

City of Lynnwood
DEC 12 2000
SCANNED

CITY OF LYNNWOOD
ORDINANCE NO. 1415

AN ORDINANCE IMPLEMENTING THE STATE ENVIRONMENTAL POLICY ACT (SEPA) IN THE CITY OF LYNNWOOD IN ACCORDANCE WITH PROVISIONS OF SEPA AND THE SEPA RULES OF THE WASHINGTON ADMINISTRATIVE CODE (WAC-197-11), AND REPEALING PROVISIONS IN CONFLICT THEREWITH

WHEREAS, after proper notice, due hearing was held by the City Council to consider an amendment to the official text of the Municipal Code of the City of Lynnwood; and

WHEREAS, upon motion duly made the City Council of the City of Lynnwood has determined to amend the official text of the Municipal Code of the City of Lynnwood;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LYNNWOOD DO ORDAIN AS FOLLOWS:

SECTION 1. Chapter 2.72 of the Lynnwood Municipal Code, State Environmental Policy Act Guidelines, is hereby repealed.

SECTION 2. The City of Lynnwood hereby adopts Chapter 173-806 WAC, Model Ordinance, which reads as follows, to wit:

PART ONE
AUTHORITY

WAC 173-806-010 AUTHORITY.

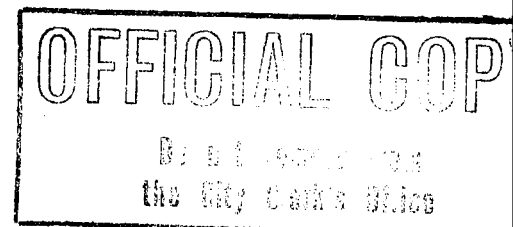
The City of Lynnwood adopts the State Environmental Policy Act (SEPA), RCW 43.21C.120, and the SEPA rules, WAC 197-11-904. This ordinance contains this city's SEPA procedures and policies. The SEPA rules, chapter 197-11 WAC, must be used in conjunction with this ordinance.

PART TWO
GENERAL REQUIREMENTS

WAC 173-806-020 PURPOSE OF THIS PART AND ADOPTION BY REFERENCE.

This part contains the basic requirements that apply to the SEPA process. The city adopts the following section of chapter 197-11 of the Washington Administrative Code by reference:

WAC	
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.



WAC 173-806-030 ADDITIONAL DEFINITIONS.

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

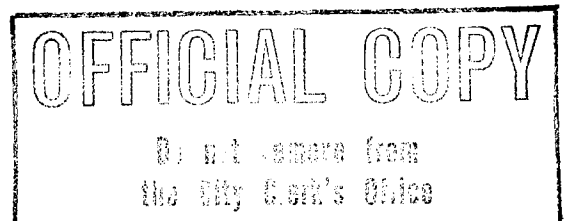
1. "Department" means any division, subdivision, or organizational unit of the city established by ordinance, rule, or order.
2. "SEPA rules" means chapter 197-11 WAC adopted by the department of ecology.
3. "Ordinance" means the ordinance, resolution, or other procedure used by the city to adopt regulatory requirements.
4. "Early notice" means the city's response to an applicant stating whether it considers issuance of a determination of significance likely for the applicant's proposal (mitigated determination of nonsignificance (DNS) procedures).

WAC 173-806-040 DESIGNATION OF RESPONSIBLE OFFICIAL.

1. For those proposals for which the city is the lead agency, the responsible official shall be the Mayor and/or an Environmental Review Committee as appointed by the Mayor.
2. For all proposals for which the city is the lead agency, the responsible official shall make the threshold determination, supervise scoping and preparation of any required environmental impact statement (EIS), and perform any other functions assigned to the "lead agency" or "responsible official" by those sections of the SEPA rules that were adopted by reference in WAC 173-806-020.
3. The city shall retain all documents required by the SEPA rules (chapter 197-11 WAC) and make them available in accordance with Chapter 42.11 RCW.

WAC 173-806-050 LEAD AGENCY DETERMINATION AND RESPONSIBILITIES.

1. The department within the city receiving an application for or initialing a proposal that involves a nonexempt action shall determine the lead agency for that proposal under WAC 197-11-050 and 197-11-922 through 197-11-940; unless the lead agency has been previously determined or the department is aware that another department or agency is in the process of determining the lead agency.
2. When the city is the lead agency for a proposal, the department receiving the application shall determine the responsible official who shall supervise compliance with the threshold determination requirements, and if an EIS is necessary, shall supervise preparation of the EIS.



