

ORDINANCE NO. 164
PROCEDURES FOR PROCESSING
LAND USE DEVELOPMENT APPLICATIONS

AN ORDINANCE REPEALING ORDINANCE NOS. 145, 145A, 145B, 145C, 145D, 145E, 145F
AND 145G WHICH PERTAIN TO PROCEDURES FOR PROCESSING LAND USE
DEVELOPMENT APPLICATIONS

WHEREAS, since 1995 the Washington State Legislature has enacted several pieces of legislation pertaining to regulatory reform, e.g. Chapter 347, laws of 1995, codified primarily in Chapters 36.70A, 36.70B, and 36.70C;

WHEREAS, these legislative enactments seek to integrate growth management planning and environmental review;

WHEREAS, these legislative enactments mandate among other things that counties must adopt procedures to streamline and facilitate the processing of land use development applications;

WHEREAS, a determination of non-significance (DNS) under the State Environmental Policy Act (SEPA) has been issued for Pacific County Ordinance No. 164 and this determination is appropriate;

WHEREAS, Pacific County Ordinance No. 116 and 116A, Flood Damage Prevention Ordinance, is being repealed and replaced with Ordinance No. 167;

WHEREAS, Pacific County Ordinance No. 121 and 121A, SEPA, are being repealed and replaced with Ordinance No. 166;

WHEREAS, Pacific County Ordinance No. 141 and Ordinance Nos. 141A – 141G, Civil Infractions, are being repealed and replaced with Ordinance No. 165;

WHEREAS, Pacific County Ordinance No. 149 and Ordinance No. 149A, Land Division, are being repealed and replaced with Ordinance No. 163; and

WHEREAS, Pacific County Ordinance No. 153 and Ordinance Nos. 153A – 153F, are being repealed and replaced with Ordinance No. 162, Zoning;

WHEREAS, Pacific County Ordinance No. 164 will effectuate the intent of the Pacific County Comprehensive Plan; now therefore,

IN ACCORDANCE WITH CHAPTER 36.32 RCW, CHAPTER 36.70 RCW, CHAPTER 36.70A RCW, AND CHAPTER 36.70B RCW, IT IS HEREBY ORDAINED BY THE BOARD OF COMMISSIONERS, PACIFIC COUNTY, WASHINGTON, AS FOLLOWS:

Section 1 Purpose and Applicability

A. This Ordinance describes how Pacific County will timely process applications for development subject to review under the Pacific County Shoreline Master Program (PCSMP) and under the following ordinances or any amendments thereto:

Ordinance No.

- 100 That Portion Pertaining to RV Parks
- 147 Critical Areas and Resource Lands
- 151 Building Construction and Fire Prevention/Protection
- 156 Forest Practices
- 162 Zoning
- 163 Land Division
- 166 Environmental Protection
- 167 Flood Damage Prevention

B. This Ordinance shall be administered as follows:

1. When necessary, the applicable administrative official shall issue a formal written interpretation of a development regulation. A formal written interpretation shall be a Type 1 action and shall be subject to appeal provisions of Section 13.
2. The Administrator of the PCSMP shall interpret and apply the provisions of the PCSMP, or any amendments thereto.
3. The Director of the Pacific County Department of Community Development (DCD) or his or her designee(s), shall interpret and apply the provisions of the following ordinances or any amendments thereto:

Ordinance No.

- 100 That Portion Pertaining to RV Parks
- 147 Critical Areas and Resource Lands
- 151 Building Construction and Fire Prevention/Protection
- 156 Forest Practices
- 162 Zoning
- 163 Land Division
- 166 Environmental Protection
- 167 Flood Damage Prevention

4. The Director of the Pacific County Department of Community Development or his or her designee(s) shall consult with the County Engineer or his or her

designee(s) regarding any technical issues that arise in administering Ordinance No. 163, or any amendments thereto.

- C. This Ordinance is intended to identify procedures for determining whether development proposals (with or without conditions/mitigation) are consistent with applicable policies and standards. Consistency shall be determined by considering:
 - 1. The type of land use;
 - 2. The level of development, such as units per acre or other measures of density or intensity;
 - 3. Infrastructure, including public facilities and services needed to serve the development; and
 - 4. The character of the development, such as development standards.

Section 2 Application Types and Classification

- A. Applications for review pursuant to Section 1 of this Ordinance shall be subject to a Type 1, Type II, Type III or Type IV process.
- B. Unless otherwise required, if Pacific County must process more than one application for a given development, all applications required for the development may be submitted for review at one time. Where more than one (1) application is submitted for a given development, and those applications are subject to different types of procedure, then all the applications are subject to the highest-number procedure that applies to any of the applications.
- C. If this Ordinance expressly states that an application is subject to one of the four types of procedures or another procedure, then the application shall be processed accordingly. If this Ordinance does not expressly provide for review using one of the four types of procedures, and another specific procedure is not required by law, the review authority for the application in question shall classify the application as one of the four types of procedures.
 - 1. The act of classifying an application shall be a Type 1 action. Classification of an application shall be subject to reconsideration and appeal at the same time and in the same way as the merits of the application in question.
 - 2. The review authority shall consider the following guidelines when classifying the procedure type for an application:

- a. A Type 1 process involves an application that is exempt from SEPA review and is subject to clear, objective and nondiscretionary standards, or standards that require the exercise of professional judgment about technical issues.
- b. A Type II process involves an application that is subject to objective and subjective standards that require the exercise of limited discretion about non-technical issues and about which there may be a limited public interest.
- c. A Type III process involves an application for relatively few parcels and ownerships. It is subject to standards that require the exercise of substantial discretion. Such applications may implicate broad public interests.
- d. A Type IV process involves the creation, implementation, or amendment of policy or law by ordinance. In contrast to the other three procedural types, the subject of a Type IV process applies to a relatively large geographic area containing many property owners. An application subject to a Type IV process can be filed only by Pacific County.

