

SEPA Rules Update—Draft 7/28/2022

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Detailed Table of Comments for this Document

Part 8 Environment	3
Chapter 18.800 Environmental Policy (SEPA).....	3
18.800.010 Authority.....	3
18.800.015 Codes adopted by reference.....	3
18.800.020 Definitions – Adoption by reference.	3
18.800.030 Additional definitions.	3
18.800.040 WAC sections adopted by reference.	3
18.800.050 Designation of responsible official.	4
18.800.060 Lead agency determination and responsibilities.	4
18.800.070 Categorical exemptions and threshold determinations – Adoption by reference.....	5
18.800.080 Categorical exemptions and threshold determinations – Time estimates.....	5
18.800.090 Integration with permit and land use decision.....	6
18.800.100 Categorical exemptions – Adoption by reference.	7
18.800.110 Categorical exemptions – Flexible thresholds for minor new construction.....	7
18.800.120 Categorical exemptions – Determination.....	7
18.800.120 Environmental Protections.	8
18.800.120 Planned Actions.	9
18.800.120 Exempt actions prior to compliance	9
18.800.130 Threshold determination – Review at conceptual stage.....	10
18.800.140 Threshold determination – Environmental checklist.	10
18.800.145 Optional DNS process.	10
18.800.150 Threshold determination – Mitigated DNS.....	11
18.800.160 Environmental impact statement (EIS) – Adoption by reference.....	12
18.800.170 EIS – Preparation.....	13
18.800.180 EIS – Additional elements.	13
18.800.190 EIS – Commenting – Adoption by reference.....	14
18.800.200 Public notice.....	14
18.800.210 Designation of official to perform consulted agency responsibilities.	15
18.800.220 Using existing environmental documents – Adoption by reference.	15
18.800.230 SEPA decisions – Adoption by reference.	15
18.800.250 SEPA decisions – Substantive authority.....	16
18.800.260 SEPA – Policies.	16
18.800.270 Appeals.	17
18.800.280 Notice/statute of limitations.	18
18.800.290 Compliance with SEPA – Adoption by reference.	18

18.800.300 Critical areas. 19
18.800.310 Fees. 19
18.800.320 Forms – Adoption by reference. 20

Part 8 Environment

Chapter 18.800 Environmental Policy (SEPA)

i This chapter is based on IMC 18.10. Deleted IMC 18.10.330 regarding maintaining copies of the WAC.

18.800.010 Authority.

i This section is based on IMC 18.10.010.

This Chapter is adopted pursuant to the State Environmental Policy Act (SEPA), RCW 43.21C.120; and the SEPA rules, WAC 197-11-904. This chapter contains the City's SEPA procedures and policies. The SEPA rules contained in Chapter 197-11 WAC must be used in conjunction with this chapter.

18.800.015 Codes adopted by reference.

i This section is based on IMC 18.10.015.

Unless otherwise specifically stated therein, all codes that are adopted or referenced in this chapter are as such codes now exist or are hereinafter amended.

18.800.020 Definitions – Adoption by reference.

i This section is based on IMC 18.10.020; shortened to refer to the entirety of Part Eight of the SEPA Rules.

The City adopts the definitions in Part Eight of Chapter 197-11 WAC, as now existing or hereinafter amended, by reference.

18.800.030 Additional definitions.

i This section is based on IMC 18.10.030. Deleted "Department," which is defined in IMC 18.102.100.

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

SEPA rules: Chapter 197-11 WAC adopted by the Department of Ecology.

Early notice: The City's response to an applicant stating whether it considers issuance of the determination of significance likely for the applicant's proposal.

18.800.040 WAC sections adopted by reference.

i This section is based on IMC 18.10.040.

The City adopts the following sections of Chapter 197-11 WAC, as now existing or hereinafter amended, by reference:

197-11-040 Definitions.

- 197-11-050 Lead agency.
- 197-11-055 Timing of the SEPA process.
- 197-11-060 Content of environmental review.
- 197-11-070 Limitations on actions during SEPA process.
- 197-11-080 Incomplete or unavailable information.
- 197-11-090 Supporting documents.
- 197-11-100 Information required of applicants.
- 197-11-158 GMA project review – Reliance on existing plans, laws, and regulations.
- 197-11-164 Planned actions – Definition and criteria.
- 197-11-168 Ordinances or resolutions designating planned actions – Procedures for adoption.
- 197-11-172 Planned actions – Project review.
- 197-11-210 SEPA/GMA integration.
- 197-11-220 SEPA/GMA definitions.
- 197-11-225 Purpose, policy applicability and definitions.
- 197-11-228 Overall integration procedures.
- 197-11-230 Timing of an integrated GMA/SEPA process.
- 197-11-232 Integration procedures for preliminary planning, environmental analysis and expanded scoping.
- 197-11-235 Integrating documents.
- 197-11-259 Determination of nonsignificance for MTCA remedial action.

