

Title 16

ENVIRONMENT

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Chapter 16.04

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Article I. Authority

16.04.010 Authority.

A. The city adopts the ordinance codified in this chapter under the State Environmental Policy Act (SEPA), RCW 43.21C.120, and the SEPA rules, WAC 197-11-904.

B. This chapter contains the city’s SEPA procedures and policies.

C. The SEPA rules, Chapter 197-11 WAC, must be used in conjunction with this chapter. (Ord. 674 Part I § 1, 1984)

Article II. Definitions

16.04.020 Purpose of this article and adoption by reference.

This article contains uniform usage and definitions of terms under SEPA. The city adopts the following sections by reference, as supplemented by WAC 197-806-040:

- 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.
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 - 197-11-720 Categorical exemption.
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 - 197-11-734 Determination of nonsignificance (DNS).
 - 197-11-736 Determination of significance (DS).
 - 197-11-738 EIS.
 - 197-11-740 Environment.
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 - 197-11-750 Expanded scoping.
 - 197-11-752 Impacts.
 - 197-11-754 Incorporation by reference.
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 - 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.

(Ord. 674 Part VIII § 1, 1984)

Article III. General Requirements

16.04.030 Purpose of article and adoption by reference.

The article contains the basic requirements that apply to the SEPA process. The city adopts the following sections of Chapter 197-11 WAC 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.

(Ord. 674 Part II § 1, 1984)

16.04.040 Additional definitions.

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

A. “Department” means any division, subdivision or organizational unit of the city established by ordinance, rule or order.

B. “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).

C. "Ordinance" means the ordinance, resolution, or other procedure used by the city to adopt regulatory requirements.

D. "SEPA rules" means Chapter 197-11 WAC adopted by the Department of Ecology. (Ord. 674 Part II § 2, 1984)

16.04.050 Designation of responsible official.

A. For those proposals for which the city is the lead agency, the responsible official shall be the building inspector.

B. 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 197-806-020.

C. The city shall retain all documents required by the SEPA rules (Chapter 197-11 WAC) and make them available in accordance with Chapter 42.17 RCW. (Ord. 674 Part II § 3, 1984)

16.04.060 Lead agency determination and responsibilities.

A. The department within the city receiving an application for or initiating 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.

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 proposals. 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.

C. If the city or any of its departments receives a lead agency determination of WAC 197-11-922 through 197-11-940, it may object to the determination. Any objections must be made to the agency originally making the determination and resolved within 15 days of receipt of the determination, or the city must petition the Department of Ecology for a lead agency determination under WAC 197-11-946 within the 15-day time period. Any such petition on behalf of the city must be initiated by the building inspector.

D. Departments of the city are authorized to make agreements as to lead agency status or shared 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.

E. 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 (i.e., which agencies require nonexempt licenses?). (Ord. 674 Part II § 4, 1984)

16.04.070 Transfer of lead agency status to 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 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. (Ord. 674 Part II § 5, 1984)

16.04.080 Additional considerations in time limits applicable to SEPA process.

The following time limits, expressed in calendar days, shall apply when the city processes licenses for all private projects and those governmental proposals submitted to the city by other agencies:

A. Categorical Exemptions. The city shall identify whether an action is categorically exempt within seven days of receiving a completed application.

B. Threshold Determinations.

1. The city should complete threshold determinations that can be based solely upon review of the environmental checklist for the proposal within 15 days of the date an applicant's adequate application and completed checklist are submitted.

2. When the responsible official requires further information from the applicant or consultation with other agencies with jurisdiction:

a. The city should request such further information within 15 days of receiving an adequate application and completed environmental checklist;

b. The city shall wait no longer than 30 days for a consulted agency to respond;

c. The responsible official should complete the threshold determination within 15 days of receiving the requesting information from the applicant or the consulted agency.

3. When the city must initiate further studies, including field investigations, to obtain the information to make the threshold determination, the city should complete the studies within 30 days of receiving an adequate application and a completed checklist.

4. The city shall complete threshold determinations on actions where the applicant recommends in writing that an EIS be prepared, because of the probable significant adverse environmental impact(s) described in the application, within 15 days of receiving an adequate application and completed checklist. (Ord. 674 Part II § 6, 1984)

16.04.090 Additional timing considerations.

A. For nonexempt proposals, the DNS or draft EIS for the proposal shall accompany the city's staff recommendation to any appropriate advisory body, such as the planning commission.

B. 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. (Ord. 674 Part II § 7, 1984)

Article IV. Categorical Exemptions and Threshold Determinations

16.04.100 Purpose of this article and adoption by reference.

This article 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 article 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 article:

- 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.