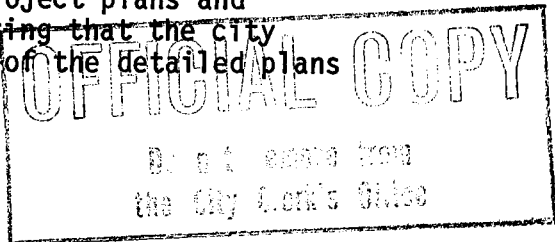
- 3. When the city is not the lead agency for a proposal, all departments of the city shall use and consider, as appropriate, either the DNS or the final EIS of the lead agency in making decisions on the proposal. No city department shall prepare or require preparation of a DNS or EIS in addition to that prepared by the lead agency, unless required under WAC 197-11-600. In some cases, the city may conduct supplemental environmental review under WAC 197-11-600.
- 4. 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 resolved within fifteen days of receipt of the determination, or the city must petition the department of ecology for a lead agency determination under WAC 197-11-940 within the fifteen-day time period. Any such petition on behalf of the city may be initiated by the responsible official.
- 5. Departments of the city are authorized to make agreements as to lead agency status or shared lead agency duties for a proposal under WAC 197-11-942 and 197-11-944; Provided, That the responsible official and any department that will incur responsibilities as the result of such agreement approve the agreement.
- 6. Any department making a lead agency determination for a private project shall require sufficient information from the applicant to identify which other agencies have jurisdiction over the proposal. (That is: Which agencies require nonexempt licenses?)

WAC 173-806-053

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

WAC 173-806-058 ADDITIONAL TIMING CONSIDERATIONS.

- 1. For nonexempt proposals, the DNS or Final EIS for the proposal shall accompany the city's staff recommendation to any appropriate advisory body, such as the planning commission.
- 2. If the city's only action on a proposal is a decision on a building permit or other license that requires 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.



PART THREE
CATEGORICAL EXEMPTIONS AND
THRESHOLD DETERMINATIONS

WAC 173-806-065 PURPOSE OF THIS PART AND ADOPTION BY REFERENCE.

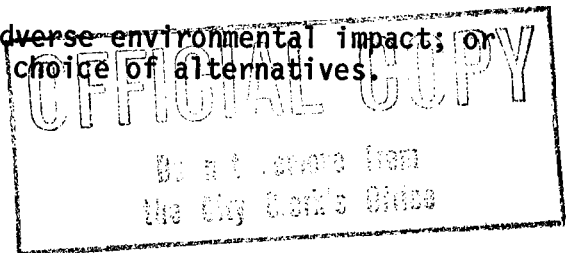
This part contains the rules for deciding whether a proposal has a "probable significant, adverse environmental impact" requiring an environmental impact statement (EIS) to be prepared. This part also contains rules for evaluating the impacts of proposals not requiring an EIS. The city adopts the following sections by reference, as supplemented in this part:

WAC

- 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.
- 197-11-360 Determination of significance (DS)/initiation of scoping.
- 197-11-390 Effect of threshold determination.

WAC 173-806-080 Use of exemptions.

1. Each department within the city that receives an application for a license or, in the case of governmental proposals, the department initiating the proposal, shall determine whether the license and/or the proposal is exempt. The department's 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 ordinance apply to the proposal. The city shall not require completion of an environmental checklist for an exempt proposal.
2. In determining whether or not a proposal is exempt, the department shall make certain the proposal is properly defined and shall identify the governmental licenses required (WAC 197-11-060). If a proposal includes exempt and nonexempt actions, the department shall determine the lead agency, even if the license application that triggers the department's consideration is exempt.
3. If a proposal includes both exempt and nonexempt actions, the city may authorize exempt actions prior to compliance with the procedural requirements of this ordinance, except that:
 - a. The city shall not give authorization for:
 - i. Any nonexempt action;
 - ii. Any action that would have an adverse environmental impact; or
 - iii. Any action that would limit the choice of alternatives.



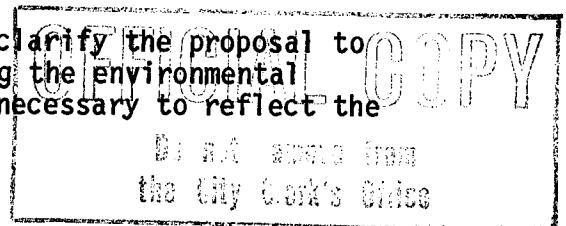
- b. A department may withhold approval of an exempt action that would lead to modification of the physical environment, when such modification would serve no purpose if nonexempt action(s) were not approved; and
- c. A department may withhold approval of exempt actions that would lead to substantial financial expenditures by a private applicant when the expenditures would serve no purpose if nonexempt action(s) were not approved.

WAC 173-806-090 ENVIRONMENTAL CHECKLIST.

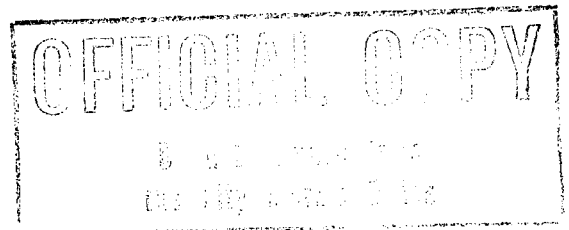
- 1. A completed environmental checklist shall be filed at the same time as an application for a permit, license, certificate, or other approval not exempted in this ordinance; except a checklist is not needed if the city and applicant agree an EIS is required, SEPA compliance has been completed, or SEPA compliance has been initiated by another agency. The checklist shall be in the form of WAC 197-11-060 with the following additions: noise examples in question 7-6-1, shall include aircraft noises.
- 2. For private proposals, the city will require the applicant to complete the environmental checklist providing assistance as necessary. For city proposals, the department initiating the proposal shall complete the environmental checklist for that proposal.