18.800.050 Designation of responsible official.

i This section is based on IMC 18.10.050.

- A. For those proposals for which the City is a lead agency, the responsible official is the Director (as defined in IMC Chapter 18.102, or such other person as the Mayor may designate in writing).
- B. For all proposals for which the City is a lead agency, the responsible official must make the threshold determination, supervise scoping and preparation of any required EIS, and perform any other functions assigned to the lead agency or responsible official by those sections of the SEPA rules that have been adopted by reference.

18.800.060 Lead agency determination and responsibilities.

i This section is based on IMC 18.10.060.

- B. When the City is not the lead agency for a proposal, all departments of the City shall use and consider as appropriate either the DNS or the final EIS of the lead agency in making decisions on the proposal. No City department may prepare or require preparation of a DNS or EIS in addition to that prepared by the lead agency unless the City determines a supplemental environmental review is necessary under WAC 197-11-600.
- C. If the City, or any of its departments, receives a lead agency determination made by another agency that appears inconsistent with the criteria of WAC 197-11-922 through 197-11-940, it may object to the

determination. Any objection must be made to the agency originally making the determination, and must be resolved within 14 days of receipt of the determination, or the City may petition the Department of Ecology for a lead agency determination under WAC 197-11-946 within the 14-day time period. Any such petition on behalf of the City may be initiated by the responsible official.

D. The responsible official is authorized to make agreements as to lead agency status or shared lead agency's duties for a proposal under WAC 197-11-942 and 197-11-944.

E. The responsible official may require sufficient information from the applicant to identify other agencies with jurisdiction.

18.800.070 Categorical exemptions and threshold determinations – Adoption by reference.

i This section is based on IMC 18.10.070.

The City adopts the following sections of Chapter 197-11 WAC, as now existing or hereinafter amended, by reference, as supplemented in this chapter:

- 197-11-300 Purpose of this part.
- 197-11-305 Categorical exemptions.
- 197-11-310 Threshold determination required.
- 197-11-315 Environmental checklist.
- 197-11-330 Threshold determination process.
- 197-11-335 Additional information.
- 197-11-340 Determination of nonsignificance (DNS).
- 197-11-350 Mitigated DNS.
- 197-11-355 Optional DNS process.
- 197-11-360 Determination of significance (DS)/initiation of scoping.
- 197-11-390 Effect of threshold determination.

18.800.080 Categorical exemptions and threshold determinations – Time estimates.

i This section is based on IMC 18.10.080.

The time estimates contained in this section apply when the City processes licenses for all private projects and governmental proposals, for which the City is acting as lead agency for purposes of this chapter.

- A. Categorical Exemptions: The City will normally identify whether an action is categorically exempt within 90 days of receiving a completed application. The Director must certify when an application is complete based on review of the environmental checklist. If additional information is required to supplement the checklist, the application shall not be certified complete until the required information is received by the Director.
- B. Threshold Determinations: It is the policy of the City to make a threshold determination on a completed application within 90 days after the application and supporting documentation are complete.
- C. Complete Application: A complete application for a threshold determination consists of the following information:

1. The proposed action:
 - a. A description of the proposed action;
 - b. Site information, including site plans, vicinity maps, and other information required for a land use certification or other Development/Land Use Permit application;
 2. The environmental checklist;
 3. Additional information/environmental checklist (WAC 197-11-335). If, after review of the environmental checklist, the responsible official determines that there is insufficient information to make a threshold determination, additional information will be required using any one or more of the following:
 - a. The applicant will provide more information on subjects in the checklist;
 - b. The City makes its own further study;
 - c. The City will consult with other agencies, requesting information on the proposal's potential impacts which lie within other agencies' jurisdiction or expertise.
- D. Certification of Completeness: The Director must certify when an application is complete based on review of the environmental checklist. If additional information is required to supplement the checklist, the application may not be certified until the required information is received by the Director. Under state law and City policy, an applicant's proposal must receive a determination of significance or nonsignificance within the 90-day period, subject to the following:
1. The applicant may request an additional 30 days for the threshold determination.
 2. It is the policy of the City that adequate information must be provided before a decision can be made. The City will not accept, nor commence processing, environmental checklists which are not deemed complete.
 3. The City will normally complete threshold determinations on actions where the applicant recommends in writing than an EIS be prepared, because of the probable significant adverse environmental impacts described in the application, within 30 working days of receiving a completed application.
 4. The responsible official will normally respond to a request for early notice made pursuant to IMC 18.800.150 within 10 working days. The threshold determination will normally be made within 90 working days of receipt of the changed or clarified proposal, environmental checklist and/or permit application.