D. The following development decisions shall be reviewed and processed accordingly:

			<u>HEARD BY:</u>
1.	Ord. No. 100 RV Parks		
	Construction Plan Review	Type 1	DCD
	Licensure	Type 1	DCD
2.	Ord. No. 147 Critical Areas and Resource Lands		
	Administrative Review	Type 1	DCD
	Variance/Viable Use Exception	Type II	Hearings Examiner (See Pacific County Ordinance No. 150, or any amendments thereto)
	Wetland Mitigation Bank	Type II	DCD
3.	Ord. No. 151 Building Construction and Fire Prevention/Protection		
	All Permit Activity	Type 1	DCD
4.	Ord. No. 156 Forest Practices		
	Recording of Development Moratorium	Type 1	DCD

	Rescission of Development Moratorium	Type 1	DCD
	Waiver of Development Moratorium	Type 1	DCD
	Conversion Option Harvest Plan Review	Type 1	DCD
5.	Ord. No. 162 Zoning		
	Development Permit Application	Type 1	DCD
	Allowed or Accessory Use Review	Type 1	DCD
	Zone or Setback Check	Type 1	DCD
	Special Use	Type II	Hearings Examiner (See Pacific County Ordinance No. 150, or any amendments thereto)
	Site Specific Rezone	Type III	PLANNING COMM.
	Variance/Conditional Use	Type III	BOARD OF ADJ.
	Administrative Review Subject to Oysterville Design Review Board	Type 1	DCD
	Application for a New Building or Major Remodel Subject to the Oysterville Design Review Board	Type III	ODRB
6.	Ord. No. 163 Land Division		
	Exemption Acknowledgment	Type 1	DCD***
	Short Subdivision	Type 1	DCD***
	Short Subdivision (Variance, Vacation/Alteration of a Short Sub)	Type II	Hearings Examiner (See Pacific County Ordinance No. 150, or any amendments thereto)
	Large Lot Subdivision (including Variances and Vacation/ Alteration of a Large Lot Subdivision)	Type II	Hearings Examiner (See Pacific County Ordinance No. 150, or any amendments thereto)
	Binding Site Plan	Type III	DCD***
	Subdivision (including Variances)	Type III	PLANNING COMM. BOCC***
	Vacation/Alteration of a Subdivision	Type III	DCD***

***(THE COUNTY ENGINEER OR HIS OR HER DESIGNEE(S) SHALL BE CONSULTED ON ANY TECHNICAL ISSUES)

7. Ord. No. 166 Environmental Protection

Determination of Non-Significance (DNS)	Type 1, II, III, *
or Mitigated Determination of Non-Significance (MDNS)	or IV
Or Determination of Significance (DS)	

*(REVIEW AUTHORITY DEPENDS UPON UNDERLYING APPLICATION)

8.	Ord. No. 167 Flood Damage Prevention Development Permit Review Variance	Type 1 Type II	DCD DCD
9.	Comprehensive Land Use Plan/Area Wide Zoning	Type IV	PLANNING COMM. BOCC
10.	Pacific County Shoreline Master Program Exemption Acknowledgement	Type 1	Shoreline Administrator
	Residential Development	Type II	Hearings Examiner (See Pacific County Ordinance No. 150, or any amendments thereto)
	Commercial Development	Type III	Hearings Examiner (See Pacific County Ordinance No. 150, or any amendments thereto)

Section 3 Pre-Application Review

A. Pre-application review is not intended to provide an exhaustive review of all the potential issues that a given application could arise. Pre-application review does not prevent the County from applying all relevant laws to the applicant. The purposes of pre-application review are:

1. To acquaint County agency staff with a sufficient level of detail about the proposed development to enable staff to advise the applicant accordingly;
2. To determine general consistency with any relevant comprehensive plan and development regulations;
3. To identify applicable regulations and permit needs, including permit fees;

4. To identify permits/requirements from other agencies, to the extent known;
 5. To provide early identification of study requirements, issues, and potential mitigation requirements;
 6. To acquaint the applicant with the applicable requirements of local ordinances and other law; and
 7. To provide an opportunity for other agency staff and the public to be acquainted with the proposed application and applicable law. Although members of the public can attend a pre-application conference, it is not a public hearing, and there is no obligation to receive public testimony or evidence.
- B. Pre-application review is required for Type II or III applications unless:
1. This Ordinance or the review authority expressly exempts the application(s) in question from pre-application review; or
 2. The applicant submits a completed form provided by the review authority requesting waiver of pre-application review and the waiver is granted. The form shall state that waiver of pre-application review increases the maximum time for review for technically complete status and increases the risk the application will be rejected or processing will be delayed. Pre-application review generally should be waived by the review authority only if an application is relatively simple.
- C. To initiate pre-application review, an applicant shall submit a completed form provided by the review authority for that purpose, the required fee, and all information required by the relevant section(s) of County ordinances and other applicable regulations. The applicant shall provide one (1) copy of information that does not pertain to subdivisions, nine (9) copies of information pertaining to short subdivisions, and fifteen (15) copies of information pertaining to subdivisions.
- D. Information not provided on the form shall be provided on the face of the preliminary plat, in an environmental checklist, or on other attachments. The review authority may modify requirements for pre-application materials and may conduct a pre-application review with less than all of the required information. However, failure to provide all of the required information may prevent the review authority from identifying all applicable issues or providing the most effective pre-application review.
- E. Within twenty-one (21) calendar days after receipt of an application for pre-application review, the review authority shall schedule a pre-application conference or exempt the application from pre-application review.

