

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF ISLAND COUNTY, WASHINGTON**

IN THE MATTER OF AMENDING THE
FREELAND SUBAREA PLAN,
ESTABLISHING A GROWTH
PHASING PLAN FOR FREELAND,
ADOPTING CHAPTER 17.06 ICC
(THE FREELAND ZONING CODE),
AMENDING THE ISLAND COUNTY
ZONING ATLAS, AND AMENDING
CHAPTERS 11.01, 11.02, 15.03,
16.06, 16.10, 16.15, 16.17, 16.19, AND
17.03 ICC.

ORDINANCE NO. C-49-19;
PLG-004-19

PLANNING AUTHORITY

WHEREAS, Island County conducts planning activities in accordance with Chapter 36.70 of the Revised Code of Washington (RCW), the Planning Enabling Act; and

WHEREAS, the planning activities of Island County are further regulated by the provisions of Chapter 36.70A RCW - The Growth Management Act (GMA); and

NMUGA SUBAREA PLANNING

WHEREAS, a Freeland Subarea Planning Committee was established in 1999, and after an extensive public engagement process submitted a Draft Subarea Plan to the County in 2004; and

WHEREAS, in 2006, Island County adopted the Freeland Comprehensive Sewer Plan and Engineering Report/Facility Plan (Resolution C-149-05); and

WHEREAS, in 2007, Island County adopted the Freeland Subarea Plan as an Element of the Island County Comprehensive Plan (ICC 16.10.010) and designated Freeland as a Non-Municipal Urban Growth Area under the GMA, inside of which growth shall be encouraged, per RCW 36.70A.110, RCW 36.70A.115, WAC 365-196-310 (Ordinance C-32-11); and

WHEREAS, on March 21, 2011 the Board of Island County Commissioners approved the 2010 Freeland Subarea Plan (Ordinance C-32-11); and

WHEREAS, the 2016 Freeland Subarea Plan was adopted on December 13, 2016 (Ord C-139-16); and

WHEREAS, the Freeland Zoning Code and related Subarea Plan amendments were included on the 2017 Annual Docket (Resolution C-21-17) and continued to the 2018 Annual Docket (Resolution C-110-17); and

SEPA REVIEW

WHEREAS, Non-Project Actions, such as the adoption of implementing regulations, are regulated by the provisions of Chapter 43.21C RCW – the State Environmental Policy Act (SEPA); and on December 18, 2017, Island County issued the following SEPA documents:

- a. Addendum No. 1 to the Final Environmental Impact Statement (FEIS) for the Freeland Subarea Plan and implementing regulations with the revised NMUGA boundary and reduced population projections (GMA Item #13488); and
- b. A Determination of Non-Significance and Adoption of Existing Environmental Documents on December 18, 2017 (GMA Item #13489); and
- c. A SEPA Checklist for the Freeland NMUGA development regulations on December 18, 2017 (GMA Item #13490); and

WHEREAS, one public comment was received in response to the SEPA documents, from Lou Malzone (GMA Item #13514); and

- a. Mr. Malzone was a Freeland Water and Sewer District (FWSD) Commissioner at the time the letter was written, but the comments were from Mr. Malzone were provided as an individual and are not official comments from the FWSD Board; and
- b. Mr. Malzone expressed concerns about nitrogen discharge from septic systems, asking that the SEPA checklist be expanded to include detailed information on this item; and
- c. Island County responded to Mr. Malzone, informing him that nitrogen discharge from septic systems is governed by the Board of Health and is not regulated by the proposed

development regulations. Staff encouraged him to seek Board of Health guidance to address this concern, and potentially update the relevant sections of County Code (such an update, if approved, would be under separate ordinance). Mr. Malzone reached out to the appropriate agency staff, and has had several conversations with Island County Public Health and the Public Health Board on this topic; and

WHEREAS, in response to the SEPA documents, the State Department of Ecology asked for a high-resolution copy of the documents and relevant maps. The County provided this information; and

WHEREAS, no other comments were received related to the SEPA process; and

PUBLIC ENGAGEMENT

WHEREAS, the GMA requires that the adoption of Plan amendments and their implementing regulations include a public notification and engagement process (RCW 36.70A.035); and