(Ord. 674 Part III § 1, 1984)

16.04.110 Environmental checklist.

A. A completed environmental checklist (or a copy), in the form provided in WAC 197-

11-960, shall be filed at the same time as an application for a permit, license, certificate, or other approval not specifically exempted in this chapter; except, a checklist is not needed if the city and applicant agree an EIS is required, SEPA compliance has been completed, or SEPA compliance has been initiated by another agency. The city shall use the environmental checklist to determine the lead agency and, if the city is the lead agency, for determining the responsible official and for making the threshold determination.

B. 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. (Ord. 674 Part III § 2, 1984)

16.04.120 Mitigated DNS.

A. 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.

B. An applicant may request in writing early notice of whether a DS is likely under WAC 197-11-350. The request must:

1. Follow submission of a permit application and environmental checklist for a non-exempt proposal for which the department is lead agency; and

2. Precede the city's actual threshold determination for the proposal.

C. The responsible official should respond to the request for early notice within 30 calendar days. The response shall:

1. Be written;

2. 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

3. 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.

D. As much as possible, the city should assist the applicant with identification of impacts to the extent necessary to formulate mitigation measures.

E. When an applicant submits a changed or clarified proposal, along with a reviewed or amended environmental checklist, the city shall base its threshold determination on the changed or clarified proposal and should make the determination within 15 days of receiving the changed or clarified proposal:

1. If the city indicated specific mitigation measures in its changed or clarified proposal to include those specific mitigation measures, the city shall issue and circulate a DNS under WAC 197-11-340(2).

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. For example, proposals to "control noise" or "prevent stormwater runoff" are inadequate, whereas proposals to "muffle machinery to X-decibel" or "construct a 200-foot stormwater retention pond at Y location" are adequate.

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.

F. A mitigated DNS is issued under WAC 197-11-340(2) requiring a 15-day comment period and public notice.

G. 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.

H. 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 should evaluate the threshold determination to assure consistency with WAC 197-11-340(3)(a) (withdrawal of DNS).

16.04.130

I. The city's written response under subsection B 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. (Ord. 674 Part III § 3, 1984)

Article V. Environmental Impact Statement (EIS)

16.04.130 Purpose of this article and adoption by reference.

This article contains the rules for preparing environmental impact statements. The city adopts the following section by reference, as supplemented by this article:

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.
 - 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.
- (Ord. 674 Part IV § 1, 1984)

16.04.140 Preparation of EIS – Additional considerations.

A. Preparation of draft and final EISs (DEIS and FEIS) and draft and final supplemental EISs (SEIS) is the responsibility of the proponent under the supervision 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 DEIS and FEIS or draft and final SEIS shall be prepared by 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 of the city's procedures for EIS preparation, including approval of the DEIS or FEIS 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. (This does not apply to information the city may request under another ordinance or statute). (Ord. 674 Part IV § 2, 1984)

16.04.150 Additional elements to be covered in an EIS.

The following additional element is part of the environment for the purpose of EIS content, but does not add to the criteria for threshold determinations or perform any other function or purpose under this chapter: cost benefit analysis. (Ord. 674 Part IV § 4, 1984)

Article VI. Commenting

16.04.160 Adoption by reference.

This article 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 article:

WAC

- 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.
 (Ord. 674 Part V § 1, 1984)

16.04.170 Public notice.

A. Whenever the city issues a DNS under WAC 197-11-340(2) or a DS under WAC 197-11-360(3), the city shall give public notice as follows:

1. If a public notice is required for a non-exempt license, the notice shall state whether a DS or DNS has been issued and when comments are due.

2. If no public notice is required for the permit or approval, the city shall give notice of the DNS or DS by:

- a. Posting the property, for site-specific proposals;
- b. Publishing notice in a newspaper of general circulation in the county, city or general area where the proposal is located;
- c. Notifying the news media.

B. 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:

1. Indicating the availability of the DEIS in any public notice required for a nonexempt license;
2. Posting the property, for site-specific proposals; and/or
3. Publishing notice in a newspaper of general circulation in the county, city or general area where the proposal is located.

C. Whenever possible, the city shall integrate the public notice required under this section with existing notice procedures for the city's nonexempt permit(s) or approval(s) required for the proposal.

D. The city may require an applicant to complete the public notice requirements for the applicant's proposal at his or her expense. (Ord. 674 Part V § 2, 1984)

16.04.180 Designation of official to perform consulted agency responsibilities for the city.

A. The building inspector 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 a DEIS.

B. This person 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 includes data from all appropriate departments of the city. (Ord. 674 Part V § 3, 1984)

Article VII. Using Existing Environmental Documents

16.04.190 Purpose of this article and adoption by reference.

This article 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.

