

**SKAMANIA COUNTY CODE
TITLE 16 - ENVIRONMENT**

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16.04.010 **RULES ADOPTED**

Skamania County hereby adopts Chapter 197-11 WAC of the Washington Administrative Code (SEPA Rules 917-11-010 through 197-11-990 inclusive). (Ord. 1985-02 S2.0)

16.04.020 **SUBSTANTIVE AUTHORITY**

- A. The policies and goals set forth in this ordinance are supplementary to those in the existing authorization of Skamania County.
- B. The county may attach conditions to a permit or approval for a proposal so long as:
 - 1. Such conditions are necessary to mitigate specific probable adverse environmental impacts identified in environmental documents prepared pursuant to this chapter; and
 - 2. Such conditions are in writing; and
 - 3. The mitigation measures included in such conditions are reasonable and capable of being accomplished; and,
 - 4. The county has considered whether other local, state, or federal mitigation measures applied to the proposal are sufficient to mitigate the identified impacts; and
 - 5. Such conditions are based on one or more policies in subsection D of this section and cited in the license or other decision document.
- C. The county may deny a permit or approval for a proposal on the basis of SEPA so long as:
 - 1. A finding is made that approving the proposal would result in probable significant adverse environmental impacts that are identified in a FEIS or final SEIS prepared pursuant to this chapter; and
 - 2. A finding is made that there are no reasonable mitigation measures capable of being accomplished that are sufficient to mitigate the identified impact; and

3. The denial is based on one or more policies identified in subsection D of this section and identified in writing in the decision document.
- D. The county hereby adopts the following policies as the basis for the county's exercise of authority pursuant to this section:
1. The county shall use all practicable means, consistent with other essential considerations of state policy, to improve and coordinate plans, functions, programs, and resources to the end that the citizens of Skamania County may:
 - a. Fulfill the responsibilities of each generation as trustee of the environment for succeeding generations; and
 - b. Assure for all people of Skamania County safe, healthful, productive, and aesthetically and culturally pleasing surroundings; and
 - c. Attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences; and
 - d. Preserve important historic, cultural, and natural aspects of our natural heritage; and
 - e. Maintain, wherever possible, an environment which supports diversity and variety of individual choice; and
 - f. Achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and
 - g. Enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.
 2. The county recognizes that each person has a fundamental and inalienable right to a healthful environment and that each person has a responsibility to contribute to the preservation and enhancement of the environment.
 3. The county adopts by reference the policies in the Skamania County Comprehensive Plan A and the Skamania County Shorelines Management Master Program.
- E. Except for permits and variances issued pursuant to Chapter 20.04 of the Skamania County Code when any proposal or action not requiring a decision of the Hearing Examiner is conditioned or denied on the basis of SEPA by a non-elected official, the decision shall be

appealable to the Hearing Examiner. Such appeal may be perfected by the proponent or any aggrieved party by giving notice to the responsible official within fourteen (14) calendar days of the decision being appealed. Review by the Hearing Examiner shall be on a de novo basis. (Ord. 1985-02 S12.0)

16.04.030 **DESIGNATION OF RESPONSIBLE OFFICIAL - RESPONSIBILITY AND DUTY**

- A. For those proposals for which the county is the lead agency the responsible official shall be the Skamania County Planning Director.
- B. For all proposals for which the county is the lead agency the responsible official shall:
 - 1. Make the threshold determination; and
 - 2. Determine whether or not an application for a license (including a county proposal) is categorically exempt under WAC 197-11-800; and
 - 3. Supervise scoping and preparation of any required environmental impact statement (EIS); and
 - 4. Perform any other functions assigned to the lead agency or responsible official by those sections of the SEPA Rules which were adopted in Section 16.04.010 of this chapter. (Ord. 1985=02 S3.0)

16.04.040 **SEPA PUBLIC INFORMATION CENTER**

- A. The county's SEPA Public Information Center will be located in the Skamania County Planning Department.
- B. All reasonable means will be used to make the existence and location of the county's SEPA Public Information center known to both the public generally and the employees of the county.
- C. The SEPA Public Information Center shall contain the documents and provide the services required by WAC 197-11-504. (Ord. 1985-

02 S4.0)

16.04.050 **TRANSFER OF LEAD AGENCY STATUS TO A STATE AGENCY**

For any proposal for a private project where the county would be the lead agency and for which one or more state agencies have jurisdiction, the responsible official may elect to transfer the lead agency duties to a state agency. The state agency with jurisdiction appearing first on the priority listing in WAC 197-11-936 shall be the lead agency and the county shall be an agency with jurisdiction. To transfer lead agency duties, the responsible official must transmit a notice of the transfer together with any relevant information available on the proposal to the appropriate state agency with jurisdiction. The responsible official shall also give notice of the transfer to the private applicant and any other agencies with jurisdiction over the proposal. (Ord. 1985-02 S5.0)

16.04.060 **USE OF EXEMPTIONS**

A. If a proposal includes both exempt and nonexempt actions, the county may authorize exempt actions prior to compliance with the procedural requirements of this chapter, except that:

1. The county shall not give authorization for:
 - a. Any nonexempt action; or
 - b. Any action that would have an adverse environmental impact; or
 - c. Any action that would limit the choice of alternatives. (Ord. 1985-02 S6.0)

B. All subdivisions, short subdivisions and amendments to subdivisions or short subdivisions that increase the original number of approved lots require an environmental checklist review.

16.04.070 **ENVIRONMENTAL CHECKLIST**

A. A completed checklist in the form provided in WAC 197-11-960, shall be filed at the same time as an application for a permit, license,

certificate, or other approval not specifically exempted in this chapter; except, a checklist is not needed if the county and applicant agree an EIS is required, SEPA compliance has been completed, or SEPA compliance has been initiated by another agency.