18.800.090 Integration with permit and land use decision.

i This section is based on IMC 18.10.090.

Under state law, the procedure for review of Project Permits must be combined with the environmental review process, both procedural and substantive. The process under the State Environmental Policy Act (SEPA) and this chapter must integrate the following procedures, insofar as possible, with any applicable process for decision-making on permit and land use applications:

- A. Staff review of the application under City codes and regulations and the environmental review and determination thereon;
- B. The staff report on the application, and the report or documentation concerning environmental review;
- C. Hearings and other public processes, including required public notices, required by City code or regulation, and hearings and other public processes, including public notices, required or conducted under SEPA. This section shall include appeals, except as otherwise expressly provided by this Code;

D. Such other review processes as the Director determines.

18.800.100 Categorical exemptions – Adoption by reference.

i This section is based on IMC 18.10.100.

The City adopts the following rules for categorical exemption of Chapter 197-11 WAC, as now existing or hereinafter amended, by reference, as supplemented in this chapter:

197-11-800 Categorical exemptions.

197-11-880 Emergencies.

197-11-890 Petitioning Department of Ecology to change exemptions.

18.800.110 Categorical exemptions – Flexible thresholds for minor new construction.

i This section is based on IMC 18.10.110. Deleted existing descriptions of exempt levels (for ag building, office/commercial building, excavations) because they did not differ from the standard exemptions. Deleted requirement to send flexible thresholds to Ecology, because that is not required by RCW or WAC.

i New exempt levels are based on direction from the Planning Policy Commission to incentivize environmental certifications.

- A. Having fully complied with WAC 197-11-800(1)(c)(i)-(iv), the City raises the following exempt levels for minor new construction as follows:
1. For a single-family residential project up to 30 units that is designed and permitted to fully comply with Built Green or LEED Gold certifications.
 2. For a multi-family residential project up to 60 units that is designed and permitted to fully comply with Built Green or LEED Gold certifications.
 3. For an office, school, commercial, recreational, service, storage building, or parking facility project up to 30,000 sf with 90 parking spaces that is designed and permitted to fully comply with LEED Gold certifications.
- B. The City may obtain a third-party review of the proposed minor new construction, at the applicant's expense, to ensure that the proposed construction complies with the requirements of the certifications described in subsection A. The City may extend the time required to evaluate the categorical exemption to await third-party review.

18.800.120 Categorical exemptions – Determination.

i This section is based on IMC 18.10.120.

- A. When the City receives an application for a license or, in the case of governmental proposals, a department initiates a proposal, the responsible official must determine whether the license and/or the proposal is exempt. The determination that a proposal is exempt shall be final and not subject to administrative review. If a proposal is exempt, none of the procedural requirements of this chapter apply to the proposal. The City may not require completion of an environmental checklist for an exempt proposal.
- B. In determining whether or not a proposal is exempt, the responsible official must make certain the proposal is properly defined and must identify the governmental license required. If a proposal includes exempt and

nonexempt actions, the responsible official shall determine the lead agency, even if the license application that triggers the consideration is exempt.

18.800.120 Environmental Protections.

Existing Documents May Provide Sufficient Environmental Protection:

1. The City must review the Project Permit application to determine whether existing documents may provide sufficient environmental protection and must:
 - a. Determine whether the applicable regulations require studies that adequately analyze all of the Project Permit application's specific probable adverse environmental impacts;
 - b. Determine if the applicable regulations require measures that adequately address such environmental impacts;
 - c. Determine whether additional studies are required and/or whether the Project Permit application should be conditioned with additional mitigation measures;

Provide prompt and coordinated review by government agencies and the public on compliance with applicable environmental laws and plans, including mitigation for specific project impacts that have not been considered and addressed at the plan or development regulation level;

- d. Review and document consistency with Comprehensive Plan and Land Use Code development regulations.
2. In its review of a Project Permit application, the City may determine, pursuant to the criteria of RCW 43.21C.240(1) and (2), the requirements for environmental analysis, protection and mitigation measures in the applicable development regulations, comprehensive plan and/or in other applicable local, state or federal laws provide adequate analysis of and mitigation for the specific adverse environmental impacts of the application.
3. If the City's Comprehensive Plan, subarea plans, and development regulations adequately address a project's probable specific adverse environmental impacts, as determined under subsection (C)(1) of this section, or RCW 43.21C.240(1) and (2), the City shall not impose additional mitigation under SEPA during project review.
4. A comprehensive plan, development regulation or other applicable local, state or federal law provides adequate analysis of and mitigation for the specific adverse environmental impacts of an application when:
 - a. The impacts have been avoided or otherwise mitigated; or
 - b. The City has designated as acceptable certain levels of service, land use designations, development standards or other land use planning required or allowed by Chapter 36.70A RCW.
5. In its decision whether a specific adverse environmental impact has been addressed by an existing rule or law of another agency with jurisdiction with environmental expertise with regard to a specific environmental impact, the City shall consult orally or in writing with that agency and may expressly defer to that agency. In making this deferral, the City shall base or condition its project approval on compliance with these other existing rules or laws.
6. Nothing in this section limits the authority of the City in its review or mitigation of a project to adopt or otherwise rely on environmental analyses and requirements under other laws, as provided in Chapter 43.21C RCW.