WAC 173-806-100 Mitigated DNS.

- 1. As provided in this section and in WAC 197-11-350, the responsible official may issue a 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.
- 2. An applicant may request in writing early notice of whether a DS is like under WAC 197-11-350. The request must:
 - a. Follow submission of a permit application and environmental checklist for a nonexempt proposal for which the department is lead agency; and
 - b. Precede the city's actual threshold determination for the proposal.
- 3. The responsible official should respond to the request for early notice within fifteen working days. The response shall:
 - a. Be written;
 - b. State whether the city currently considers issuance of a DS likely and, if so, indicate the general or specific area(s) of concern that is/are leading the city to consider a DS; and
 - c. State that the applicant may change or clarify the proposal to mitigate the indicated impacts, revising the environmental checklist and/or permit application as necessary to reflect the changes or clarifications.



4. As much as possible, the city should assist the applicant with identification of impacts to the extent necessary to formulate mitigation measures.
5. When an applicant submits a changed or clarified proposal, along with a revised or amended environmental checklist, the city shall base its threshold determination on the changed or clarified proposal and should make the determination within fifteen days of receiving the changed or clarified proposal:
 - a. 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 DNS under WAC 197-11-340(2).
 - b. 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.
 - c. The applicant's proposed mitigation measures (clarifications, changes, or conditions) must be in writing and must be specific. For example, proposals to "control noise" or "prevent stormwater runoff" are inadequate, whereas proposals to "muffle machinery to X decibel" or "construct 200-foot stormwater retention pond at Y location" are adequate.
 - d. 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.
6. A mitigated DNS is issued under WAC 197-11-340(2), requiring a fifteen-day comment period and public notice.
7. Mitigation measures incorporated in the mitigated DNS shall be deemed conditions of approval of the permit decision and may be enforced in the same manner as any term or condition of the permit, or enforced in any manner specifically prescribed by the city.
8. If the city's tentative decision on a permit or approval does not include mitigation measures that were incorporated in the mitigated DNS for the proposal, the city should evaluate the threshold determination to assure consistency with WAC 197-11-340(3)(a) (withdrawal of DNS).
9. The city's written response under subsection (2) of this section shall not be construed as a determination of significance. In addition, preliminary discussion of clarifications 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.



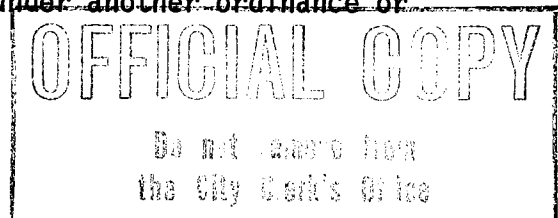
PART FOUR
ENVIRONMENTAL IMPACT STATEMENT
(EIS)

WAC 173-806-110 PURPOSE OF THIS PART AND ADOPTION BY REFERENCE.
This part contains the rules for preparing environmental impact statements.
The city adopts the following sections by reference, as supplemented by this part:

WAC	
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. (Optional)
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.

WAC 173-806-120 PREPARATION OF EIS--ADDITIONAL CONSIDERATIONS.

1. Preparation of draft and final EISs (DEIS and FEIS) and draft and final supplemental EISs (SEIS) is the responsibility of the responsible official. Before the city issues an EIS, the responsible official shall be satisfied that it complies with this ordinance and chapter 197-11 WAC.
2. The DEIS and FEIS or draft and final SEIS shall be prepared by city staff, the applicant, or by a consultant selected by the city or the applicant. 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 DEIS and FEIS prior to distribution.
3. 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 ordinance or that is being requested from another agency. (This does not apply to information the city may request under another ordinance or statute.)



WAC 173-806-125 ADDITIONAL ELEMENTS TO BE COVERED IN AN EIS.

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

- (1) Economy.
- (2) Social policy analysis.
- (3) Cost-benefit analysis.

PART FIVE COMMENTING

WAC 173-806-128 ADOPTION BY REFERENCE.

This part contains rules for consulting, commenting, and responding on all environmental documents under SEPA, including rules for public notice and hearings. The city adopts the following sections by reference, as supplemented in this part:

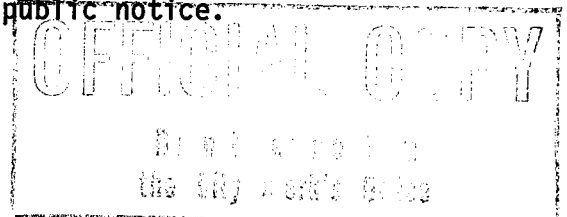
WAC

- 197-11-500 Purpose of this part.
- 197-11-502 Inventing 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.

