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Chapter 25.02
COMMUTE TRIP REDUCTION

Sections:

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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 is not affected.
(Ord. 116657 § 4, 1993.)

25.02.010Title.

This chapter shall be known and may be cited as the "Seattle Commute Trip Reduction Ordinance."
(Ord. 116657 § 1(part), 1993.)

25.02.020Purpose.

The purpose of this chapter is to implement the Washington State Clean Air Act, RCW 70.94.521 through 70.94.551.
(Ord. 116657 § 1(part), 1993.)

25.02.030Definitions.

For the purposes of this chapter the following works or phrases are defined as described below.

A. "Affected Employee" means a full-time employee who begins his or her regular work day at a single worksite between six a.m. (6:00 a.m.) and nine a.m. (9:00 a.m.) (inclusive) on two (2) or more weekdays.

B. "Affected employer" means a private or public employer that for twelve (12) continuous months employs one hundred (100) or more full-time employees at a single worksite who are scheduled to begin their regular workday between six a.m. (6:00 a.m.) and nine a.m. (9:00 a.m.) (inclusive) on two (2) or more weekdays, even if the identity of the employees varies over time. This is equivalent to the term "major employer" used in RCW 70.94.521 through 70.94.551.

C. "Alternative mode" means a method of commuting to work other than a single-occupant motor vehicle being the dominant mode, and may include telecommuting and compressed work-weeks if those methods result in fewer commute trips.

D. "Base year" means the calendar year from January 1, 1992 through December 31, 1992. Goals for vehicle miles traveled (VMT) per employee and proportion of single-occupant vehicle trips (SOV) are based upon VMT and SOVs established in that year for the CTR zone.

E. "Commute trips" means trips made from an employee's residence to a worksite for a regularly scheduled workday beginning between six a.m. (6:00 a.m.) and nine a.m. (9:00 a.m.) (inclusive).

F. "CTR plan" means Seattle's commute trip reduction plan as set forth in this chapter.

G. "CTR program" means an employer's strategy to reduce affected employee's SOV use and VMT per employee.

H. "CTR zone" means an area, such as a census tract or combination of census tracts within Seattle, characterized by similar employment density, population density, level of transit service, parking availability, access to high-occupancy vehicle facilities, and other factors that affect the level of SOV commuting. One of the six (6) areas shown on Attachment A.[1]

I. "Director" means the Director of Transportation.

J. "Dominant mode" means the mode of travel used for the greatest distance of a commute trip.

K. "Employee" means any person who works for an employer in return for financial or other compensation, and whose workload and schedule is subject to the control of the employer. Employee does not include independent contractors.

L. "Equivalent survey information" means information that substitutes for the Washington State Energy Office goal measurement survey, as determined by the City.

M. "Full-time employee" means an employee, scheduled to be employed on a continuous basis for fifty-two (52) weeks for an average of at least thirty-five (35) hours per week.

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N. "Mode" means the type of transportation used by employees, such as single-occupant vehicle, rideshare, bicycle, walk, ferry, and transit.

O. "Proportion of SOV trips" or "SOV rate" means the number of commute trips in the survey week made by affected employees in SOVs, minus any adjustments for telecommuting, bicycling, walking or compressed work schedules, divided by the total number of affected employee workdays during the survey week. An "affected employee workday" includes any day that an employee does not work due to a compressed work schedule.

P. "Single-occupant vehicle (SOV)" means a motor vehicle occupied by one (1) employee for commute purposes, excluding motorcycles.

Q. "Vehicle miles traveled (VMT) per employee" means the average commute trip length, in miles, made by affected employees over a set period, multiplied by the number of vehicle commute trips per affected employee during that period.

R. "Worksite" means a building or group of buildings on physically contiguous parcels of land or on parcels separated solely by private or public roadways or rights-of-way. Construction worksites, when the expected duration of the construction project is less than two (2) years, are excluded.

S. "Writing," "written" or "in writing" means original signed and dated documents. Facsimile (fax) transmissions are a temporary notice of action that must be followed by the original signed and dated document via mail or delivery.

(Ord. 118409 § 217, 1996: Ord. 116657 § 1(part), 1993.)