- a. The public participation requirements for Plan amendments and their implementing regulations have been adopted into Chapter 16.26 ICC; and
- b. The regulations were placed on multiple docket cycles, notices were sent out through press release and email subscriptions, and a project web site was created with extensive information regarding this project; and
- c. The development regulations for the Freeland NMUGA have been driven largely by the community input and participation, which has included numerous meetings, workshops, open houses, and a large email subscription list. Even though it has been long, multi-year process, all input was utilized in the development of the regulations; and
- d. Property and business owners in Freeland were encouraged to submit any plans for properties to the County to help “test” the code provisions prior to adoption, and help fine-tune or adjust any proposed regulations as needed. Five property owners completed the test phase, with outcomes influencing future drafts. In addition, staff selected two other projects to run as test cases; and

COMPREHENSIVE PLAN AMENDMENT - SUBAREA PLAN UPDATES

WHEREAS, the Freeland Subarea Plan has been amended to separate the future land use designation from the zoning districts; and

- a. The land use designation for the Freeland NMUGA is “Urban Areas;” and

- b. The Freeland Subarea is divided into zoning districts (“districts”) as are necessary to achieve compatible land uses within each district and implement the Freeland Subarea Plan (ICC 17.06.100); and
 - i. Zoning district classifications for within the Freeland NMUGA are: Low-Density Residential (LD), Medium-Density Residential (MD), Business Village (BV), Business General (BG), Non-Residential Mixed-Use (NM), and Light Industrial (IN). The Parks zoning district, established by ICC 17.03, shall also be a permitted zoning district within the Freeland NMUGA; and
 - ii. The “Public” zoning district has been removed from the Subarea Plan; and

WHEREAS, the Freeland Subarea Plan has been amended to include the phasing plan. Per WAC 365-196-330, no additional plan amendments are required to implement the phasing provisions; and

WHEREAS, the other minor revisions to the Subarea Plan have been included for clarity, including a summary of 2018 revisions and updated County-wide Planning Policy (CWPP) references reflecting the 2017 CWPP updates; and

WHEREAS, the Freeland Subarea Plan amendments (enclosed as Exhibit B) are consistent with the Island County Comprehensive Plan designation of Freeland as an NMUGA, with specific urban regulations for the NMUGA; and

DEVELOPMENT REGULATIONS

WHEREAS, the Planning Commission has reviewed the revisions to the Freeland Subarea Plan and the Freeland Zoning Code and finds that they accomplish the goals and objectives as set forth for this project, specifically:

- a. The Freeland Zoning Code establishes the regulations that implement the Freeland Subarea Plan in a manner that is consistent with the Plan; and
- b. The Freeland Zoning Code emphasizes the character of Freeland and of each zoning district, creating development standards with a "rural village" character for the NMUGA as set forth in the vision adopted in the Freeland Subarea Plan; and
- c. The Freeland Zoning Code has been written with usability in mind and is easy to read and implement, with tables and illustrations throughout for clarity; and

- d. The Freeland Zoning Code provides a unique balance between predictability and flexibility, based on the desires of the community, by establishing performance requirements, design alternatives, and multiple options throughout the code; and
- e. The Freeland Subarea Plan and the Freeland Zoning Code have been updated to separate the future land use designation from the zoning districts; and

WHEREAS, the GMA requires that Urban Growth Areas permit urban densities (RCW 36.70A.110 and WAC 365-196-310); and

- a. The Island County Comprehensive Plan designates Freeland as an NMUGA, with a separate sub-area plan, and that all respective zoning associated with the NMUGA are designated in the Subarea Plan and development regulations; and
- b. The Island County Comprehensive Plan indicates that the Freeland area is the only urbanized area within the County jurisdiction, and is fully empowered to shape the rural/urban split of development, “directing future growth and development within existing developed urban areas to conserve Island County’s natural resources, critical areas, open space, and rural characteristics;” and
- c. The Island County Comprehensive Plan states that the Freeland NMUGA shall have regulations specific to Freeland; and
- d. The lowest densities possible within the Freeland NMUGA are in the Low Density Residential District, with 2-4 dwelling units per acre. All other districts have a potential for higher densities (implemented through phasing); and
- e. The potential densities within the Freeland NMUGA are urban in nature; and

WHEREAS, the GMA requires that development regulations are consistent with and implement the comprehensive plan (RCW 36.70A.130); and

- a. The Freeland Zoning Code establishes the zoning districts, development and performance standards, and protects and enhances community and district character as defined and adopted in the Freeland Subarea Plan; and
- b. The Freeland Zoning Code is consistent with and implements the Freeland Subarea Plan, an Element of the Island County Comprehensive Plan; and