- F. The review authority shall coordinate the involvement of agency staff responsible for planning, development review, roads, utilities and other subjects, as appropriate, in the pre-application review process. Relevant staff shall attend the pre-application conference or shall take other steps to fulfill the purposes of pre-application review.
- G. The pre-application conference should be held as soon as practicable after the review authority accepts the application for pre-application review.
- H. Within fourteen (14) calendar days after the date of the pre-application conference, the review authority shall mail to the applicant, and to other parties who submit a request in writing, a written summary of the pre-application review. The written summary generally shall do the following to the extent practicable given the information provided by the applicant:
1. Summarize the proposed application(s);
 2. Identify the relevant approval criteria and development standards in County ordinances or other applicable law, and delineate exceptions, adjustments or other variations from applicable criteria or standards that may be relevant;
 3. Evaluate information the applicant offered to comply with the relevant criteria and standards, and identify specific additional information that is needed to respond to the relevant criteria and standards or that is recommended to respond to other issues;
 4. Identify applicable application fees in effect at the time, with a disclaimer that fees may change;
 5. Identify information relevant to the application that may be in the possession of the County or other agencies of which the County is aware, such as:
 - a. Comprehensive plan map designation and zoning of the property subject to the application and of the surrounding vicinity;
 - b. Physical development limitations, such as steep or unstable slopes, critical areas and natural resources on site, wetlands, well-head protection areas, water bodies, and water availability that exist on the property subject to the application and on the surrounding vicinity;
 - c. Those public facilities that will serve the property subject to the application, including fire services, roads, and if residential, parks and schools, and relevant service considerations, such as minimum access and fire flow requirements or other minimum service levels; and

- d. Other applications that have been approved or are being considered for land in the vicinity of the property subject to the proposed application that may affect or be affected by the proposed application.
- I. An applicant may submit a written request for a second pre-application conference within one (1) calendar year after an initial pre-application conference. There is no additional fee for a second conference if the proposed development is substantially similar to the one reviewed in the first pre-application conference or if it reflects changes based on information received at the first pre-application conference. A request for a second pre-application conference shall be subject to the same procedure as the request for the initial pre-application conference.
- J. A new request for, or waiver of, a pre-application review for a given development shall be filed unless the applicant submits a counter complete application that the review authority finds is substantially similar to the subject of a pre-application review within one (1) calendar year after the last pre-application conference or after approval of waiver of pre-application review.

Section 4 Review for Counter Complete Status

- A. Before accepting a Type 1, Type II or Type III application for review for technically complete status, the review authority shall determine whether the application is counter complete using a Type 1 process.
- B. The review authority shall decide whether an application is counter complete when the application is accepted, which is typically “over the counter” provided that, if the review authority establishes a given day of the week to conduct reviews for counter complete status for a given kind of application (e.g., subdivisions), then counter complete review of that kind of application shall be on the day selected by the review authority.
- C. An application is counter complete if the review authority finds that the application purports and appears to include the information required by subsection 5.C., provided that no effort shall be made to evaluate the substantive adequacy of the information in the application in the counter complete review process.
- D. If the review authority decides that an application is counter complete, then the application shall be accepted for review for technically complete status.
- E. If the review authority decides that an application is not counter complete, then the review authority shall reject and return the application and identify in writing what is needed to make the application counter complete.

Section 5 Review for Technically Complete Status

- A. Before accepting a Type 1, Type II or Type III application for processing, the review authority shall determine that the application is technically complete using a Type 1 process.

- B. The review authority shall decide whether an application is technically complete subject to the following:
 - 1. Within five (5) working days after the review authority determines the application is counter complete if the application was subject to a pre-application conference; or
 - 2. Within fourteen (14) calendar days after an application has been resubmitted to the County after the application has been returned to the applicant as being incomplete; or
 - 3. Within ten (10) calendar days after the application is submitted and determined to be counter complete if the application was not subject to a pre-application conference.
 - 4. Notwithstanding subsections B.1., B.2., B.3 of this section, if the review authority establishes a given day of the week as the day on which to begin review for technically complete status for a given kind of application (e.g., subdivisions), then the time for making a decision regarding the technically complete status of that kind of application shall begin to run on that day selected by the review authority.

- C. An application is technically complete if it includes the following:
 - 1. A completed original application form signed (1) by the owner(s) of the property subject to the application or (2) by a representative authorized to do so by written instrument executed by the owner(s) and filed with the application; provided that, an application subject to Type IV review may be filed by the Director of the Department of Community Development, the Planning Commission, or the Board of County Commissioners without the signature or consent of the property owner(s);
 - 2. A legal description supplied by the Pacific County Auditor, a title company, a surveyor licensed in the state of Washington, or other party approved by the review authority, and current Pacific County Assessor's map(s) showing the property(ies) subject to the application;
 - 3. For a Type II or Type III process, a current Pacific County Assessor's map(s) showing the property(ies) with a radius of three hundred (300) feet of the subject

site. In addition, a list of the names and addresses of all properties within that radius shall be provided. This information shall be obtained from the Pacific County Assessor's Office or a title company, licensed surveyor, or other party approved by the review authority. If the information is provided by an entity other than the Assessor's Office, that entity must certify (under the penalty of perjury) that the information is accurate and complete.

4. A copy of the pre-application conference summary and information required by the pre-application conference summary unless:
 - a. The material was not timely prepared as required under subsection 3.H;
 - b. The application is not subject to pre-application review based on this Ordinance; or
 - c. The review authority has waived the pre-application conference.
 5. The applicable fee(s) adopted by the Board of County Commissioners for the applications in question;
 6. All of the information listed as application requirements in the relevant sections of County ordinances and other applicable regulations; provided that:
 - a. The review authority may waive application requirements that are clearly not necessary to show an application complies with relevant criteria and standards and may modify application requirements based on the nature of the proposed application, development, site or other factors, and
 - b. The decision about the technically complete status of an application, including any required engineering, traffic or other studies, shall be based on the criteria for completeness and methodology set forth in County ordinances, resolutions or in implementing measures timely adopted by the review authority and shall not be based on differences of opinion as to quality or accuracy;
 7. Any applicable SEPA document, typewritten, or in ink, and signed.
- D. If the review authority decides that an application is not technically complete (within the time provided in subsection B of this section), the review authority shall send the applicant a written statement, rejecting the application based on a lack of information and listing what is required to make the application technically complete.
1. The statement shall specify a date by which the required missing information must be provided to restart the technically complete review process pursuant to

subsection B.2 of this section. The statement shall state that an applicant can apply to extend the deadline for filing the required information and explain how to do so.

