (2) Solar access of adjacent structures;
 - (3) View obstruction;
 - (4) Fire and safety;
 - (5) Roadway and intersection sight distance;
 - (6) Land forms and natural resources;
 - (a) While forested land is a natural resource that can conceal structures thereby eliminating any impact on the surrounding

17.03.210.D

(iv) A Site Coverage variance for impervious surface shall only be permitted if it can be demonstrated that the variation will not result in degradation of the surrounding community and the overall rural character.

d) The granting of any Site Coverage variance for open space is prohibited.

5. For Critical Areas Variance requests allowed pursuant to A.7 of this section, the applicant demonstrates, and the County finds that:

a) The variance request is consistent with the general standards applicable to all variance requests pursuant to D.I of this section; and

b) The variance request is consistent with the specific criteria applicable to Critical Areas Variances set forth in Chapter 17.02B ICC.

Formatted: Indent: Left: 0.38", Tab stops: 0.75", Left

Formatted: Indent: Left: 0.75", Hanging: 0.25", Tab stops: 0.75", Left

17.03.220 Zoning Amendments

An application for a zoning amendment shall be processed pursuant to this section.

- A. **Purpose.** This Chapter provides for a limited number of zoning classifications with broad latitude provided for uses within each Zone. In addition, a Use interpretation process has been established to ensure that an expeditious method is available to clarify ambiguities. Therefore, individual Parcel reclassifications are not expected to be needed frequently. In addition, the County may initiate amendments which are area-wide in character through legislative amendments (Type IV decisions) to this Chapter.
- B. **Application Requirements.** The application shall contain those requirements set forth in ICC 17.03.190.B.3.a) and:
1. A description of the specific proposed amendment; and
 2. A description of the reasons for the amendment.
- C. **Review Process.** The review process for the following zoning amendments shall be as set forth below. All other zoning amendments shall be Type IV decisions, processed pursuant to Chapter 16.19 ICC.
- D. **Standards.** Standards for certain amendments are set forth below. Any other zoning amendment may be acted upon in the annual Comprehensive Plan review process.
1. Reclassification from RF to R shall be granted if requested by the Owner when the Owner cannot make reasonable economic use of the Parcel for commercial forestry, considering all relevant factors. Provided, that the determination of whether the Owner can make reasonable economic use of the Parcel for commercial forestry shall not involve consideration of the personal circumstances of any particular Owner. Provided further, that reclassification from RF to R shall not be granted when the inability to make reasonable economic use of the Parcel for commercial forestry is due to the action or inaction of the Owner. A proposed reclassification from RF to R shall be processed as a Type III decision pursuant to Chapter 16.19 ICC.
 2. Reclassification from R to RA or RF shall be granted if requested by the Owner and the Parcel is twenty (20) acres (ten (10) acres for RA) or larger in size upon finding that the uses allowed in the proposed classification will be Compatible with surrounding Permitted Uses, processed as a Type I decision pursuant to Chapter 16.19 ICC.
 3. Reclassification from R, RA or RF to CA shall be granted if requested by the Owner and the

17.03.230

Use of the Lot while ensuring any Permitted Use is Compatible with the character of surrounding Permitted Uses. Any variation in height shall be based upon the factors set forth in ICC 17.03.210.