WHEREAS, the GMA requires a sixty-day review by state agencies for all Plan amendments and related development regulations (RCW 36.70A.106). State agencies, including the Department of Commerce, may provide comments to the County on the proposed comprehensive plan, or proposed development regulations, during the public review process prior to adoption; and

- a. Island County submitted the Freeland Subarea Plan amendments, the draft Freeland Zoning Code, and related updates to multiple ICC Titles to the Department of Commerce on March 16, 2018 (GMA Item # 13645, 13612, 13646, 13524, 13613, 13614, and 13615 – collectively Commerce Material ID #24727); and
- b. Island County received review comments from the Department of Commerce on May 17, 2018 (GMA Item #13695) in support of the proposed regulations and plan updates. Comments included:

“We appreciate the significant amount of work these represent, and we plan to recommend your scenario planning techniques for the Freeland non-municipal urban growth area (NMUGA), and implementing development regulations as a good example for similar sized UGAs;” and
- c. No other agency provided comments on the proposed regulations and plan amendments; and
- d. The updates have met the required review process requirements; and

PHASING PLAN

WHEREAS, the GMA requires the County to plan for sewers in Urban Growth Areas (WAC 365-196-320, WAC 365-196-310, and WAC 365-196-320) and that sewer plans must be consistent with the adopted land use plan (RCW 57.02.040, RCW 57.16.010, WAC 173-240-050, WAC 246-290-100, WAC 246-290-108 & WAC 365-196-320); and

- a. The GMA allows development to occur in urban areas utilizing septic systems in limited circumstances as a transitional strategy where there is a development phasing plan in place (WAC 365-196-320 and WAC 365-196-330); and
- b. All growth allocated for the 20-year planning period must be part of the phasing plan, per WAC 365-196-330, with slower growth early in the planning period balanced by mechanisms allowing faster growth at the later part of the planning period; and

WHEREAS, the phasing plan is established by the Freeland Subarea Plan (Section 1.4.4) and Freeland Zoning Code (ICC 17.06.105); and

WHEREAS, the phasing plan approach allows the community to move forward towards the adopted vision for the character of Freeland and helps the community to navigate uncertainty through a range of growth rates over the short and long term; and

WHEREAS, the Commerce letter (GMA Item #13695) specifically commented on the phasing provisions:

“We appreciate the effort staff, the planning commission, and community members have put into creating development regulations that allow for slower growth in the interim, and the opportunity to accommodate more rapid growth once sewer becomes available towards the end of the planning period. The scenario planning techniques utilized in the proposed subarea plan amendments all reflect current goals, policies, codes and laws.”

RELATED CODE REVISIONS

WHEREAS, revisions were drafted to Island County Code Titles 11, 15, 16 & 17 related to the implementation of the Freeland Zoning Code and addressing consolidating definitions, updated cross references and reference formatting, and striking outdated language (i.e. references to Freeland RAID vs. Freeland NMUGA). The chapters revised by this ordinance are shown below (the revisions are attached in Exhibit D):

Chapters 11.01 & 11.02	Chapter 15.03	Chapters 16.06, 16.10, 16.15, 16.17, & 16.19	Chapters 17.03
11.01.090	15.03.020	16.06.040	17.03.030
11.02.180	15.03.070	16.06.070	17.03.040
		16.10.010	17.02.050
		16.15.080	17.03.075
		16.15.130	17.03.080
		16.15.170	17.03.155A
		16.17.020	17.03.210
		16.17.060	17.03.220
		16.17.070	17.03.230
		16.17.120	Appendix A
		16.17.160	Appendix B
		16.19.040	
		16.19.050	

ZONING ATLAS

WHEREAS, RCW 36.70.720 allows for the adoption of zoning maps to control the areas covered by a comprehensive plan; and

WHEREAS, ICC 17.03.050.C.2 requires adoption and maintenance of an official zoning atlas; and

WHEREAS, the public comment on the zoning districts for the Freeland NMUGA has been extensive, and included minor updates in 2016 and again in 2018 to reflect property owner requests; and

WHEREAS, the new Zoning Atlas maps are necessary to implement the new zoning districts; and

WHEREAS, the new Zoning Atlas maps are attached in Exhibit E and a list of all parcels rezoned in accordance with the revised Zoning Atlas maps are attached in Exhibit F; and

PLANNING COMMISSION FINDINGS AND RECOMMENDATION

WHEREAS, the County has determined that the establishment of a new zoning code is a significant undertaking and that the implementation of the regulations adopted in Chapter 17.06 ICC can and should be evaluated after adoption; and