WAC 173-806-130 PUBLIC NOTICE

(1) Whenever the city issues a DNS under WAC 197-11-340 (2) those which previously required proposed D.S. clearing, grading, another agency, etc., or a DS under WAC 197-11-360(3) the city shall give public notice as follows:

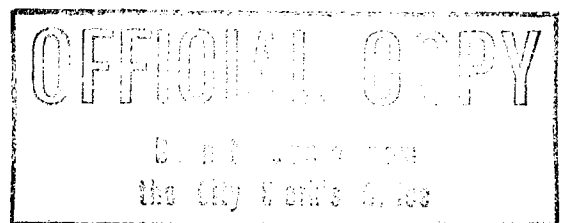
- (a) If public notice is required for a nonexempt license, the notice shall state whether a DS or DNS has been issued and when comments are due.
- (b) If no public notice is required for the permit or approval, the City shall give notice of the DNS or DS by:
 - (i) Posting the property, for site-specific proposals;
 - (v) A weekly listing of all DNS's and DS's issued during the past week under WAC-197-11-340(2) and WAC-197-11-360(3) shall be posted at City Hall.
- (c) Whenever the City issues a DS under WAC 197-11-360(3), the City shall state the scoping procedure for the proposal in the DS as required in WAC 197-11-408 and in the public notice.



- (2) Whenever the City issues a DEIS under WAC 197-11-455(5) or a SEIS under WAC 197-11-620, notice of the availability of those documents shall be given by:
- (a) Indicating the availability of the DEIS in any public notice required for a nonexempt license; and at least one of the following:
 - (i) Posting the property, for site-specific proposals;
 - (ii) Publishing notice in a newspaper of general circulation in the county, city, or general area where the proposal is located;
 - (iii) Notifying public or private groups which have expressed interest in a certain proposal or in the type of proposal being considered;
 - (iv) Notifying the news media;
 - (v) Placing notices in appropriate regional, neighborhood, ethnic, or trade journals; and/or
 - (vi) Publishing notice in agency newsletters and/or sending notice to agency mailing lists (general lists or specific lists for proposals or subject areas); and/or
 - (vii) A weekly listing of any such DEIS's and SEIS's issued.
 - (3) Whenever possible, the City shall integrate the public notice required under this section with existing notice procedures for the City's nonexempt permits(s) or approval(s) required for the proposal.
 - (4) The City may require an applicant to complete the public notice requirements for the applicant's proposal at his or her expense.

WAC 173-806-140 DESIGNATION OF OFFICIAL TO PERFORM CONSULTED AGENCY RESPONSIBILITIES FOR THE CITY.

- (1) The responsible official shall be 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 an DEIS, and
- (2) Shall be 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.



PART SIX
USING EXISTING ENVIRONMENTAL DOCUMENTS

WAC 173-806-150 PURPOSE OF THIS PART AND ADOPTION BY REFERENCE.

This part contains rules for using and supplementing existing environmental documents prepared under SEPA or National Environmental Policy Act (NEPA) for the City's own environmental compliance. The City adopts the following sections by reference:

WAC

197-11-600	WHEN TO USE EXISTING ENVIRONMENTAL DOCUMENTS.
197-11-610	Use of NEPA documents.
197-11-620	Supplemental environmental impact statement--Procedures.
197-11-625	Addenda--Procedures.
197-11-630	Adoption--Procedures.
197-11-635	Incorporation by reference--Procedures.
197-11-640	Combining documents.

PART SEVEN
SEPA AND AGENCY DECISIONS

WAC 173-806-155 PURPOSE OF THIS PART AND ADOPTION BY REFERENCE.

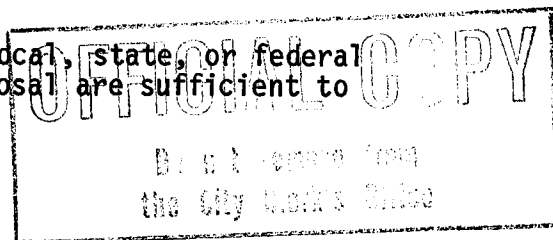
This part contains rules (and policies) for SEPA's substantive authority, such as decisions to mitigate or reject proposals as a result of SEPA. This part also contains procedures for appealing SEPA determinations to agencies or the courts. The City adopts the following sections by reference:

WAC

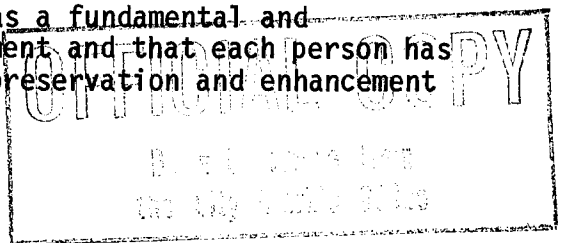
197-11-650	Purpose of this part.
197-11-655	Implementation.
197-11-660	Substantive authority and mitigation.
197-11-680	Appeals.

WAC 173-806-160 SUBSTANTIVE AUTHORITY.