2. The statement also may include recommendations for additional information that, although not necessary to make the application technically complete, is recommended to address other issues that are or may be relevant to the review.

E. If the required information is submitted by the date specified, then within five (5) working days the review authority shall decide whether the application is technically complete and, if not, the review authority shall:

1. Reject the application and mail the applicant a written statement which lists the remaining additional information needed to make the application technically complete; or
2. Issue a decision denying the application, based on a lack of information; or
3. Allow the applicant to restart the technically complete review process another time by providing the required missing information by a date specified by the review authority, in which case the review authority shall retain the application and fees.

If the required information is not submitted by the date specified, within five (5) working days after that date the review authority shall take action under subsection E.1., E.2., or E.3 of this section.

F. If the review authority decides that an application is technically complete, then the review authority within ten (10) working days of making this determination shall:

1. Forward the application to the County staff responsible for processing it, and schedule a Type III application for a public hearing;
2. Send a written notice of receipt of a complete application to the applicant acknowledging acceptance, listing the name and telephone number of a contact person at the review authority, and describing the expected review schedule, including the date of a hearing for a Type III process.
3. If the application is for a Type II, III or IV process, a copy of the notice shall be distributed pursuant to Section 10.

G. A Type II or Type III application shall be deemed to be technically complete if a written determination has not been mailed to the applicant within twenty-eight (28) calendar days of the date the application is accepted for review.

Section 6 Application of Rules – Processing a Technically Complete Application

Applications shall be considered under the zoning and other land development regulations in effect on the date a technically complete application is filed. However, if an applicant during pre-application review submits a technically complete application (excluding subsection 5.C.4.), the application shall be considered under the zoning and other land development regulations in effect on the date the County received the information necessary to constitute a technically complete application.

Section 7 Type I Procedure – Ministerial Decision

- A. The review authority for an application subject to Type I procedure shall respond to the application within fifteen (15) calendar days after the date the application was accepted as technically complete; provided that, an applicant may agree in writing to extend the time in which the review authority shall issue a response. The review authority may consider new evidence the application introduces with or after such a written request.
- B. Notice of a decision regarding a Type I process shall be mailed to the applicant and any representative of the applicant. The applicant may appeal the decision pursuant to Section 13.

Section 8 Type II Procedure – Administrative Decision

- A. Within fourteen (14) calendar days after the date an application subject to Type II review is accepted as technically complete, the review authority for the application shall issue a public notice of the application consistent with the requirements of Section 10.
- B. An administrative decision shall include:
 - 1. A statement of the applicable criteria and standards in County ordinances and other applicable regulations;
 - 2. Findings of fact and conclusions of law that justify the decision rendered;
 - 3. The decision to deny or approve the application and, if approved, conditions of approval necessary to ensure the proposed development will comply with applicable law.
- C. Within five (5) working days the review authority shall mail a notice of decision to the parties listed in Section 10 and to other parties of record regarding the application. The mailing shall include a notice which includes the following information:
 - 1. A statement that the decision and SEPA determination, if applicable, are final, but may be appealed as provided in Section 13. The statement shall describe

how a party may appeal the decision or SEPA determination, or both. The notice also shall list the applicable fees;

2. A statement that the complete case-file is available for review. The notice shall list the place, days, and times where the case file is available and the name and telephone number of the County representative to contact for information about the case.

Section 9 Type III Procedure – Quasi Judicial Decision

- A. A Type III review process requires at least one public hearing before the appropriate review authority. The public hearing should be held within sixty (60) calendar days after the date the review authority issues the determination that the application is technically complete.
- B. At least fifteen (15) calendar days before the date of a hearing for an application subject to Type III review, the review authority shall issue a public notice of the hearing consistent with the requirements of Section 10.
- C. Before the date of the hearing for an application(s), the review authority (1) shall issue a written staff report, integrating a SEPA review and recommendation regarding the application(s), (2) shall make available to the public a copy of the staff report for review and inspection, and (3) shall provide a copy of the staff report and recommendation without charge to the review authority and to the applicant and applicant's representative. The review authority shall provide a copy of the staff report at reasonable charge to other parties who request it.
- D. Public hearings shall be conducted in accordance with the rules of procedure adopted by the review authority, except to the extent waived by the review authority. A public hearing shall be recorded on audio or audiovisual tape.
 1. At the beginning of the hearing or agenda of hearings, the review authority shall:
 - a. State that the testimony will be received only if it is relevant to the applicable approval criteria and development standards and is not unduly repetitious;
 - b. Identify the applicable approval criteria and development standards;
 - c. State that the review authority will consider, and may grant or deny, any party's request to continue the hearing or to keep the record open for a period of time;
 - d. State whether the review authority has had any ex parte contact or has any personal or business interest in the application;