3. The burden of establishing that any Lot, Use or Structure lawfully existed as of the effective date of this Chapter shall, in all cases, rest with the Owner and not with the County.
- E. **Use of Existing Lot.** Any Permitted Use authorized by this Chapter shall be permitted on an Existing legal Lot provided that it complies with all sections of this Chapter other than Tract or Parcel size or conditions imposed pursuant to subsection "D" and other pertinent Chapters of the Island County Code and state law.
1. Adjustment of boundary lines to make legally established Lots more useable is encouraged and may be made pursuant to Chapter 16.06 ICC.
 2. A conforming Use or Structure located on a legally established Existing Lot may be expanded, enlarged or extended as if it were on a conforming Lot as set forth in subsection "H".
- F. **Maintenance and Repair of Existing Structure.** Normal maintenance and incidental repair of Existing legal Structures shall be permitted, provided that it complies with all sections of this Chapter and other pertinent Chapters of the Island County Code.
- G. **Reconstruction of Existing Structure.** Reconstruction, restoration or repair of an Existing legal Structure shall be permitted in the following circumstance:
1. When damaged by fire, flood, earthquake or other disaster, the Building or Structure as originally located may be rebuilt so long as the Use of the property is not intensified thereby and rebuilding starts within three (3) years after the destruction. Adherence to the Setbacks required by the current code will be required where practicable. The three (3) year period may be extended by the Planning Director upon application and demonstration of need.
 2. When a Building or Structure no longer conforms to the requirements of this Chapter by reason of a taking, purchase, required dedication, or by gift of property to a governmental agency, and such Building or Structure is destroyed to any extent up to total destruction after such taking, purchase, required dedication, or gift to a governmental agency, the Building or Structure may be rebuilt to the old building line so long as the Use of the property is not intensified thereby and rebuilding starts within three (3) years after the destruction. The three (3) year period shall be extended by the Planning Director upon application and demonstration of need.
 3. If the existing Use or Structure was located partially or completely within a Critical Area, it shall be reconstructed, restored or repaired in a manner which will, to the extent feasible, allow it to comply with the applicable standards at Chapter 17.02 ICC.
 4. If the Existing Use or Structure was located partially or completely within an Archaeological Site, it shall be reconstructed, restored or repaired in a manner which will, to the extent feasible, avoid further impacts to the Archaeological Resources contained therein.
- H. **Expansion of Existing Use or Structure and Structural Modifications.** A legally established Existing Use or Structure may be expanded, enlarged, or extended (including extension of hours of operation) provided the expansion conforms to land Use standards set forth in ICC 17.03.180 for parking and Setbacks; the height restrictions of the applicable Zone; and the applicable Critical Area standards of Chapters 17.02, 17.02A, and 17.02B ICC. --Provided that this subsection does

17.03.230

not apply to Airports that are not zoned AP, Gun Clubs and Shooting Ranges or Junk and/or Salvage Yards.

- I. **Discontinuance of Existing Use.** All legally established Existing Uses shall be encouraged to convert to a conforming Use whenever possible and conformance shall be required when:
1. The Use or Structure(s) within which the Use is conducted is moved to another Lot or Structure unless the move is due to a County, municipal, state or federal project; or
 2. The Use is terminated or discontinued for more than three (3) years.
- J. **Existing Certificates of Zoning Compliance.** This new Chapter does not alter or restrict Existing Certificates of Zoning compliance issued pursuant to Chapter 17.02 ICC, prior to the effective date of this Chapter, and any determinations or interpretations contained in a Existing Certificate are not affected by this Chapter.

Applicability to Chapter 17.02B ICC. This section shall also apply to Lots, Uses, Structures, and Developments which are subject to the standards, requirements, and regulatory provisions of Chapter 17.02B ICC. For such Uses, Structures, and Developments, the following provisions shall apply in addition to the other provisions of this section:

1. Lots, Uses, Structures, and Developments which in whole or in part are not in conformance with the current standards or requirements set forth in Chapter 17.02B ICC, but which were legally established at a prior date, at which time they were in conformance with all applicable standards, and requirements in effect at the time of their inception shall be deemed a legally Existing Use, Structure, or Development and may be used as if conforming.
2. Lots, Uses, Structures, and Developments which in whole or in part are not in conformance with the current standards or requirements set forth in Chapter 17.02B ICC and were not in conformance with the applicable standards and requirements at the time of their inception, or subsequent modification, shall be deemed an illegal Use, Structure, or Development. Such Uses, Structures, and Developments shall not be approved for any alteration or expansion and actions shall be taken to reach conformance with the current standards and requirements of Chapter 17.02B ICC.
3. The burden of establishing that any Lot, Use, Structure, or Development was legally established in accordance with the applicable standards and requirements in effect at the time of its inception shall, in all cases, rest with the Owner and not with the County.
4. All modifications, expansions, and material alterations to a legally Existing Lot, Use, Structure, or Development shall be consistent with the standards and provisions of Chapter 17.02B ICC.