WHEREAS, the Island County Planning Commission Adopted Findings of Fact following a public hearing, enclosed herein as Attachment 1 to Exhibit A; and

WHEREAS, the Island County Planning Commission, after a public hearing on April 8, 2019, recommended approval of an ordinance adopting Chapter 17.06 ICC (the Freeland Zoning Code), establishing new zoning districts and a growth phasing plan, and amending the Freeland Subarea Plan, the Island County Zoning Atlas, and Titles 11, 15, 16, & 17 ICC; and

CONCLUSIONS

WHEREAS, the proposed Subarea Plan amendments development regulations comply with SEPA requirements for non-project actions; and

WHEREAS, the extensive public engagement process met and exceeds the requirements of ICC 16.26 and the GMA, with the code developed in a unique, collaborative approach with the

community that involved as extensive amount of workshops, open houses, Planning Commission and Board work sessions, and a large community conference; and

WHEREAS, the revisions to the Freeland Subarea Plan Chapter One, Land Use Element, are consistent with the Island County Comprehensive Plan and applicable Washington State Planning laws and regulations; and

WHEREAS, the Freeland Zoning Code is consistent with the Freeland Subarea Plan, Island County Comprehensive Plan, and applicable Washington State Planning laws and regulations; and

WHEREAS, the phasing plan provisions are consistent with state laws and appropriate for the Freeland NMUGA to allow for the immediate implementation of regulations for land use, architecture, lighting, signage, landscaping, etc. while limiting densities based on specific phasing plan requirements outlined in the Subarea Plan; and

WHEREAS, the proposed zoning maps are consistent with and implement the Freeland Subarea Plan, and are consistent with the Island County Comprehensive Plan and applicable Washington State Planning laws and regulations; and

WHEREAS, the code revisions to Island County Code Titles 11, 15, 16 & 17 are relevant, appropriate, and necessary for this action, and are consistent with the Island County Comprehensive Plan and all applicable Washington State Planning laws and regulations.

NOW, THEREFORE,

IT IS HEREBY ORDAINED

1. **Finding of Fact.** The Board of Island County Commissioners hereby adopts the Boards Findings of Fact attached hereto at **Exhibit A**; and
2. **Subarea Plan Amendment.** The Board of Island County Commissioners hereby repeals and replaces in its entirety Chapter One, Land Use Element, of the Freeland Subarea Plan, as attached hereto as **Exhibit B**; and
3. **Freeland Zoning Code.** Board of Island County Commissioners hereby adopts amendments to Title 17, establishing a new Chapter 17.06 ICC, the Freeland Zoning Code, attached hereto as **Exhibit C**; and

4. **Related Code Revisions.** Board of Island County Commissioners hereby adopts amendments to Island County Code Chapters 11.01, 11.02, 15.03, 16.06, 16.10, 16.15, 16.17, 16.19, and 17.03 ICC, as attached hereto as **Exhibit D**. Within Exhibit D, material stricken through is deleted and material underlined in added; and

5. **Zoning Atlas Amendments.** Board of Island County Commissioners hereby repeals and replaces in its entirety Zoning Atlas maps 500, 501, 502, 503, 518, and 519, as enclosed hereto as **Exhibit E**, rezoning the parcels with the NMUGA (as shown on the attached **Exhibit F**) to the new Freeland zoning districts; and

BE IT FURTHER ORDAINED that Chapter 17.06 ICC (the Freeland Zoning Code), the amendments to Titles 11, 15, 16, & 17 ICC, and the Zoning Atlas map revisions shall have immediate effect.

ADOPTED this _____ day of _____, 2019, following a public hearing.

**Board of County Commissioners
Island County, Washington**

Jill Johnson, Chair

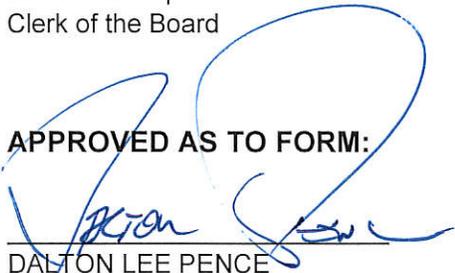
Janet St. Clair, Member

Helen Price Johnson, Member

ATTEST:

Debbie Thompson
Clerk of the Board

APPROVED AS TO FORM:



DALTON LEE PENCE
Civil Deputy Prosecuting Attorney and
Island County Code Reviser