- e. State whether the review authority has visited the site;
 - f. State that anyone may challenge the impartiality of the review authority;
 - g. State the persons who want to receive notice of the decision may sign a list for that purpose; and
 - h. Summarize how the hearing will be conducted.
2. At the conclusion of the hearing on each application, the review authority shall announce one of the following actions:
- a. That the hearing is continued. If the hearing is continued to a place, date, and time certain, then additional notice of the continued hearing is not required to be mailed, published or posted. If the hearing is not continued to a place, date, and time certain, then notice of the continued hearing shall be given as though it were the initial hearing. The review authority may adopt guidelines for considering requests for continuances;
 - b. That the public record is held open to a date and time certain. The review authority shall state where additional written evidence and testimony can be sent, and shall announce any limits on the nature of the evidence that will be received after the hearing. The review authority may adopt guidelines for evaluating requests to hold open the record;
 - c. That the application(s) is/are taken under advisement, and that a final order will be issued with findings of fact and conclusions of law that support the decision; or
 - d. That the application(s) is/are denied, approved or approved with conditions. Findings of fact and conclusions of law must be adopted to support the decision. However such findings and conclusions do not need to be adopted at the same time that the decision is rendered.
- E. The review authority shall not issue its threshold determination nor issue a decision or recommendation on a permit application until the expiration of the public comment period on the notice of application.
- F. Within five (5) working days from the date of the decision, the review authority shall mail the notice of decision to the applicant, any representative of the applicant, and all parties of record. The mailing shall include a notice which includes the following information:

1. A statement that the decision and SEPA determination, if applicable, are final, but may be appealed as provided in Section 13. The statement shall describe how a party may appeal the decision or SEPA determination, or both.
2. A statement that the complete case-file is available for review. The notice shall list the place, days and times where the case-file is available and the name and telephone number of the County representative to contact for information about the case.

Section 10 Public Notice for Type II and Type III Applications

A. The notice of the application shall include the following information:

1. The case file number(s), date of application, the date the application was determined to be technically complete, and the date of the notice of the application;
2. A description of the proposed project and a list of project permits included with the application and, if applicable, a list of any further studies requested by the review authority;
3. A list of other necessary permits not included in the application, to the extent known by County staff;
4. A list of existing environmental documents that evaluate the proposed project;
5. A statement that delineates the public comment period and articulates the rights of the public, i.e., the right to comment on the application, including environmental impacts and mitigation measures, the right to receive notice of, and participate in, any hearings, the right to request a copy of the decision, and the right to appeal a decision once made. The public notice shall indicate that written comments must be received by the County within fourteen (14) calendar days from the date of the notice. The closing date for the consideration of written comments also shall be indicated together with the deadline for submitting a SEPA appeal pursuant to Ordinance No. 166 and its associated amendments;
6. Whether a preliminary threshold determination of significance has been issued under Ordinance No. 166 and its associated amendments;
7. The date, time, place, and type of hearing, if applicable;
8. A statement of the preliminary determination, if one has been made, of those development regulations that will be used for project mitigation. The public notice also shall indicate that a consolidated staff report and SEPA review will be available

for inspection at no cost before the administrative decision or public hearing, if applicable, and that a copy of these documents will be provided at reasonable cost;

9. The name of the applicant and any representative of the applicant, and the name, address and telephone number of a contact person for the applicant, if any;
10. A description of the site, including current zoning and nearest road intersections, reasonably sufficient to inform the reader of its location and zoning;
11. The date, place, and times where information about the application may be examined and the name and telephone number of the County representative to contact about the application;
12. The designation of the review authority and the date, time, and place of any hearing;
13. A statement that any hearing, if applicable, will be conducted in accordance with the rules of procedure adopted by the review authority; and
14. Any additional information determined to be appropriate by the County.

B. The public notice shall be distributed as follows:

1. For Type II applications, the Director of Department of Community Development shall mail a copy of the notice of application to:
 - a. The applicant and any representative of the applicant;
 - b. Agencies with jurisdiction; and
 - c. To other people who request such notice in writing.
2. For Type II applications, the applicant as soon as possible shall post copies of the notice of application on the perimeter of the property in question in a manner that will be visible to a passerby. The applicant also shall file a declaration of posting (under the penalty of perjury) with the Department of Community Development. The applicant shall remove and property dispose of the notices within seven (7) calendar days after the notice of the decision is mailed to the applicant.
3. For Type III applications, the Director of Department of Community Development shall mail a copy of the notice of application to:
 - a. The applicant and any representative of the applicant;
 - b. Owners of property within a radius of three hundred (300) feet of the property that is the subject of the application;
 - c. Agencies with jurisdiction; and

- d. To other people the Director of Department of Community Development believes may be affected by the proposed action or who request such notice in writing.
 - 4. For a Type III application, the County shall publish in a newspaper of general circulation a summary of the notice which shall include the date, time, and place of the hearing and sufficient information to identify the property and application(s) under review.
 - 5. For Type III applications, the County shall post a copy of the notice of application at three (3) or more locations on or in the vicinity of the property subject to the application at least fifteen (15) calendar days before the hearing. The notices shall be posted in a manner that will be visible to a passerby. The applicant shall remove and properly dispose of the notices within seven (7) calendar days after the hearing.
- C. The records of the County Assessor shall be examined when questions arise as to who constitutes relevant property owners of record. The failure of a property owner to receive notice shall not affect the decision if the notice was sent. A declaration of mailing (under penalty of perjury) executed by the person who did the mailing shall be evidence that the notice was mailed to parties listed or referenced in the declaration.

Section 11 Decision Timelines for Type II and Type III Applications

- A. As a general rule, a final decision regarding any application shall be issued not more than one hundred eighty (180) calendar days after the date of determination of technical completeness.
- B. Subsection A of this section shall not apply to any application which is substantially revised by the applicant. In this instance, the one hundred eighty (180) calendar day time period shall start from the date the revised application is determined to be technically complete.
- C. If a Determination of Significance (DS) is issued, then the review authority shall issue a decision no sooner than seven (7) calendar days after a final environmental impact statement is issued.
- D. An applicant may agree in writing to extend the time in which the review authority shall issue a decision. The review authority may consider new evidence the applicant introduces with or after such a written request.
- E. In calculating the number of days that have elapsed after the date of determination of technical completeness, the following periods shall be excluded:
 - 1. Any period during which an applicant has been requested by the County to correct plans, perform required studies, or provide additional required information. The period shall be calculated from the date the County sends notification to the applicant of the need for additional information until the earlier of the date the County

determines whether the additional information satisfies the request for information or fourteen (14) calendar days after the date the information submitted by an applicant under this subsection is insufficient, the county shall notify the applicant of the deficiencies, and the procedures under this subsection shall apply as if a new request for additional required information had been made.