18.800.120 Planned Actions.

- A. A planned action does not require a threshold determination or the preparation of an environmental impact statement under SEPA, but is subject to environmental review and mitigation under SEPA.
- B. A “planned action” means one or more types of project action that:
 - 1. Are designated planned actions by an ordinance or resolution adopted by the City;
 - 2. Have had the significant impacts adequately addressed in an environmental impact statement prepared in conjunction with:
 - a. A comprehensive plan or subarea plan adopted under Chapter 36.70A RCW, or
 - b. A fully contained community, a master planned resort, a master planned development or a phased project;
 - 3. Are subsequent or implementing projects for the proposals listed in subsection (D)(2)(b) of this section;
 - 4. Are located within an urban growth area, as defined in RCW 36.70A.030;
 - 5. Are not essential public facilities, as defined in RCW 36.70A.200; and
 - 6. Are consistent with the City’s Comprehensive Plan adopted under Chapter 36.70A RCW.
- C. Limitations on Planned Actions: The City shall limit planned actions to certain types of development or to specific geographical areas that are less extensive than the jurisdictional boundaries of the City, and may limit a planned action to a time period identified in the environmental impact statement or the adoption of this Code.

18.800.120 Exempt actions prior to compliance

- A. If a proposal includes both exempt and nonexempt actions, the City may authorize exempt actions prior to compliance with the procedural requirements of this chapter, except that:
 - 1. The City may not give authorization for:
 - a. Any nonexempt action,
 - b. Any action that would have an adverse environmental impact, or
 - c. Any action that would limit the choice of reasonable alternatives;
 - 2. The City may withhold approval of an exempt action that would lead to modification of the physical environment, when such modification would serve no purpose if the nonexempt actions were not approved; and
 - 3. The City may withhold approval of exempt actions that would lead to substantial financial expenditures by a private applicant when the expenditures would serve no purpose if the nonexempt actions were not approved.
- B. Periodic Review: The periodic review of mineral resource operations is categorically exempt as an ongoing enforcement and inspection activity; provided, that there are no material changes in the scope of work occurring at the mineral resource site. WAC 197-11-800(13). Material changes in the scope of work may require environmental review.

18.800.130 Threshold determination – Review at conceptual stage.

i This section is based on IMC 18.10.130.

- A. If the City’s only action on a proposal is a decision on a Building Permit or other licenses that require detailed project plans and specifications, the applicant may request in writing that the City conduct environmental review prior to submission of the detailed plans and specifications.
- B. In addition to the environmental documents, an applicant must submit the following information for early environmental review:
 - 1. The material required for a Site Development Permit or other Project Permit application submittal;
 - 2. Other information as the responsible official may determine;
 - 3. If the only action is a decision on a permit for excavation, clearing and/or grading of land, the plans and specifications required by the City for a clearing and grading permit must be submitted for early environmental review.

18.800.140 Threshold determination – Environmental checklist.

i This section is based on IMC 18.10.140.

- A. Filing Environmental Checklist: A completed environmental checklist shall be filed at the same time as an application for a permit, license, certificate, or other approval not exempted by this chapter. The checklist shall be in the form of WAC 197-11-960 with such additions that may be required by the responsible official in accordance with WAC 197-11-906(4).
- B. Environmental Checklist Not Needed: A checklist is not needed if the City and the applicant agree an EIS is required, SEPA compliance has been completed, or SEPA compliance has been initiated by another agency.
- C. Environmental Checklist to Determine Lead Agency: The City shall use the environmental checklist to determine the lead agency and, if the City is the lead agency, for making the threshold determination.
- D. Completing Environmental Checklist: For private proposals, the applicant is required to complete the environmental checklist as required in WAC 197-11-315. For City proposals the department initiating the proposal shall complete the environmental checklist for that proposal.

18.800.145 Optional DNS process.

i This section is based on IMC 18.10.145.