(Ord. 674 Part VI § 1, 1984)

Article VIII. SEPA and Agency Decisions

16.04.200 Purpose of this article and adoption by reference.

This article contains rules (and policies) for SEPA's substantive authority, such as decisions to mitigate or reject proposals as a result of SEPA. This article 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.

16.04.210

197-11-660 Substantive authority and mitigation.

197-11-680 Appeals.
(Ord. 674 Part VII § 1, 1984)

16.04.210 Substantive authority.

A. The policies and goals set forth in this chapter are supplementary to those in the existing authorization of the city.

B. The city may attach conditions to a permit or approval for a proposal so long as:

1. Such conditions are necessary to mitigate specific probable adverse environmental impacts identified in environmental documents prepared pursuant to this chapter; and

2. Such conditions are in writing; and

3. The mitigation measures included in such conditions are reasonable and capable of being accomplished; and

4. The 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 subsection C of this section and identified in writing in the decision statement.

The city may deny a permit or approval for a proposal on the basis of SEPA so long as:

1. The finding is made that approving the proposal would result in probable significant adverse environmental impacts that are identified in the FEIS or final SEIS prepared pursuant to this title; and

2. A finding is made that there are no reasonable mitigation measures capable of being accomplished that are sufficient to mitigate the identified impact; and

3. The denial is based on one or more policies identified in subsection C of this section and identified in writing in the decision document.

C. The city designates and adopts by reference the following policies as the basis for the city's exercise of authority pursuant to this section:

1. 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:

a. Fulfill the responsibilities of each generalization as trustee of the environment for succeeding generations;

b. Assure for all people of the state safe, healthful, productive and aesthetically and culturally pleasing surroundings;

c. Attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;

d. Preserve important historic, cultural, and natural aspects of our national heritage;

e. Maintain, wherever possible, an environment which supports diversity and variety of individual choice;

f. Achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and

g. Enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.

2. The city recognizes that each person has a fundamental and inalienable right to a healthful environment and that each person has a responsibility to contribute to the preservation and enhancement of the environment.

3. The city adopts by reference the policies in the city zoning ordinance, the city comprehensive plan and the city recreational land use plan.

D. When any proposal or action not requiring a decision of the city 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 of any aggrieved party by giving notice to the responsible official within 10 days of the decision being appealed. Review by the city council shall be on a de novo basis. (Ord. 674 Part VII § 2, 1984)

16.04.220 Appeals.

A. The city establishes the following administrative appeal procedures under RCW 43.21C.075 and WAC 197-11-680:

1. Any agency or person may appeal the city's procedural compliance with Chapter 197-11 WAC for issuance of the following:

a. A Final DNS. Appeal of the DNS must be made to the responsible official within 15 calendar days of the date the DNS is final (see WAC 197-390(2)(a)).

b. A DS. The appeal must be made to the responsible official within 15 days of the date the DS is issued.

c. An EIS. Appeal of the substantive determination must be made to the responsible official within 30 calendar days of the date the permit or other approval is issued.

2. For any appeal under this subsection, the city shall provide for a record that shall consist of the following:

- a. Findings and conclusions;
- b. Testimony under oath; and
- c. A taped or written transcript.

3. The city may require the appellant to provide an electronic transcript.

4. The procedural determination by the city's responsible official shall carry substantial weight in any appeal proceeding.

B. The city shall give official notice under WAC 197-11-680(5) whenever it issues a permit or approval for which a statute or ordinance established a time limit for commencing judicial appeal. (Ord. 674 Part VII § 3, 1984)

16.04.230 Notice/statute of limitations.

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 shall be substantially in the form provided in WAC 197-11-990. The notice shall be published by the city clerk/treasurer or county auditor, applicant or proponent pursuant to RCW 43.21C.080. (Ord. 674 Part VII § 4, 1984)

Article IX. Categorical Exemptions

16.04.240 Adoption by reference.

The city adopts by reference the following rules for categorical exemptions, as supplemented in this chapter, including WAC 173-806-070 (Flexible thresholds), WAC 173-806-080 (Use of exemptions), and 173-806-190 (Environmentally sensitive areas):

WAC

197-11-800 Categorical exemptions.

197-11-880 Emergencies.

197-11-890 Petitioning DOE to change exemptions.

(Ord. 674 Part IX § 1, 1984)

Article X. Agency Compliance

16.04.250 Purpose of this article and adoption by reference.

This article 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 173-806-045 through 173-806-043 and this article:

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 a 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.