1.Editor's Note: Attachment A is on file with Ordinance 116657 in the City Clerk's office.

25.02.040Employer's commute trip reduction program.

A. Program Submittal and Implementation.

1. a. This chapter applies to any affected employer at any worksite within The City of Seattle. An affected employer must submit a CTR program to the Director within one hundred eighty (180) days of June 4, 1993, the effective date of the ordinance codified in this chapter, regardless of whether the employer has received notice from the City that this chapter applies to the employer. The purpose of an employer CTR program is to help achieve the goals set forth in Section 25.02.060.

b. An employer that becomes an "affected employer" after adoption of the ordinance codified in this chapter shall develop and submit its initial CTR program to the Director within one hundred eighty (180) days of the first Washington State Department of Employment Security's Employer's Quarterly Report of Employee's Wages published after becoming an affected employer.

c. An affected employer shall implement its approved CTR program within one hundred eighty (180) days after the initial program is submitted to the Director. Implementation is accomplished by carrying out all of the program measures contained in an employer's CTR program.

2. Transportation Management Associations.

a. In lieu of submitting an initial CTR program and annual report as described in Section 25.02.050, an affected employer may join a transportation management association ("TMA") or other organization that submits a single program or annual report on behalf of its members. In addition to describing program measures which are common to its members, the TMA's CTR program and annual report shall describe specific program measures which are unique to individual members' worksites. The TMA, as an agent for its members, shall provide performance data for each worksite, as well as data aggregated from all TMA members, to the Director. A TMA is subject to the same time-period requirements as any single employer.

b. Each employer is responsible for meeting the requirements of this chapter regardless of the employer's participation in a TMA. Program modifications shall be specific to an employer. If an employer elects to satisfy its CTR program requirements through a TMA program or annual report, the employer shall notify the Director in writing, designating the TMA as its agent.

B. Program Content. Each employer CTR program shall include the following elements:

1. Designation of Employee Transportation Coordinator. The employer shall designate a transportation coordinator to administer CTR program and act as liaison with the Director. An affected employer with multiple worksites may have one (1) transportation coordinator for all

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sites. The coordinator's and/or designee's name, location and telephone number must be displayed prominently at each affected work site;

2. Distribution of Information. The employer shall provide a complete description of its CTR program to employees at least twice a year and to each new employee when he or she begins his or her employment. Each employer's program description and annual report must report the information to be regularly distributed and the method and frequency of distribution;

3. CTR Program Measures. An employer's initial CTR program shall include at least two (2) of the following measures:

a. Provide bicycle parking facilities and/or lockers, changing areas, and showers for employees who walk or bicycle to work,

b. Provide commuter ride-matching services to facilitate employee ride-sharing for commute trips,

c. Provide subsidies for transit fares,

d. Provide employer vans or third-party vans for vanpooling,

e. Provide subsidy for carpool and vanpool participation,

f. Permit the use of the employer's vehicles for carpool and/or vanpool commute trips,

g. Permit alternative work schedules such as a compressed work week that reduce commute trips by affected employees between six a.m. (6:00 a.m.) and nine a.m. (9:00 a.m.). A compressed workweek regularly allows a full-time employee to eliminate at least one workday every two (2) weeks, by working longer hours during the remaining days, resulting in fewer commute trips by the employee,

h. Permit Alternative work schedules such as flex-time that reduce commute trips by affected employees between six a.m. (6:00 a.m.) and nine a.m. (9:00 a.m.). Flex-time allows individual employees some flexibility in choosing the time, but not the number, of their working hours,

i. Provide preferential parking for high-occupancy vehicles,

j. Provide reduced parking charges for high-occupancy vehicles,

k. Cooperate with transportation providers to provide additional regular or express service to the work site (e.g., a custom bus service arranged specifically to transport employees to work),

l. Construct special loading and unloading facilities for transit, carpool and/or vanpool users,

m. Provide and fund a program of parking incentives such as a cash payment for employees who do not use the parking facilities,

n. Institute or increase parking charges for SOV's,

o. Establish a program to permit employees to telecommute either part- or full-time, where telecommuting is an arrangement that permits an employee to work from home, eliminating a commute trip, or to work from a work center closer to home, reducing the distance traveled in a commute trip by at least half,

p. Provide a shuttle between the employer's worksite and the closest park-and-ride lot, transit center, or principal transit street,

q. Implement other measures designed and demonstrated to facilitate the use of non-SOV commute modes, which are agreed upon between the Director and the employer;