- (1) The policies and goals set forth in this ordinance are supplementary to those in the existing authorization of the City of Lynnwood.
- (2) The City may attach conditions to a permit or approval for a proposal so long as:
 - (a) Such conditions are necessary to mitigate specific probably adverse environmental impacts identified in environmental documents prepared pursuant to this ordinance; and
 - (b) Such conditions are in writing; and
 - (c) The mitigation measures included in such conditions are reasonable and capable of being accomplished; and
 - (d) The City has considered whether other local, state, or federal mitigation measures applied to the proposal are sufficient to mitigate the identified impacts; and



- (e) Such conditions are based on one or more policies in subsection (4) of this section and cited in the license or other decision document.
- (3) The City may deny a permit or approval for a proposal on the basis of SEPA so long as:
- (a) A finding is made that approving the proposal would result in probably significant adverse environmental impacts that are identified in a FEIS or final SEIS prepared pursuant to this ordinance, and
 - (b) A finding is made that there are no reasonable mitigation measures capable of being accomplished that are sufficient to mitigate the identified impact; and
 - (c) The denial is based on one or more policies identified in subsection (4) of this section and identified in writing in the decision document.
- (4) The City designates and adopts by reference the following policies as the basis for the City's exercise of authority pursuant to this section:
- (a) The City shall use all practicable means, consistent with other essential considerations of state policy, to improve and coordinate plans, functions, programs, and resources to the end that the state and its citizens may:
 - (i) Fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;
 - (ii) Assure for all people of Washington safe, healthful, productive, and aesthetically and culturally pleasing surroundings;
 - (iii) Attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;
 - (iv) Preserve important historic, cultural, and natural aspects of our national heritage;
 - (v) Maintain, wherever possible, an environment which supports diversity and variety of individual choice;
 - (vi) Achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and
 - (vii) Enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.
 - (b) The City recognizes that each person has a fundamental and inalienable right to healthful environment and that each person has a responsibility to contribute to the preservation and enhancement of the environment.



- (c) The City adopts by reference the policies in the following City codes, ordinances, resolutions, and plans as now existing or as may hereafter be amended:

Zoning Code, Title 20
Comprehensive Plan, Title 18, including Comprehensive Plan Map
Subdivision Regulations, Title 19 (Review this and Chapter 2.72)
Environment, Title 17
Building Code, Title 16
Storm Drainage Regulations Ordinance 908
Land Clearing and Grading Regulations, Ordinance 1154

- (5) When any proposal or action not requiring a decision of the City Council is conditioned or denied on the basis of SEPA by a nonelected official, the decision shall be appealable to the City Council. Such appeal may be perfected by the proponent or any aggrieved party by giving notice to the responsible official within ten days of the decision being appealed. Review by the City Council shall be on a de novo basis.

WAC 173-806-173 NOTICE/STATUTE OF LIMITATION

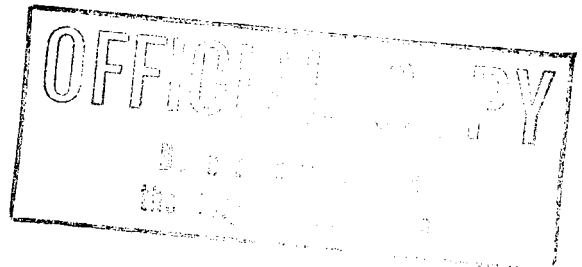
- (1) The City, applicant for, or proponent of an action may publish a notice of action pursuant to RCW 43.21C.080 for any action.
- (2) The form of the notice shall be substantially in the form provided in WAC 197-11-990. The notice shall be published by the City Clerk, applicant or proponent pursuant to RCW 43.21C.080

PART EIGHT
DEFINITIONS

WAC 173-806-175 PURPOSE OF THIS PART AND ADOPTION BY REFERENCE

This part contains uniform usage and definitions of terms under SEPA. The City adopts the following sections by reference, as supplemented by WAC 173-806-040.

WAC	
197-11-700	Definitions.
197-11-702	Act.
197-11-704	Action.
197-11-706	Addendum.
197-11-708	Adoption.
197-11-710	Affected tribe.
197-11-712	Affecting.
197-11-714	Agency.
197-11-716	Applicant.
197-11-718	Built environment.
197-11-720	Categorical exemption.
197-11-722	Consolidated appeal.
197-11-724	Consulted Agency.
197-11-726	Cost-benefit analysis.
197-11-728	City