2. Any period of time during which an environmental impact statement is being prepared, which shall not exceed one year from the issuance of the Determination of Significance, unless the County and applicant have otherwise agreed in writing to a longer period of time. If no mutual written agreement is completed, then the application shall become null and void after the one year period, unless the review authority determines that delay in completion is due to factors beyond the control of the applicant.
3. Any period of time during which an administrative appeal is pending.

Section 12 Type IV Procedure – Legislative Decision

- A. Type IV procedure may require one or more hearings before the Planning Commission and does require one or more hearings before the Board of County Commissioners.
- B. At least fifteen (15) calendar days before the date of the first Planning Commission hearing for an application subject to Type IV review, the Director of Department of Community Development shall:
 1. Prepare a notice of application that includes the following information:
 - a. The case file number(s);
 - b. A description of the area that will be affected by the application, if approved, which is reasonably sufficient to inform the reader of its location;
 - c. A summary of the proposed application(s);
 - d. The place, days, and times where information about the application may be examined and the name and telephone number of the County representative to contact about the application;
 - e. A statement inviting interested parties to submit written comments or to testify orally at the hearing;
 - f. The designation of the review authority and the date, time, and place of the hearing; and
 - g. A statement that a staff report and, whenever possible, a consolidated SEPA review document will be available for inspection at no cost before the hearing and will be provided at reasonable cost.
 2. Mail a copy of a notice prepared under subsection B.1 of this section to:

- a. Parties who request notice of such matters, based on a list kept by the Director of Department of Community Development for that purpose.
 - b. To other people that the Director of Department of Community Development believes may be significantly affected by the proposed action.
 3. Publish in a newspaper of general circulation a summary of the notice, including the date, time and place of the hearing, and a summary of the proposal; and
 4. Provide other notice deemed appropriate and necessary by the Director of Department of Community Development based on the subject of the Type IV process.
- C. The Director of Department of Community Development shall issue a written staff report and consolidated SEPA evaluation before the date of the first hearing for an application(s) subject to Type IV review, shall make available to the public a copy of the staff report and consolidated SEPA evaluation for review and inspection, and shall provide a copy of the written analysis to the review authority. The Director of the Department of Community Development shall mail or provide a copy of the staff report and consolidated SEPA evaluation at reasonable charge to other parties who request it.
- D. Any public hearing shall be conducted in accordance with the rules of procedure adopted by the review authority, except to the extent waived by the review authority. A public hearing shall be recorded on audio or audiovisual tape.
- E. At the conclusion of the Planning Commission hearing on a Type IV application, the Planning Commission shall announce one of the following actions:
1. That the hearing is continued. If the hearing is continued to a place, date, and time certain, then additional notice of the continued hearing is not required to be mailed, published or posted. If the hearing is not continued to a place, date, and time certain, then notice of the continued hearing shall be given as though it were the initial hearing before the Planning Commission; or
 2. That the Planning Commission recommends against or in favor of approval of the application(s) with or without certain changes, or that the Planning Commission will recommend neither against nor for approval of the application(s). The Planning Commission shall justify its decision with findings of fact and conclusions of law that support the recommendation. Such findings and conclusions do not need to be adopted at the same time that the recommendation is made.
- F. Upon receipt of the recommendation of the Planning Commission, the Board of County Commissioners shall at its next public meeting set a date for a public hearing to consider the recommendation. At least fifteen (15) calendar days before the date of the first Board of County Commissioners hearing for an application subject to Type IV review, the Clerk of the Board of County Commissioners shall:

1. Prepare a notice that includes the information listed in subsection B.1 of this section except the notice shall be modified as needed:
 - a. To reflect any changes made in the application(s) during the Planning Commission review;
 - b. To reflect that the Board of County Commissioners will conduct the hearing and the place, date and time of the Board of County Commissioners hearing; and
 - c. To state that the Planning Commission recommendation, staff report, and SEPA evaluation are available for inspection at no cost and will be provided at reasonable cost.
 2. Mail a copy of that notice to the parties identified in subsection B.2 of this section and to parties who request it in writing;
 3. Publish in a newspaper of general circulation a summary of the notice, including the date, time, and place of the hearing, and the actual text or summary of the proposal; and
 4. Provide other notice deemed appropriate and necessary by the Director of Department of Community Development based on the subject of the Type IV application.
- G. If the Planning Commission has conducted a hearing on a Type IV application, the Board of County Commissioners shall conduct a closed record hearing. The hearing shall be based exclusively on the record established at the Planning Commission hearing. If the Planning Commission has not conducted a hearing, the Board of County Commissioners shall conduct an open record hearing. At the conclusion of the initial hearing by the Board of County Commissioners regarding a Type IV application, the Board may continue the hearing or may adopt, modify, or give no further consideration to the application or recommendations. If the hearing is continued to a place, date and time certain, then additional notice of the continued hearing is not required. If the hearing is not continued to a place, date, and time certain, then notice of the continued hearing shall be given as though it were the initial hearing before the Board of County Commissioners. The Board of County Commissioners shall adopt findings of fact and conclusions of law to supports final decision. Such findings and conclusions do not need to be adopted at the same time that the decision is rendered.