- A. If the responsible official has a reasonable basis for determining that significant adverse environmental impacts are unlikely, the responsible official may elect to use the single integrated comment period set forth in this section. If this process is used, a second comment period will typically not be required when the DNS is issued.
- B. If the optional process set forth in this section is used, the responsible official shall:
 - 1. State on the first page of the notice of application that it expects to issue a DNS for the proposal, and that:
 - a. The optional DNS process is being used;
 - b. This may be the only opportunity to comment on the environmental impacts of the proposal;

- c. The proposal may include mitigation measures under applicable codes, and the project review process may incorporate or require mitigation measures regardless of whether an EIS is prepared;
 - d. A copy of the subsequent threshold determination for the specific proposal may be obtained upon request (in addition, the City may maintain a general mailing list for threshold determination distribution);
2. List in the notice of application the conditions being considered to mitigate environmental impacts, if a mitigated DNS is expected; and
 3. Comply with the requirements for a notice of application and public notice in RCW 36.70B.110
- C. If the responsible official indicates on the notice of application that a DNS is likely, an agency with jurisdiction may assume lead agency status during the comment period on the notice of application in accordance with IMC 18.800.060, WAC 197-11-940 and 197-11-948.
- D. The responsible official shall consider timely comments on the notice of application and either:
1. Issue a DNS or mitigated DNS with no comment period using the procedures in subsection E of this section;
 2. Issue a DNS or mitigated DNS with a comment period using the procedures in subsection E of this section, if the responsible official determines a comment period is necessary;
 3. Issue a DS; or
 4. Require additional information or studies prior to making a threshold determination.
- E. If a DNS or mitigated DNS is issued under subsection (D)(1) or (2) of this section, the responsible official shall send a copy of the DNS or mitigated DNS to the Department of Ecology, agencies with jurisdiction, those who commented, and anyone requesting a copy. A copy of the environmental checklist need not be recirculated.

18.800.150 Threshold determination – Mitigated DNS.

i This section is based on IMC 18.10.150.

- A. The responsible official may issue a determination of nonsignificance (DNS) based on conditions attached to the proposal by the responsible official, or on changes to, or clarifications of, the proposal made by the applicant.
- B. An applicant may request in writing early notice of whether a DS is likely. The request must:
 1. Follow submission of a permit application and environmental checklist for a nonexempt proposal for which the City is lead agency; and
 2. Precede the City's actual threshold determination for the proposal.
- C. The responsible official's response to the request for early notice must:
 1. State whether the City currently considers issuance of a DS likely and, if so, indicate the general or specific areas of concern that are leading the City to consider a DS; and
 2. State that the applicant may change or clarify the proposal to mitigate the indicated impacts, and may revise the environmental checklist and/or permit application as necessary to reflect the changes or clarifications.
- D. When an applicant submits a changed or clarified proposal, along with a revised environmental checklist, the City shall base its threshold determination on a changed or clarified proposal.

1. If the City indicated specific mitigation measures in its response to the request for early notice, and the applicant changed or clarified the proposal to include those specific mitigation measures, the City shall issue and circulate a determination of nonsignificance if the City determines that no additional information or mitigation measures are required.
 2. If the City indicated areas of concern but did not indicate specific mitigation measures that would allow it to issue a DNS, the City shall make the threshold determination, issuing a DNS or DS as appropriate.
 3. The applicant's proposed mitigation measures, clarifications, changes, or conditions must be in writing and must be specific.
 4. Mitigation measures which justify issuance of a mitigated DNS may be incorporated in the DNS by reference to agency staff reports, studies, or other documents.
- E. Comment Period: The City shall not act upon a proposal for which a mitigated DNS has been issued for 14 days after the date of issuance.
- F. Mitigation measures incorporated in the mitigated DNS shall be deemed conditions of approval of the licensing decision and may be enforced in the same manner as any term or condition of the permit or enforced in any matter specifically prescribed by the City. Failure to comply with the designated mitigation measures shall be grounds for suspension and/or revocation of any license issued.
- G. If the City's tentative decision on a permit or approval does not include mitigation measures that were incorporated in a mitigated DNS for the proposal, the City must evaluate the threshold determination to assure consistency with WAC 197-11-340(3)(a) relating to the withdrawal of a DNS.
- H. The City's response under subsection B of this section shall not be construed as a determination of significance. In addition, preliminary discussion of clarification or changes to a proposal, as opposed to a written request for early notice, shall not bind the City to consider the clarifications or changes in its threshold determination.

18.800.160 Environmental impact statement (EIS) – Adoption by reference.

i This section is based on IMC 18.10.160.

The City adopts the following sections of Chapter 197-11 WAC, as now existing or hereinafter amended, by reference, as supplemented by this chapter:

- 197-11-400 Purpose of EIS.
- 197-11-402 General requirements.
- 197-11-405 EIS types.
- 197-11-406 EIS timing.
- 197-11-408 Scoping.
- 197-11-410 Expanded scoping.
- 197-11-420 EIS preparation.
- 197-11-425 Style and size.
- 197-11-430 Format.
- 197-11-435 Cover letter or memo.
- 197-11-440 EIS contents.
- 197-11-442 Contents of EIS on nonproject proposals.