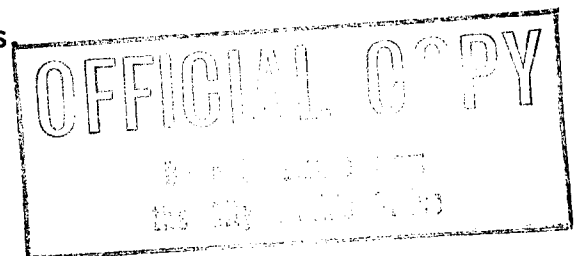
197-11-730 Decision maker.
 197-11-732 Department
 197-11-734 Determination of nonsignificance (DNS).
 197-11-736 Determination of significance (DS)
 197-11-738 EIS.
 197-11-740 Environment.
 197-11-742 Environmental checklist.
 197-11-744 Environmental document.
 197-11-746 Environmental review.
 197-11-748 Environmentally sensitive area.
 197-11-750 Expanded scoping.
 197-11-752 Impacts.
 197-11-754 Incorporation by reference.
 197-11-756 Lands covered by water.
 197-11-758 Lead agency.
 197-11-760 License.
 197-11-762 Local agency
 197-11-764 Major action.
 197-11-766 Mitigated DNS.
 197-11-768 Mitigation.
 197-11-770 Natural environment.
 197-11-772 NEPA.
 197-11-774 Nonproject.
 197-11-776 Phased review.
 197-11-778 Preparation.
 197-11-780 Private project.
 197-11-782 Probable.
 197-11-784 Proposal.
 197-11-786 Reasonable alternative.
 197-11-788 Responsible official.
 197-11-790 SEPA.
 197-11-792 Scope.
 197-11-793 Scoping.
 197-11-794 Significant.
 197-11-796 State agency.
 197-11-797 Threshold determination.
 197-11-799 Underlying governmental action.

PART NINE
CATEGORICAL EXEMPTIONS

WAC 173-806-180 ADOPTION BY REFERENCE.

The City adopts by reference the following rules for categorical exemptions, as supplemented in this ordinance, including WAC 173-806-080 (Use of exemptions), and WAC 173-806-190 (Environmentally sensitive areas):

WAC
 197-11-800 Categorical exemptions.
 197-11-880 Emergencies.
 197-11-890 Petitioning DOE to change exemptions



PART TEN
AGENCY COMPLIANCE

WAC 173-806-185 PURPOSE OF THIS PART AND ADOPTION BY REFERENCE.

This part contains rules for agency compliance with SEPA, including rules for charging fees under the SEPA process, designating environmentally sensitive areas, listing agencies with environmental expertise, selecting the lead agency, and applying these rules to current agency activities. The City adopts the following sections by reference, as supplemented by WAc 173-806-050 through 173-806-053 and this part:

WAC

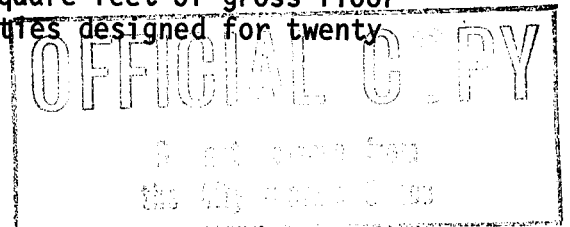
197-11-900	Purpose of this part.
197-11-902	Agency SEPA policies.
197-11-916	Application to ongoing actions.
197-11-920	Agencies with environmental expertise.
197-11-922	Lead agency rules.
197-11-924	Determining the lead agency.
197-11-926	Lead agency for governmental proposals
197-11-928	Lead agency 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 city.
197-11-934	Lead agency for private projects requiring licenses from local agency, not a city, and one or more state agencies.
197-11-936	Lead agency for private projects requiring licenses from more than one state agency.
197-11-938	Lead agencies for specific proposals.
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.

WAC 173-806-190 ENVIRONMENTALLY SENSITIVE AREAS

The map attached hereto designates the location of environmentally sensitive areas within the City and is adopted by reference.* In addition, all zoning boundaries where residential zones adjoin substantially more dense residential or intense nonresidential zones are hereby designated as environmentally sensitive areas.

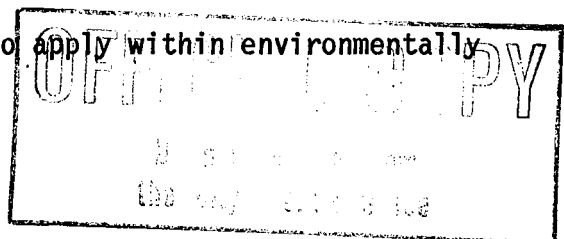
For all environmentally sensitive areas, the exemptions within WAC 197-11-800 that are inapplicable for that area are:

- (i) The construction or location of any residential structures of four dwelling units.
- (ii) The construction of an office, school, commercial, recreational, service or storage building with 4,000 square feet of gross floor area, and with associated parking facilities designed for twenty automobiles.