Section 13 Appeal Procedures

- A. A final decision regarding an application subject to a Type I and Type II procedure may be appealed by an aggrieved party to the Board of County Commissioners if (1) a written appeal is filed with the Board of County Commissioners within fourteen (14) calendar days

of the date of the decision and (2) any applicable filing fee is paid. For any appeal that the Board of County Commissioners is authorized to hear, the Board may waive any filing fee on a case-by-case basis. A final decision regarding a Type III procedure (except a final decision of the Pacific County Board of Adjustment) automatically shall be appealed to the Board of County Commissioners.

- B. The Board of Commissioners shall hear appeals of Type I and Type II decisions in a de novo hearing. The hearing shall be held within ninety (90) days of the filing of the notice of appeal, unless the applicant and the County agree to an extension. Notice of an appeal hearing shall be mailed to parties entitled to notice of the decision, but shall not be posted or published. After the Board of County Commissioners makes a final decision, the Clerk of the Board shall mail written notice to the parties who appeared before the Board or submitted written comments regarding the appeal. The notice shall consist of the Board's decision and shall include a statement that the decision can be appealed to Superior Court by following the requirements of Chapter 36.70C RCW. Any appeal of the Board's decision to Superior Court shall comply with the requirements of Chapter 36.70C RCW.
- C. The Board of County Commissioners shall hear appeals of Type III decisions (excluding decisions of the Pacific County Board of Adjustment) based on a closed record which includes all materials received in evidence at any previous state of the review, an audio or audio/visual tape of the prior hearing(s), or transcript of the hearing(s) certified as accurate and complete, and the decision being appealed.
 - 1. Upon receipt of an appeal, the Board of County Commissioners at its next public meeting shall set a date for a public hearing to consider the appeal. The hearing shall be held within sixty (60) days of the filing of the notice of appeal, unless the applicant and the County agree to an extension. At least fifteen (15) calendar days before the scheduled hearing, the Clerk of the Board of County Commissioners shall send notice of the appeal hearing to parties entitled to notice of the decision under subsection 9.F. The notice of the appeal hearing shall indicate that only argument based on the record will be heard.
 - 2. At the conclusion of its public hearing the Board of County Commissioners may affirm, reverse, modify, or remand an appealed decision.
 - a. A decision to remand a matter must be agreed to by the applicant or his representative, i.e., the proponent of the proposed development. An appeal from a decision on remand shall be treated as any other decision.
 - b. The Board of County Commissioners shall adopt findings of fact and conclusions of law to support its final decision. Such findings and conclusions do not need to be adopted at the same time that the decision is rendered.

3. After the Board of County Commissioners makes a final decision, the Clerk of the Board shall mail written notice to the parties entitled to notice under subsection 9.F. and to the individuals who appeared before the Board or submitted written comments regarding the appeal. The notice shall consist of the Board's decision and shall include a statement that the decision can be appealed to Superior Court by following the requirements of Chapter 36.70C RCW. Any appeal of the Board's decision to Superior Court shall comply with the requirements of Chapter 36.70C RCW.
- D. A final decision of the Pacific County Board of Adjustment constitutes final County action. Any appeal of the final decision of the Board of Adjustment shall be filed in Superior Court and must satisfy the requirements of Chapter 36.70C RCW.
- E. This Section does not apply to any decision made under the Pacific County Shoreline Master Program (PCSMP). For PCSMP decisions, the final action of the Shoreline Administrator or the Hearings Examiner, as applicable, shall constitute the final action of Pacific County.

Section 14 Delegation of Authority

The Director of the Department of Community Development, the County Engineer, and any other applicable administrative officials may develop and implement written policies which are consistent with, and effectuate the intent of this Ordinance.

Section 15 Miscellaneous

- A. If any section, subsection, clause, phrase, or word in this ordinance or any provision adopted by reference herein is for any reason, held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this ordinance or any provision adopted by reference herein.

Section 16 Effective Date and Repeal of Ordinances

Pacific County Ordinance No. 164 shall take effect December 21, 2012. Ordinance No. 145, Ordinance Nos. 145A through 145G, are hereby repealed effective December 21, 2012. However, any land development application that was technically complete on or before the effective date of this Ordinance shall be processed according to the regulations that were in effect when the application became technically complete.

PASSED BY THE BOARD OF COUNTY COMMISSIONERS meeting in regular session at South Bend, Washington, by the following vote, then signed by its membership and attested to by its Clerk in authorization of such passage the ___ day of _____, 2012.

_____ AYE; _____ NAY; _____ ABSTAIN; _____ ABSENT

APPROVED AS TO FORM

BOARD OF COUNTY COMMISSIONERS
PACIFIC COUNTY, WASHINGTON

David Burke, Prosecuting Attorney

Lisa Ayers, Chairman

Norman "Bud" Cuffel, Commissioner

Steve Rogers, Commissioner

ATTEST:

Clerk of the Board

Section 16 Effective Date and Repeal of Ordinances

Pacific County Ordinance No. 164 shall take effect December 21, 2012. Ordinance No. 145, Ordinance Nos. 145A through 145G, are hereby repealed effective December 21, 2012. However, any land development application that was technically complete on or before the effective date of this Ordinance shall be processed according to the regulations that were in effect when the application became technically complete.

PASSED BY THE BOARD OF COUNTY COMMISSIONERS meeting in regular session at South Bend, Washington, by the following vote, then signed by its membership and attested to by its Clerk in authorization of such passage the 21st day of December, 2012.