- 197-11-443 EIS contents when prior nonproject EIS.
- 197-11-444 Elements of the environment.
- 197-11-448 Relationship of EIS to other considerations.
- 197-11-450 Cost-benefit analysis.
- 197-11-455 Issuance of DEIS.
- 197-11-460 Issuance of FEIS.

18.800.170 EIS – Preparation.

i This section is based on IMC 18.10.170.

- A. Preparation of draft and final EISs and SEISs (Supplemental Environmental Impact Statement) shall be under the direction of the responsible official. Before the City issues an EIS, the responsible official shall be satisfied that it complies with this chapter and Chapter 197-11 WAC.
- B. The draft and final EIS or SEIS shall be prepared at the City’s option by the City staff, the applicant, or by a consultant approved by the City. If the responsible official requires an EIS for a proposal and determines that someone other than the City will prepare the EIS, the responsible official shall notify the applicant immediately after completion of the threshold determination. The responsible official shall also notify the applicant of the City’s procedure for EIS preparation, including approval of the draft and final EIS prior to distribution.
- C. The City may require an applicant to provide information the City does not possess, including specific investigations; however, the applicant is not required to supply information that is not required under this chapter, or that is being requested from another agency; provided, however, this does not apply to information the City may request under another ordinance or statute.
- D. Subject to delays caused by the applicant’s failure to provide information requested by the City and other delays beyond the City’s control, an EIS will be completed within 24 months of the date of the declaration of significance unless the City and the applicant agree in writing to a different estimated time period for completion of the EIS.

18.800.180 EIS – Additional elements.

i This section is based on IMC 18.10.180.

The following additional elements are part of the environment for the purpose of EIS content, but do not add to the criteria for threshold determination or perform any other function or purpose under this chapter:

- A. Economy;
- B. Social policy analysis;
- C. Cost-benefit analysis;
- D. Such other elements as may be required by the responsible official.

18.800.190 EIS – Commenting – Adoption by reference.

i This section is based on IMC 18.10.190.

The City adopts the following sections of Chapter 197-11 WAC, as now existing or hereinafter amended, by reference, as supplemented in this chapter:

- 197-11-500 Purpose of this part.
- 197-11-502 Inviting comment.
- 197-11-504 Availability and cost of environmental documents.
- 197-11-508 SEPA register.
- 197-11-535 Public hearings and meetings.
- 197-11-545 Effect of no comment.
- 197-11-550 Specificity of comments.
- 197-11-560 FEIS response to comments.
- 197-11-570 Consulted agency costs to assist lead agency.

18.800.200 Public notice.

i This section is adapted from IMC 18.10.200 with additional requirements for notice of applications and expanding mailing requirements at the direction of the Planning Policy Commission.

- A. Notice of application. For all SEPA applications, a notice for application, in accord with IMC 18.204.220, Notice of application, is required to be provided within 14 days of the Certification of Completeness, in accord with subsection 18.800.080 (D), Certification of Completeness. If any open record pre-decision hearing is required for the requested project permit, the Notice of Application must be provided at least 21 days prior to the open record hearing.
- B. Notice of application requirements. All SEPA applications require both mailed and posted notice in accordance with IMC 18.204.200, Public notices.
- C. Notice of determination or EIS. Whenever the City issues a threshold determination or EIS requiring public notice, the City must give public notice of the determination or the availability of the environmental documents and whether any public hearing will be held as follows in accord with :
 - 1. If public notice is required for the associated Project Permit, the notice must state whether a DS or DNS has been issued and when comments are due, or that the EIS is available;
 - 2. If no public notice is required, the City must give notice by:
 - a. Publishing notice in the local newspaper,
 - b. Any other means of notice deemed appropriate by the responsible official, based on the type of proposal involved.
- D. Whenever the City issues a DS, the City must state the scoping procedure for the proposal in the DS as required in WAC 197-11-408.
- E. The City may require an applicant to compensate the City for the costs of compliance with the public notice requirements as determined by the City for the applicant's proposal.
- F. The City shall provide the notice of application and environmental checklist by:

1. Mailing to agencies with jurisdiction, the Department of Ecology, affected tribes, and each local agency or political subdivision whose public services would be changed as a result of implementation of the proposal;
2. Require the applicant to post the site in accord with IMC 18.204.200(D) Notice boards;
3. Mailing to property owners and residents within 500 feet of the subject property; and
4. The Director shall have the discretion in exceptional circumstances (i.e., lengthy utility corridor or right-of-way construction projects) where posting and mailed notice would be impractical, to require the notice of application to be published in a newspaper of general circulation in the area where the proposal is located, in lieu of posting and mailed notice.