16.04.260

- 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.
(Ord. 674 Part X § 1, 1984)

16.04.260 Fees.

A. The city shall require the following fees for its activities in accordance with the provisions of this chapter:

1. Threshold Determination. For every environmental checklist the city will review when it is lead agency, the city shall collect from the proponent of the proposal prior to undertaking the threshold determination, a fee in accordance with the city's fee schedule in effect at the time the completed checklist is submitted.

2. Environmental Impact Statement. The city shall not collect a fee for performing its duties as a consulted agency.

B. 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 42.17 RCW.

C. The city may collect a reasonable fee from an applicant to cover the cost of meeting the public notice requirements of this chapter relating to the applicant's proposal. (Ord. 945 § 1, 2001; Ord. 674 Part X § 2, 1984)

Article XI. Forms

16.04.270 Adoption by reference.

The city 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.
(Ord. 674 Part XI § 1, 1984)

Chapter 16.08

NATURAL RESOURCE LANDS AND CRITICAL AREAS

Sections:

- 16.08.010 Purpose.
16.08.020 General provisions.
16.08.030 Designation of resource lands and critical areas.
16.08.040 Protective regulations.

16.08.010 Purpose.

The intent and purpose of this chapter is to designate and establish development regulations to protect the city resource lands and critical areas consistent with the state of Washington Growth Management Act of 1990, as amended, and Pend Oreille County Ordinance No. 92-4, adopted December 28, 1992, as amended. (Ord. 825 § 1, 1993)

16.08.020 General provisions.

A. Definitions. Section .030, Pend Oreille County Ordinance No. 92-4, entitled "Definitions," is adopted by reference as if fully set forth in this chapter, for the purpose of defining words and phrases whenever used in this chapter; provided, that the "administrative official" definition shall mean the "mayor of the city of Newport or designee."

B. Flood Prevention. Pend Oreille County Ordinance No. 81-2, entitled "Flood Ordinance," adopted April 13, 1981, is adopted by reference as if fully set forth in this chapter for the purpose of establishing city flood prevention policy and procedures. (Ord. 825 § 2, 1993)

16.08.030 Designation of resource lands and critical areas.

A. Resource Lands. An inventory of resource lands within the corporate limits of the city as of March 1, 1993, concluded the following:

1. There are no forest lands to be regulated;
2. There are no agricultural lands to be regulated;

3. There are no mining sites to be regulated; provided, that future mining activities will require protective regulations (refer to NMC 16.08.040(A)(2)).

B. Critical Areas. An inventory of critical areas within the corporate limits of the city as of March 1, 1993, concluded the following:

1. There are no wetlands to be regulated; provided, that prior to annexing designated wetlands certain protective regulations are required (refer to NMC 16.08.040(B)(1));

2. According to the priority habitats and species maps produced by the Washington Department of Wildlife, there are no priority species within the city limits of Newport requiring habitat conservation areas;

3. Critical aquifer recharge areas as shown on the aquifer recharge map (refer to Section No. 322 of Pend Oreille County Ordinance No. 92-4), have a DRASTIC index of 197 and 187 indicating that the water table is highly susceptible to contamination which requires protective regulations as set forth in NMC 16.08.040(B)(2). (Ord. 825 § 3, 1993)

16.08.040 Protective regulations.

A. Resource Lands.

1. Agricultural Lands, Forest Lands and Mineral Lands. In accordance with RCW 36.70A.060, the following notice shall be required on all plats, short plats, development permits and building permits issued by the city for development activities on or within 300 feet of lands designated as agricultural lands, forest lands or mineral resource lands:

that the subject property is within or near designated agricultural lands, forest lands or mineral resource lands on which a variety of commercial activities may occur that are not compatible with residential development for certain periods of limited duration.

2. Mineral Lands. In addition to the notice requirement defined in subsection (A) (1) of this section, all future applications for mining activities shall require a conditional use permit which shall be processed in accordance with the city zoning ordinance as amended.

B. Critical Areas.

1. Wetlands. To manage the protection of wetlands, the city adopts by reference as if fully set forth in this chapter, Wetland Classification Section No. 213 and Wetland Regulations Section No. 214 of Pend Oreille County Ordinance No. 92-4, enacted December 28, 1992, as amended. Prior to annexation by the city of lands containing wetlands, the wetlands shall be classified and have clearly delineated boundaries.

2. Critical Aquifer Recharge Areas. To manage the protection of aquifer recharge areas, the city adopts by reference as if full set forth in this chapter, Critical Aquifer Recharge Area Policies Section No. 321, Classification Section No. 322 and Regulations Section No. 323 of Pend Oreille County Ordinance No. 92-4, enacted December 28, 1992, as amended. (Ord. 825 § 4, 1993)