- (iii) The construction of parking lot designed for twenty automobiles.
- (iv) Any landfill or excavation of 100 cubic yards throughout the total lifetime of the fill or excavation; and any fill or excavation classified as a class I, II, or III forest practice under RCW 76.09.050 or regulations thereunder.
- (v) Except upon lands covered by water, the approval of short plats or short subdivisions pursuant to the procedures required by RCW 8.17.060.
- (vi) All communications lines, including cable TV, but not including communication towers or relay stations.
- (vii) All storm water, water and sewer facilities, lines, equipment, hookups or appurtenances including, utilizing or related to lines eight inches or less in diameter.
- (viii) All electric facilities, lines, equipment or appurtenances, not including substation, with an associated voltage of 55,000 volts or less; and the overbuilding of existing distribution lines (55,000 volts or less) with transmission lines (more than 55,000 volts); and the undergrounding of all electric facilities, lines equipment or appurtenances.
- (ix) All natural gas distribution (as opposed to transmission) lines and necessary appurtenant facilities and hookups.
- (x) All developments within the confines of any existing electric substation, reservoir, pump station, or well: PROVIDED, that additional appropriations of water are not exempted by this subsection.
- (xi) Periodic use of chemical or mechanical means to maintain a utility or transportation right of way in its design condition: PROVIDED, that chemicals used are approved by the Washington State Department of Agriculture and applied by licensed personnel. This exemption shall not apply to the use of chemicals within watersheds that are controlled for the purpose of drinking water quality in accordance with WAC 248-54-660.
- (xii) All grants of rights of way by agencies to utilities for use for distribution (as opposed to transmission) purposes.
- (xiii) Issuance of leases for school sites.
- (xiv) Issuance of leases for, and placement of, mooring buoys, designed to serve pleasure craft.
- (xv) Development of recreational sites not specifically designed for all-terrain vehicles and not including more than twelve campsites.

Unidentified exemptions shall continue to apply within environmentally sensitive areas of the City.

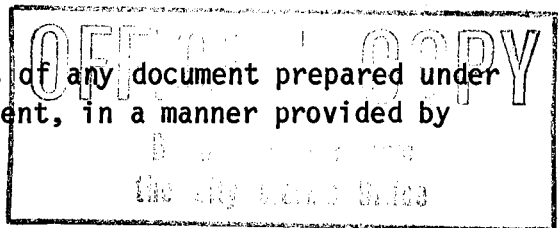


- (1) The City shall treat proposals located wholly or partially within an environmentally sensitive area no differently than other proposals under this ordinance, making a threshold determination for all such proposals. The City shall not automatically require an EIS for a proposal merely because it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

WAC 173-806-200 FEES

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

- (1) Threshold determination. For every environmental checklist the City will review when it is lead agency, the City shall collect a fee of \$35.00 from the proponent of the proposal prior to undertaking the threshold determination, except that there shall be no checklist fee for building permits. The time periods provided by this ordinance for making a threshold determination shall not begin to run until payment of the fee.
- (2) Environmental impact statement.
 - (a) 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 and the City, the City may charge and collect a reasonable fee from any applicant to cover costs incurred by the City in preparing the EIS. The responsible official shall advise the applicant(s) of the projected costs for the EIS prior to actual preparation; the applicant shall post bond or otherwise ensure payment of such costs.
 - (b) 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. The City may require the applicant to post bond or otherwise ensure payment of such costs. Such consultants shall be selected by mutual agreement of the City and applicant after a call for proposals.
 - (c) If a proposal is modified so that an EIS is no longer required, the responsible official shall refund any fees collected under (a) or (b) of this subsection which remain after incurred costs are paid.
- (3) The City may collect a reasonable fee from an applicant to cover the cost of meeting the public notice requirements of this ordinance relating to the applicant's proposal.
- (4) The City shall not collect a fee for performing its duties as a consulted agency.
- (5) The City may charge any person for copies of any document prepared under this ordinance, and for mailing the document, in a manner provided by Chapter 42.17 RCW.



PART ELEVEN
FORMS

WAC 173-806-230 ADOPTION BY REFERENCE

The City of Lynnwood adopts the following forms and sections by reference:

WAC

- 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.

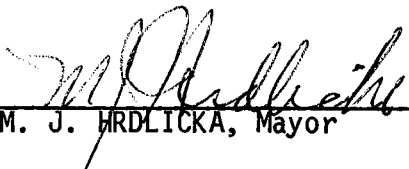
SECTION 2.

WAC 173-806-220 SEVERABILITY.

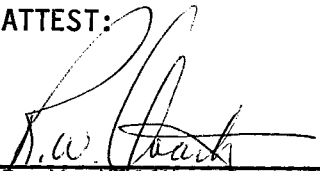
If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of this ordinance, or the application of the provision to other persons or circumstances, shall not be affected.

SECTION 3. This act is necessary for the immediate preservation of the public peace, health, property, and safety and shall take effect immediately.

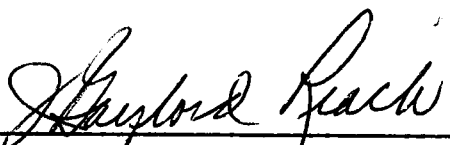
PASSED THIS 24th day of September, 1984, and signed in authentication of its passage this 24th day of September, 1984.