G.

18.800.210 Designation of official to perform consulted agency responsibilities.

i This section is based on IMC 18.10.210.

- A. The responsible official is responsible for preparation of written comments for the City in response to a consultation request prior to a threshold determination, participation in scoping, and reviewing a draft EIS.
- B. The responsible official is responsible for the City’s compliance with WAC 197-11-550 whenever the City 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 City.

18.800.220 Using existing environmental documents – Adoption by reference.

i This section is based on IMC 18.10.220.

The City adopts the following sections of Chapter 197-11 WAC, as now existing or hereinafter amended, by reference:

- 197-11-600 When to use existing environmental documents.
- 197-11-610 Use of NEPA documents.
- 197-11-620 Supplemental environmental impact statements.
- 197-11-625 Addenda – Procedures.
- 197-11-630 Adoption – Procedures.
- 197-11-635 Incorporation by reference – Procedures.
- 197-11-640 Combining documents.

18.800.230 SEPA decisions – Adoption by reference.

i This section is based on IMC 18.10.230; deleted last WAC reference because it is already captured by .020.

The City adopts the following sections of Chapter 197-11 WAC, as now existing or hereinafter amended, by reference:

- 197-11-650 Purpose of this part.
- 197-11-655 Implementation.

197-11-660 Substantive authority and mitigation.

197-11-680 Appeals.

18.800.250 SEPA decisions – Substantive authority.

i This section is based on IMC 18.10.250.

- A. The City may attach conditions to a license or approval for a proposal so long as:
 - 1. Such conditions are necessary to mitigate specific adverse environmental impacts clearly identified in an environmental document prepared pursuant to this chapter; and
 - 2. Such conditions are in writing; and
 - 3. Such conditions are reasonable and capable of being accomplished; and
 - 4. The City 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 the SEPA Policies (IMC 18.800.260) and cited in the permit, approval, license, or other decision document.
- B. The City 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 final EIS or final supplemental EIS; and
 - 2. A finding is made that the mitigation measures are insufficient to mitigate the identified impact; and
 - 3. The denial is based on one or more policies identified in SEPA Policies (IMC 18.800.260) and identified in writing in the decision document.

18.800.260 SEPA – Policies.

i This section is adapted from IMC 18.10.260 and updated with more recent planning documents.

- A. For the purposes of RCW 43.21C.060 and WAC 197-11-660(a), the following policies, plans, regulations, and all amendments thereto, are designated as potential bases for the exercise of the City’s substantive authority under SEPA, subject to the provisions of RCW 43.21C.240:

State Environmental Policy Act Chapter 43.21C RCW;

Issaquah Municipal Code (IMC), including but not limited to Title 8 (Health and Safety), Title 9 (Criminal Code), Title 12 (Streets, Sidewalks, and Public Places), Title 13 (Public Services), Title 16 (Buildings and Construction), Title 18 (Land Use Code);

Capital Improvement Plan;

Transportation Improvement Program;

Issaquah Street Standards;

Issaquah Parks Strategic Plan;


Issaquah Sewer System Plan;

Issaquah Storm and Surface Water Master Plan;

Issaquah Fire Department Master Plan;

Issaquah Shoreline Master Program;
 Issaquah Mobility Master Plan;
 Issaquah Climate Action Plan
 Issaquah Human Services Strategic Plan;
 Issaquah Citywide Strategic Plan;
 Issaquah Comprehensive Plan;
 Central Issaquah Plan;
 Olde Town Subarea Plan and Standards
 City of Issaquah Fire Impact Fee and General Government Buildings and Law Enforcement Mitigation Fee;
 City of Issaquah Transportation Impact Fee and Pedestrian and Bicycle Mitigation Fee;
 Issaquah Parks Impact Fee;
 King County Surface Water Design Manual.
 Issaquah Creek Basin and Nonpoint Action Plan
 Ordinance 1815, Mobile Home Relocation, 3-2-89.
 Resolution 92-12, Policy Statements from 1991 Puget Sound Water Quality Management Plan, 6-1-92.

18.800.270 Appeals.

 This section is adapted from IMC 18.10.270.

- A. Appeals are processed per IMC Chapter 18.204, Application Review. Consistent with WAC 197-11-680.
- B. When allowed.
 - 1. A SEPA appeal is limited to review of a final threshold determination and final EIS.
 - 2. No appeal of the intermediate steps under SEPA (e.g., lead agency determination, scoping, draft EIS adequacy) is allowed.
 - 3. Only one administrative appeal of a threshold determination or of the adequacy of an EIS is allowed; successive administrative appeals on these issues are not allowed.
- C. Appeal on SEPA procedures is limited to review of a final threshold determination and final EIS. Only one administrative appeal of a threshold determination or of the adequacy of an EIS is allowed; successive administrative appeals on these issues are not allowed.
- D. An appeal of SEPA procedures must be consolidated with any appeal of the associated project permit, except that the following need not be consolidated:
 - 1. the appeal of a determination of significance;
 - 2. an appeal of a procedural determination made by an agency when the agency is a project proponent, or is funding a project, and chooses to conduct its review under SEPA, including any appeals of its procedural determinations, prior to submitting an application for a project permit.
- E. Judicial appeals. Consistent with RCW 43.21C.075(6)(c), judicial review of any SEPA determination must be coupled with an appeal of the City's final action on the underlying application, and must be delayed until the City's final decision is issued.