Comment [WU24]: This section has been included because the "Existing Uses" section only refers to uses under Chapter 17.03 and not Chapters 17.02, 17.02A, or 17.02B. The scope of this project doesn't warrant making changes to include reference to ICC 17.02 and 17.02A but these changes should address the needs to classify uses rendered non-conforming through this update process. BJ - 5-7-2014.

Formatted: Indent: Left: 0.38", Tab stops: 0.75", Left + Not at 0.38"

Formatted: Indent: Left: 0", First line: 0"

17.03.240 Appeals

All administrative or judicial appeals of decisions of the Planning Director pursuant to this Chapter shall be as provided in Chapter 16.19 ICC.

17.03.250 Citizen Complaints

- A. **Written Complaint/Notice to Owner.** Any aggrieved Person may file, on forms provided by the Planning Department, a written complaint with the Planning Director, alleging that a violation of this Chapter has occurred or may occur. The citizen complaint process shall not apply to actions for which there are administrative and/or judicial appeals provided for in this Chapter or other

Chapters of the Island County Code. Such complaint stating fully the causes and basis thereof shall be filed with the Planning Department. Notice of said complaint with a copy thereof shall be promptly mailed to the property Owner of the subject property.

- B. **Public Hearing.** Within thirty (30) days of the receipt of a complaint, the Planning Director shall schedule a hearing before the Hearing Examiner. The date of hearing shall be not more than sixty (60) days from the receipt of the complaint. The Person filing the complaint shall have the burden of demonstrating that a violation has occurred or may occur.
- C. **Examiner's Decision.** Within ten (10) working days of the conclusion of the public hearing, the Examiner shall render a written decision. The Examiner may in the decision, impose on the nonprevailing party the costs and expenses of the proceeding, including costs of both the prevailing party and the County.

17.03.260 Penalties and Enforcement

The Planning Director is charged with enforcement of the provisions of this Chapter, Chapters 17.02, 17.02A and 17.02BA, Chapter 17.04, Chapter 17.05, Chapter 16.06, Chapter 16.14C, Chapter 16.15, Chapter 16.17, Chapter 16.21, Chapter 11.01, Chapter 11.02, Chapter 11.03, and Chapter 14.01A. It shall be unlawful for any Person to construct, enlarge, alter, repair, move, demolish, use, occupy or maintain any Use or cause the same to be done in violation of any of the provisions of this Chapter, Chapters 17.02, 17.02A and 17.02BA, Chapter 17.04, Chapter 17.05, Chapter 16.06, Chapter 16.14C, Chapter 16.15, Chapter 16.17, Chapter 16.21, Chapter 11.01, Chapter 11.02, Chapter 11.03, and Chapter 14.01A. Any such violation is declared to be a public nuisance and shall be corrected by any reasonable and lawful means as provided in this section.

Comment [WU25]: Added citations

Comment [WU26]: Added citations

A. Inspections

- 1. Whenever the Planning Director has reasonable cause to believe that a violation has been or is being committed, the Planning Director or his duly authorized inspector may enter any Building, Structure or property at any reasonable time to inspect the Use and perform any duty conferred on the Planning Director by this Chapter.
- 2. If the Building, Structure or property is occupied, the Planning Director shall first present identification credentials, state the reason for the inspection and demand entry. If consent to enter is not given and the Planning Director has probable cause to believe that a criminal violation of County regulations has occurred, then he may make an inspection after first obtaining a search warrant.
- 3. If the Building, Structure or property is not occupied, the Planning Director shall first make a reasonable effort to locate the Owner or other Person having control and request permission to enter. If he is unable to locate the Owner or Person having control, and he has probable cause to believe that a criminal violation of County regulations has occurred, he may make an inspection after first obtaining a search warrant.
- 4. Island County Superior Court and District Court shall have jurisdiction to issue inspection warrants under Island County Land Use Codes.