3 AYE; 0 NAY; 0 ABSTAIN; 0 ABSENT

APPROVED AS TO FORM

David Burke
David Burke, Prosecuting Attorney

BOARD OF COUNTY COMMISSIONERS
PACIFIC COUNTY, WASHINGTON

Lisa Ayers
Lisa Ayers, Chairman

Norman "Bud" Cuffel
Norman "Bud" Cuffel, Commissioner

Steve Rogers
Steve Rogers, Commissioner

ATTEST:

Marie Guernsey
Clerk of the Board Deputy

Ordinance No. 164
Procedures for Processing
Land Use Development Applications

Findings of Fact

1. Since 1995 the Washington State Legislature has enacted several pieces of legislation pertaining to regulatory reform, e.g. Chapter 347, Laws of 1995, codified primarily in Chapters 36.70A, 36.70B, and 36.70C.
2. Chapter 347, Laws of 1995, codified primarily in Chapters 36.70A, 36.70B, and 36.70C seek to integrate growth management planning and environmental review.
3. Chapter 347, Laws of 1995, codified primarily in Chapters 36.70A, 36.70B, and 36.70C mandate, among other things, that counties must adopt procedures to streamline and facilitate the processing of land use development applications.
4. The Board of Pacific County Commissioners adopted the 2010 Pacific County Comprehensive Plan on October 26, 2010 following a lengthy update process.
5. Pacific County is required to update its existing development regulations to ensure consistency with the 2010 Pacific County Comprehensive Plan and the state Growth Management Act (GMA), Chapter 36.70A RCW.
6. Pacific County's Ordinance relating to the processing of land use development applications constitutes one of the development regulations that needs to be enacted under the Pacific County Comprehensive Plan and the GMA.
7. Pacific County Ordinance Nos. 145, 145A, 145B, 145C, 145D, 145E, 145F and 145G need to be rescinded and replaced with a new primary Ordinance No. 164 to prevent confusion that occurs resulting from having multiple amendments to the same primary ordinance.
8. Pacific County Ordinance No. 116 and 116A, Flood Damage Prevention Ordinance, is being repealed and replaced with Ordinance No. 167.
9. Pacific County Ordinance No. 121 and 121A, SEPA, are being repealed and replaced with Ordinance No. 166.
10. Pacific County Ordinance No. 141 and Ordinance Nos. 141A – 141G, Civil Infractions, are being repealed and replaced with Ordinance No. 165.
11. Pacific County Ordinance No. 149 and Ordinance No. 149A, Land Division, are being repealed and replaced with Ordinance No. 163.

12. Pacific County Ordinance No. 153 and Ordinance Nos. 153A – 153F, are being repealed and replaced with Ordinance No. 162, Zoning.
13. The Pacific County Planning Commission held public hearings on the proposed ordinance update on May 3, 2012, June 7, 2012, and on July 12, 2012.
14. Pacific County received no public comments regarding the proposed ordinance update during the May 3, 2012, June 7, 2012, and July 12, 2012 public hearings.
15. Pacific County issued a SEPA Preliminary Determination of Non-Significance on June 20, 2012 with the end of the 14-day comment period being July 6, 2012. No comments were received.
16. Pacific County sent Notice of Proposed Ordinance Adoption to the Washington State Department of Commerce (Growth Management Services Division) on June 20, 2012, in order to satisfy the Dept. of Commerce's 60-day notification requirement.
17. Pacific County Ordinance No. 164 will effectuate the intent of the Pacific County Comprehensive Plan.
18. The Pacific County Board of Commissioners held a public hearing regarding proposed Ordinance No. 164, Procedures for Processing Land Use Development Applications, on December 20, 2012. No public comments or testimony was received.

ADOPTED by the Board of Pacific County Commissioners the 20th day of December, 2012, meeting in continued session at South Bend, Washington, by the following vote, then signed by its membership and attested to by its Clerk in authorization of such passage.

3 YEA; 0 NAY; 0 ABSTAIN; and 0 ABSENT.

APPROVED AS TO FORM:

David Burke
David Burke, Prosecuting Attorney

BOARD OF COUNTY COMMISSIONERS
PACIFIC COUNTY, WASHINGTON

Lisa Ayers
Lisa Ayers, Chairperson

ATTEST:

Marie Guernsey
Clerk of the Board Deputy

N B Cuffel
Norman B. Cuffel, Commissioner

Steve Rogers
Steve Rogers, Commissioner

**Ordinance No. 164
Procedures For Processing Land Use
Development Applications**

Conclusions of Law

1. The Washington State Growth Management Act (GMA), Chapter 36.70A RCW, mandates that Counties and Cities required or choosing to plan under the authority of the Growth Management Act must adopt development regulations consistent with the jurisdictional Comprehensive Plan and state law.
2. Ordinances relating to the processing of land use development applications are considered to be a GMA development regulation by State Law.
3. Pacific County opted to plan under the authority of the Growth Management Act in 1990 via adoption of Pacific County resolution No. 90-123.
4. Adoption of Ordinance No. 164, Procedures for Processing Land Use Development Applications, which is an update to Ordinance No. 145, will adequately effectuate the intent of the Pacific County Comprehensive Plan.
5. Ordinance No. 164, Procedures For Processing Land Use Development Applications, will produce no probable significant adverse environmental impacts. A determination of non-significance (DNS) under the State Environmental Policy Act (SEPA) is appropriate for this Ordinance.
6. Ordinance No. 164, Procedures For Processing Land Use Development Applications, promotes the health, safety and welfare of the general public and is consistent with GMA requirements.

ADOPTED by the Board of Pacific County Commissioners the 20th day of December, 2012, meeting in continued session at South Bend, Washington, by the following vote, then signed by its membership and attested to by its Clerk in authorization of such passage.

3 YEA; 0 NAY; 0 ABSTAIN; and 0 ABSENT.

APPROVED AS TO FORM:

David Burke
David Burke, Prosecuting Attorney

BOARD OF COUNTY COMMISSIONERS
PACIFIC COUNTY, WASHINGTON

Lisa Ayers
Lisa Ayers, Chairperson

ATTEST:

Marie Guernsey
Clerk of the Board
Deputy

Norman B. Cuffel
Norman B. Cuffel, Commissioner

Steve Rogers
Steve Rogers, Commissioner