18.800.280 Notice/statute of limitations.

i This section is based on IMC 18.10.280.

- A. The City, 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 must be substantially in the form provided in WAC 197-11-990 and distributed consistent with RCW 43.21C.080.

18.800.290 Compliance with SEPA – Adoption by reference.

i This section is based on IMC 18.10.290.

The City adopts the following sections of Chapter 197-11 WAC, as now existing or hereinafter amended, by reference, as supplemented in this chapter:

- 197-11-900 Purpose of this part.
- 197-11-902 Agency SEPA policies.
- 197-11-916 Application to ongoing actions.
- 197-11-920 Agencies with environmental expertise.
- 197-11-922 Lead agency rules.
- 197-11-924 Determining the lead agency.
- 197-11-926 Lead agency for government proposals.
- 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 (1) 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.
- 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.

18.800.300 Critical areas.

i This section is based on IMC 18.10.300. Retitled "environmentally critical area" to the standard term "critical area."

This chapter contains procedures for appealing SEPA determinations to agencies or the courts. The city adopts by reference the following sections of the WAC, as now existing or hereinafter amended:

197-11-800 WAC, Categorical exemptions.

18.800.310 Fees.

i This section is adapted from IMC 18.10.310; migrated fee amounts into new table .310-1 below. Deleted \$500 overhead fee for EIS preparation; relying solely on 5% of costs. Updated reference to RCW 42.17 to 42.56. Fee tables will be consolidated to IMC 3.64 and referenced in this section.

The City requires the following fees for its activities in accordance with IMC 3.64, Fees for applications for land use and site work permits:

- A. Threshold Determination: For every environmental checklist the City reviews as lead agency, the City must collect a fee from the proponent of the proposal prior to undertaking a basic threshold determination. The time periods provided by this chapter for making a threshold determination do not begin to run until payment of fees are collected by the City. For any complex review requiring staff time in excess of 10 hours, the City may charge an hourly rate for the additional time.
- B. Environmental Impact Statement:
 1. When the City 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 City, the City may charge and collect a reasonable fee from any applicant to cover costs incurred, including overhead, by the City in preparing the EIS. The responsible official must advise the applicant of the projected costs for the EIS prior to actual preparation.
 2. The responsible official may determine that the City 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 City, and may bill such costs and expenses directly to the applicant. Such consultants must be selected by the City.
 3. The applicant must pay the projected amount to the City prior to commencing work. The City will refund the excess, if any, at the completion of the EIS. If the City's costs exceed the projected costs, the applicant must immediately pay the excess. If a proposal is modified so that an EIS is no longer required, the responsible official must refund any fees collected under subsection (B)(1) or (2) of this section which remain after incurred costs, including overhead, are paid.
 4. For all proposals in which the City is the lead agency and the responsible official determines that an EIS is required, the applicant may be charged an overhead fee equal to a percentage of the costs of the draft and the final environmental impact statements to cover the City's administrative costs of supervision and preparation. For the purpose of this section, cost of an environmental impact statement includes the cost of preparation and publication, including printing, collating, binding, and circulation of the preliminary and final EIS. Applicants may be required to post bond or otherwise insure payment of such costs. If the actual cost of the draft and final EIS exceeds the estimated cost of the EIS agreed upon by the City and the applicant, such excess must be paid to the City by the applicant prior to final action by the City.

- C. The City may collect a reasonable fee from an applicant to cover the costs of meeting the public notice requirements of this chapter relating to the applicant’s proposal.
- D. The City may charge any person for copies of any document prepared under this chapter, and for mailing the document in a manner provided by Chapter 42.56 RCW.

18.800.320 Forms – Adoption by reference.

i This section is based on IMC 18.10.320.

The City adopts the following forms and sections of Chapter 197-11 WAC, as now existing or hereinafter amended, by reference:

- 197-11-960 Environmental checklist.
- 197-11-965 Adoption notice.
- 197-11-970 Determination of nonsignificance (DNS).
- 197-11-980 Determination of significance and scoping notice (DS).
- 197-11-985 Notice of assumption of lead agency status.
- 197-11-990 Notice of action.