- B. **Cease and Desist Order.** Whenever a continuing violation of this Chapter, Chapters 17.02, 17.02A and 17.02BA, Chapter 17.04, Chapter 17.05, Chapter 16.06, Chapter 16.15, Chapter 16.17, Chapter 16.21, Chapter 11.01, Chapter 11.02, Chapter 11.03, and Chapter 14.01A will materially impair the Planning Director's ability to secure compliance with said Chapters, or when any person is proceeding in defiance of permit requirements issued in conjunction with said

Comment [WU27]: Included citation

17.03.260

5. File a lien against the property for costs of abatement and/or civil fines pursuant to subsection H.

- E. **Administrative Notice and Order.** Within twenty (20) days of discovery or receiving notice of a potential violation, the Planning Director shall make a determination of whether a violation has occurred, and, if there is a determination that a violation has occurred that cannot otherwise be abated pursuant to subsection D.1, issue an enforcement order. The Planning Director shall notify the complainant of his determination in writing.

Additionally, whenever the Planning Director has reason to believe that a Use or condition exists in violation of this Chapter and that violation will be most promptly and equitably terminated by an administrative proceeding, he may commence an administrative notice and order proceeding to cause assessment of a civil penalty, abatement or suspension of work or revocation of any approvals or permits issued pursuant to this Chapter, Chapter 11.01, Chapter 11.02, Chapter 11.03, Chapter 14.01A, Chapter 16.06, Chapter 16.14C, Chapter 16.15, Chapter 16.17, Chapter 16.21, Chapter 17.04, Chapter 17.05 or Chapters 17.02, ~~17.02A and 17.02BA~~ ICC.

Comment [WU28]: Added citations

1. **Enforcement Order.** The order may be issued without written or oral notice. The Planning Director shall cause the enforcement order to be directed to and served upon the property Owner on whose property the violation exists, and/or operator of the source of the violation, and/or the Person in possession of the property where the violation originates, and/or the Person otherwise causing or responsible for the violation. In addition, the Order may be posted on the subject property and may be filed in the Office of the Island County Auditor. The order shall require immediate cessation of such work or activity and may temporarily suspend any approval or permit issued under this Chapter, Chapter 11.01, Chapter 11.02, Chapter 11.03, Chapter 14.01A, Chapter 16.06, Chapter 16.14C, Chapter 16.15, Chapter 16.17, Chapter 16.21, Chapter 17.04, Chapter 17.05 or Chapters 17.02, ~~17.02A and 17.02BA~~ ICC. The notice and order shall contain:

Comment [WU29]: Added citations

- a) The street address, when available, and a legal description of the real property;
- b) A statement that the Planning Director has found the Person to be in violation of this Chapter, a brief and concise description of the conditions found to be in violation, and a specific description of the procedure of appeal and to stay the hearing before the Hearing Examiner;
- c) A statement that the violator may be subject to a civil penalty up to five-hundred dollars (\$500) for each day that the violation continues and, if applicable, the conditions on which assessment of such civil penalty is contingent;
- d) An assessment of a civil penalty, if any, in an amount up to five-thousand dollars (\$5,000) for any critical areas or shoreline violation and up to one-thousand dollars (\$1,000) for any other violations which occurred prior to the issuance of the order;
- e) A statement of the corrective action required to be taken. If the Planning Director has determined that corrective work is required, the order shall require that all required permits be secured and the work be physically commenced and completed within such time as the Planning Director determines is reasonable under the circumstances;
- f) Statements advising that:
 - (i) If any required work is not commenced or completed within the time specified, the Planning Director will proceed to abate the violation and cause the work to be done and charge the costs thereof as a lien against the property and any

17.03.260

violation. The failure of any such Person to receive such notice shall not affect the validity of any proceedings taken under this Chapter. Service by certified mail in the manner provided in this section shall be effective five (5) calendar days after the date of postmark, unless postal records show actual receipt prior to that date. The order may be, but is not required to be, posted on the subject property.