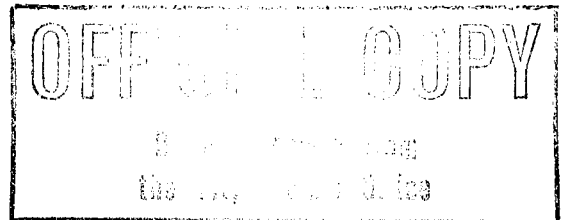

M. J. HRDLICKA, Mayor

ATTEST:


R. W. NGACK, City Clerk

APPROVED AS TO FORM:


J. GAYLORD RIACH, City Attorney



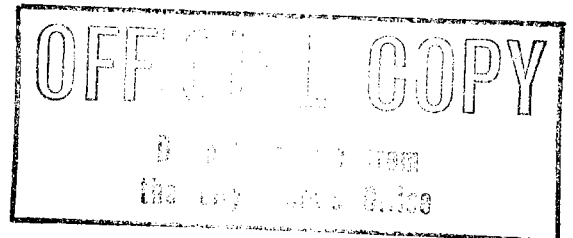
File Name: SEPA Adoption Code Amendment

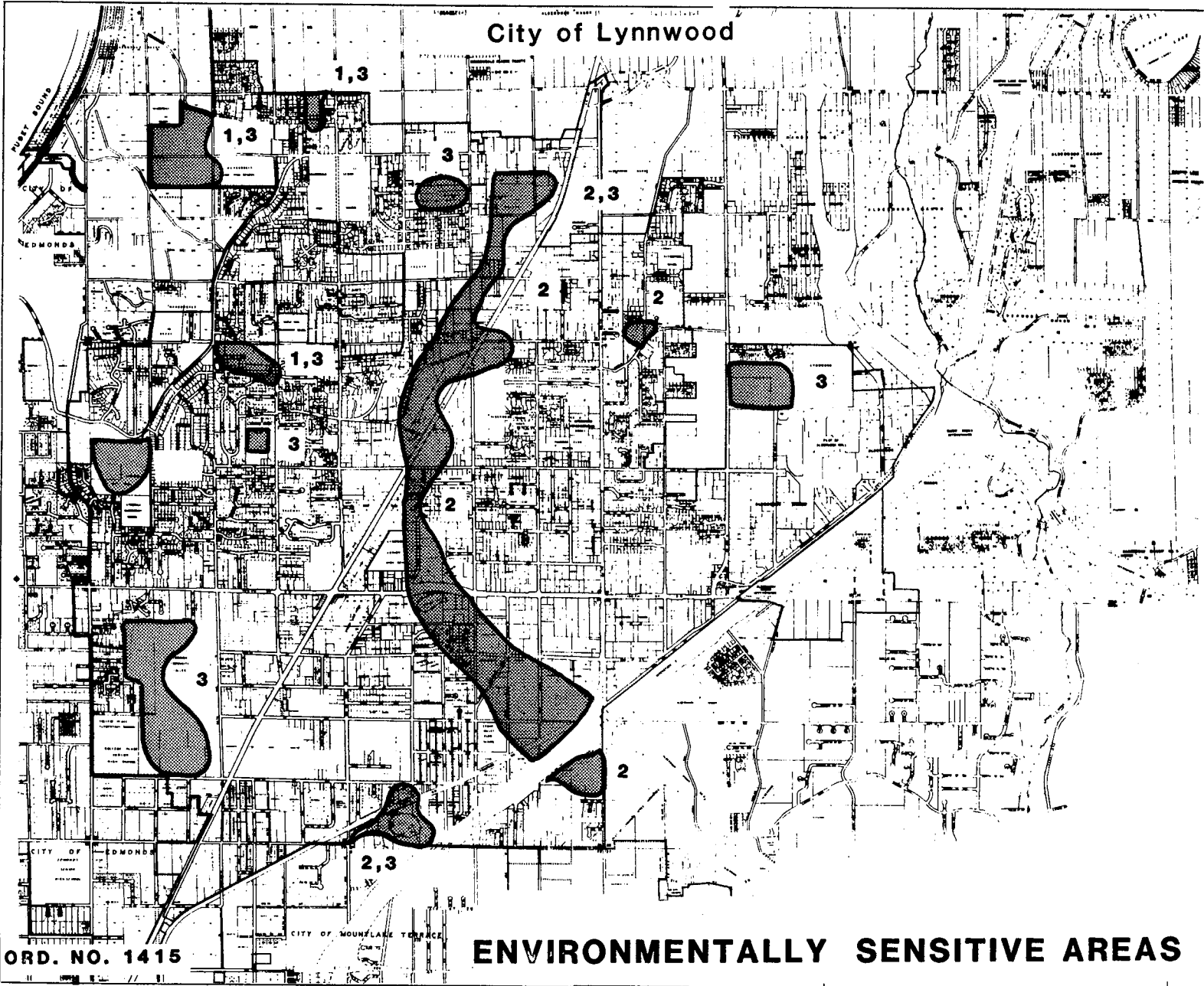
File Number: 84-CA-10

Published: October 2, 1984

* The reproduction of the environmentally sensitive areas map incorporated by this reference would be meaningless to the general public. The full map is available at City Hall for review by anyone who desires to do so.

2898Z





CRITERIA FOR CLASSIFYING AREAS AS ENVIRONMENTALLY SENSITIVE:

- 1) Steep slopes (greater than 15%);
- 2) Wetlands, streams, water bodies and land located in a flood plain;
- 3) Biologically significant flora and fauna;
- 4) In addition to the areas depicted, those areas along zoning boundaries where residential zones adjoin substantially more dense residential or intense non-residential are also to be treated as environmentally sensitive.

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the City Clerk's Office