- B. For private proposals the county will require the applicant to complete the environmental checklist, providing assistance as necessary. For county proposals, the department initiating the proposal shall complete the environmental checklist for that proposal. (Ord. 1985-02 S7.0)

16.04.080 **PREPARATION OF EIS**

- A. The draft and final EIS (DEIS and FEIS) and draft and final supplemental EIS's (SEIS) shall be prepared by the a private applicant or consultant retained by the private applicant.
- B. The responsible official shall ensure that the EIS is prepared in a responsible manner and with appropriate methodology. The responsible official shall direct the areas of research and examination to be undertaken, as well as the organization of the resulting document.

16.04.090 **ADDITIONAL ELEMENTS MAY BE COVERED BY AN EIS**

The following additional elements may be considered a part of the environment for the purpose of EIS content, but shall not add to the criteria for threshold determinations or perform any other function or purpose under this chapter.

- A. Economy, including but not limited to employment and tax base;
- B. Cultural factors;
- C. Social policy analysis;
- D. Cost-benefit analysis. (Ord. 1985-02-S9.0)

16.04.100 **PUBLIC NOTICE**

- A. Whenever Skamania County issues a Determination of Nonsignificance (DNS) under WAC 197-11-340(2) or a Determination of Significance (DS) under WAC 197-11-360(3) the county shall give public notice as follows:
 - 1. If public notice is required for a nonexempt license, the notice shall state whether a DNS or DS has been issued and when comments are due;
 - 2. If no public notice is required for the permit or approval, the county shall give notice of the DNS or DS by publishing notice in the official county newspaper of record;
 - 3. Whenever the county issues a DS under WAC 197-11-360(3), the county shall state the scoping procedure for the proposal in the DS as required in WAC 197-11-408 and in the public notice.

- B. Whenever the county issues a DEIS under WAC 197-11-455(5) or a SEIS under WAC 197-11-620, notice of the availability of those documents shall be given by:
 - 1. Indicating the availability of the EIS in any public notice required for a nonexempt license; and,
 - 2. Posting the property, for site-specific proposals; and
 - 3. Publishing notice in the official county newspaper of record. (Ord. 1985-02 S10.0)

16.04.110 **DESIGNATION OF OFFICIAL TO PERFORM CONSULTED AGENCY RESPONSIBILITIES FOR THE COUNTY**

- A. The responsible official shall be responsible for preparation of written comments for the county in response to a consultation request prior to a threshold determination, reviewing a DNS, participation in scoping, and reviewing a DEIS.
- B. The responsible official shall be responsible for the county's compliance with WAC 197-11-550 whenever the county is a consulted agency and is authorized to develop operating procedures that will ensure that responses to consultation requests are prepared in a timely fashion and include data from all appropriate departments of the county. (Ord. 1985-02 S11.0)

16.04.120 **APPEALS**

- A. Skamania County establishes the following administrative appeal procedures under RCW 43.21C.075 and WAC 197-11-680:
 - 1. Any agency or person may appeal the county's procedural compliance with Chapter 197-11 WAC for issuance of the following:
 - a. A final DNS: Appeal of the DNS must be made to the Hearing Examiner within fourteen (14) days of the date the DNS is filed;
 - b. A DS: The appeal must be made to the Hearing Examiner within fourteen (14) days of the date the DS is issued;
 - c. Appeal of the FEIS (that is whether the county wrote the EIS correctly and followed procedures properly) or the substantive determination on the action (how the county applied the information in the FEIS to its permit decision) must be submitted to the Hearing Examiner within fourteen (14) days of the date the permit or other approval is issued. If both types of issues are raised, the appeals will be consolidated.
 - 2. For any appeal under this subsection, the county shall provide a record that shall consist of the following:
 - a. Findings and conclusions; and

- b. Testimony under oath; and
 - c. A taped or written transcript.
3. The procedural determination by the county's responsible official shall carry substantial weight in any appeal proceeding.
- B. The county shall give official notice under WAC 197-11-680(5) whenever it issues a permit or approval for which a statute or ordinance establishes a time limit for commencing judicial appeal. (Ord. 1985-02 S13.0)

16.04.130 **NOTICE - STATUE OF LIMITATIONS**

- A. The county, applicant for, or proponent of an action may publish a notice of action pursuant to RCW 43.21C.080 for any action.
- B. The form of the notice shall be substantially in the form provided in WAC 197-11-990. The notice shall be published by the responsible official, applicant or proponent pursuant to RCW 43.21C.080. (Ord. 1985-02 S14.0)

16.04.140 **FEES**

- A. Upon submittal and acceptance of an application which requires SEPA review by the County, as lead agency, the applicant shall pay a basic SEPA review fee, as established by the Board of County Commissioners from time to time. The basic review fee shall be submitted to the Department and checks shall be made payable to the Skamania County Treasurer. Fees are not refundable.
- B. The applicant shall pay the EIS fee, as established by the Board of County Commissioners from time to time. The county may charge any person for copies of any document prepared under this chapter, and for mailing the document, in a manner provided by Chapter 42.17 RCW. (Ord. 1985-02 S15.0)

16.04.150 **EIS TIMELINE APPLICABLE TO THE SEPA PROCESS**

If a Determination of Significance is made and an Environmental Impact Statement (EIS) is required, the EIS shall be completed within one (1) year of the date of the Determination of Significance. The one (1) year time period may be extended by the Planning Director if it is determined that the applicant has shown substantial work on the EIS and additional time is needed to complete the EIS.