F. **Violation of Order.** If, after any order has been duly issued by the Planning Director, or an order appealed to the Hearing Examiner has become final, the Person to whom such order is directed fails, neglects, or refuses to obey such order, including refusal to pay a civil penalty assessed under such order, the Planning Director may:

1. Cause such Person to be prosecuted under the provisions of this section; and/or
2. Institute any appropriate action to collect a civil penalty assessed under this section; and/or
3. Abate the violation using the procedures of this section; and/or
4. Pursue any other appropriate remedy at law or equity.

G. **Revocation of Approvals or Permits**

1. **Basis for revocation.** The Planning Director may revoke any approval or permit issued under this Chapter, Chapter 11.01, Chapter 11.02, Chapter 11.03, Chapter 14.01A, Chapter 16.06, Chapter 16.14C, Chapter 16.15, Chapter 16.17, Chapter 17.04, Chapter 17.05 or Chapters 17.02, 17.02A and 17.02BA ICC until compliance is achieved for:

Comment [WU30]: Added citations

- a) Failure of the holder to comply with the requirements of such Chapters; or
- b) Failure of the holder to comply with any order issued pursuant to this section; or
- c) Discovery by the Planning Director that an approval or a permit was issued in error or on the basis of incorrect information supplied to the County which was material to the decision or approval.

2. **Revocation Process.** Such approval or permit revocation shall be carried out as follows:

- a) A revocation notice and order shall be issued by the Planning Director in general conformance with the provisions of subsection E.1;
- b) Within ten (10) calendar days following issuance of the revocation notice and order, a public hearing shall be scheduled before the Hearing Examiner;
- c) The revocation shall be final upon issuance of the Hearing Examiner's written decision; and
- d) A permit may be suspended by the Planning Director pending action by the Hearing Examiner.

H. **Lien.** Following affirmative review by the Hearing Examiner, Island County shall have a lien for any civil penalty imposed or for the cost of any work of abatement done pursuant to this section, or both, against the real property on which the civil penalty was imposed or any of the work of abatement was performed.

The lien shall be subordinate to all Existing special assessment liens previously imposed upon the same property and shall be superior to all other liens, except for state and County taxes, with which it shall be on a parity.

The Board may cause a claim for lien to be filed for record with the Auditor within ninety (90)

17.03.270 Forest Practices

A. Pursuant to RCW 76.09.060(3)(b)(i)(D) and (E) the following standards shall apply to forest practices conducted in Island County.

1. The grading permit application shall contain a detailed site plan, drawn to a scale of no less than 1"=200'. The site plan shall show the entire extent of the property proposed for timber harvest. The site plan shall also indicate the location of and extent of timber harvest areas and indication of whether the areas are to be thinned, harvested selectively, or clear-cut; identified or suspected wetlands; slopes in excess of thirty-five percent (35%) grade; unstable slopes; shorelines, streams, drainage ways or other water features; existing and proposed roads; existing and proposed development on the subject property including utilities, septic systems, wells, structures, and existing cleared areas; and any other information necessary to evaluate the proposal.
2. The grading permit application shall be reviewed for consistency with all applicable codes and ordinances of Island County including, but not limited to, Chapters 11.02 (Land Development Standards), 16.14C (SEPA), 17.03 (Zoning) and 17.02, 17.02A, and 17.02B (Critical area regulations) of the Island County Code.
3. When found consistent with the above requirements and upon completion of the SEPA review process, the grading permit shall be approved. Conditions shall be applied as necessary to ensure compliance with applicable regulations and ordinances.
4. Upon grading permit approval, the County will notify the applicant and DNR that the County has no objection to forest practice permit application and issuance.

Comment [WU31]: Added citations

B. Conditional uses. Prior to application to DNR for a Class IV-General or Class IV-Special forest practices permit for a property upon which a conditional use per Chapter 17.03 ICC is proposed, the applicant shall first obtain at least preliminary approval of the underlying permit application.

1. For any conditional use for which a conversion forest practice permit is required, submittal of a SEPA environmental checklist, the materials and information listed in section A.I and applicable fees shall also be required upon application, whether or not the underlying permit is subject to SEPA review.
2. Upon granting of such preliminary approval of the underlying land use permit and a finding that SEPA review has been completed, the applicant and DNR shall be notified that the County has no objection to the forest practice permit application and issuance.

C. Six (6) year moratorium per RCW 76.09.060(3)(b)(i). For any lands harvested under a non-conversion forest practices permit, or for any lands harvested without a permit when a forest practices permit was required, no development permits or approvals incompatible with continued forest use or production on the land and which involve or include physical conversion of the land from continued forest growth, shall be issued for a period of six (6) years from the date of forest practice permit application, except as provided for in this policy.

1. For lands cleared without a permit, the moratorium shall run for six (6) years from the date the un-permitted clearing was discovered by DNR or the County.

Exhibit D-11

Changes to ICC 17.04A

The list of Contributing Structures in the *Building and Landscape Inventory*, copies of other Island County Codes referenced in this Chapter, and the Design Standards and Guidelines for Ebey's Reserve are available to the public at the Island County Permit Center, the offices of the Town of Coupeville and the Trust Board, and can be accessed on the Town, Trust Board, or County websites.

Nothing in this Chapter changes any of the requirements or land use entitlements set forth in the Island County Zoning Code (Chapter 17.03 ICC). Nothing in this Chapter changes any of the requirements set forth in the Island County Building and Construction provisions (Title 14 ICC), the Island County Critical-Areas Ordinances (Chapters 17.02, 17.02A, and 17.02BA ICC), the Island County Shoreline Master Program Use Regulations (Chapter 17.05 ICC), the Island County Planning and Subdivision Provisions (Title 16 ICC), or the Island County Land Development Standards (Title 11 ICC). This Chapter does not apply to timber management activities conducted in accordance with RCW 84.33 or RCW 84.34.

17.04A.030 Design Guidelines Adopted

The Board adopts by reference *The Secretary of the Interior's Standards for Rehabilitation* and *The Ebey's Landing National Historical Reserve Design Guidelines*, approved by the Board, and any subsequent approved amendments thereto. *The Secretary of the Interior's Standards and Guidelines* are available to the public at the Island County Planning and Community Development Department, the Town of Coupeville, and the Ebey's Landing Trust Board office. The Guidelines are also available on the websites of the County, Town, and Trust Board. The Guidelines contain standards and technical guidance for complying with this chapter.

17.04A.040 Permit Coordination

Development activities within the geographic boundaries of Ebey's Landing National Historical Reserve require review and issuance of Certificates of Appropriateness, as set forth in this Chapter. Development activities within the unincorporated areas of the County are also required to comply with all other applicable permitting requirements established in Island County and the State of Washington. Permit requirements in the Reserve include, but are not limited to land use permits, building permits, clearing and grading permits, work within public rights-of-way permits, on-site sewage disposal systems permits, well permits, road access permits, etc.

Any conditions or approval attached to a Certificate of Appropriateness will become conditions of approval for the underlying or companion land use or building permits, as established in Section 17.04A.080.B.3.

In order to ensure coordination of these permitting requirements, the requirements to obtain a Certificate of Appropriateness must be completed prior to issuance of any underlying or companion land use, health, public works, or building permits.

Site investigative work necessary for land use application submittals, such as surveys, soil borings and test pits, soil logs, and other related activities may be completed prior to issuance of a COA, provided the land-disturbing activity is no greater than is necessary to accomplish the work.

17.04A.050 Definitions

All definitions set forth in Titles 11, 14, 16, and 17 of ICC are incorporated into this Chapter, unless modified below. Where terms are not defined in this code, such terms shall have their