4. A description of any additional program measures included in the employer's CTR program;

5. Assignment of responsibilities for implementing the CTR program, evidence of commitment to provide appropriate resources to carry out the CTR program, and a schedule of implementation; and

6. Description of employer's CTR worksite characteristics. The employer program must include:

a. A general description of the affected employer worksite,

b. A general description of the availability of transportation to the worksite,

c. The total number of employees and affected employees at the worksite,

d. Site or operational conditions which may affect an employee's choice of commute mode;

7. Recordkeeping. The CTR program shall include a list of the records to be maintained by the employer in implementing the program. Employers will maintain all records listed in their CTR program for twenty-four (24) months.

C. Program Review and Approval.

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1. a. The Director shall review each employer's initial CTR program to determine if it has met the minimum requirements of this CTR chapter.

b. The Director shall complete review of each employer's initial CTR program and annual reports within ninety (90) days of the date the employer submits the program or report to the Director, and notify the employer in writing whether or not the program or report has been approved, and the reasons for approval or disapproval.

2. No later than thirty (30) days before the initial CTR program description or annual report is to be submitted, an employer may request a thirty (30) day extension to submit that document. An extension shall be granted and shall not exceed thirty (30) days.

3. Beginning in 1995, the Director shall review each employer's annual report to determine the employer's progress toward achieving its SOV and VMT goals.

a. The Director shall issue a decision approving an employer's CTR program if the annual report demonstrates that either the SOV goal or VMT goal has been achieved for the current year, or the preceding year (if the current year is even-numbered).

b. (i) If neither goal is met the employer shall, in its annual report, propose changes to its CTR program measures, and the schedule for implementing these measures, which it believes will help achieve the goals, provided that the revised program must include at least two (2) of the measures listed in subsection B3 of this section. The Director shall work with the employer to change its CTR program and identify additional program measures and a schedule for implementing them, in furtherance of goal attainment.

(ii) When determining whether to approve changes to a CTR program, the Director shall consider the likelihood that the changes will help achieve the goals, based on the following criteria:

— The extent to which the employer has implemented the program and attained the CTR goals;

— The extent to which the employer has demonstrated a commitment to implementing the program and achieving the goals;

— Diversity of modes and CTR strategies included in the program;

— Characteristics of pedestrian, bicycle, transit, ferry, road and HOV access, and facilities available to the employer's worksite;

— Expected benefit to be derived from a specific program element as well as its effect on the entire program;

— Effect on reducing the relative cost or improving the convenience of commuting by non-SOV modes versus by SOV.

c. If the Director approves the proposed program changes, then the Director shall issue a final decision, and the changes shall be made in the program and implemented by the employer.

d. If the Director determines that the proposed program is insufficient, or unlikely to help achieve the goals, the Director shall recommend changes to the program which can reasonably be expected to be effective. The Director's preliminary decision shall be in writing, and mailed to the employer within ninety (90) days of the date the annual report is submitted.

(i) An affected employer may request that the Director reconsider a preliminary decision regarding its CTR program elements, except for the minimum requirements of subsection B of this section. The employer may apply in writing for reconsideration of the preliminary decision within fifteen (15) days of the date the Director's preliminary decision is mailed to the employer. The Director shall meet with the employer to discuss program changes if the application for reconsideration includes a request for a meeting. The Director shall give the employer a written response to the request for reconsideration.

(ii) An employer who disagrees with a preliminary decision by the Director regarding the approval of the employer's CTR program or changes to the program, may ask the peer review panel to consider the issue in disagreement. The peer review panel shall make a recommendation to the Director following meeting with the employer, if the employer requests a meeting.

(iii) The Director shall make a final decision regarding changes to an employer's CTR program within sixty (60) days of making a preliminary decision, based upon consideration of

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the peer review panel recommendation and the preliminary decision.

(iv) Within thirty (30) days of written notification of the Director's final decision regarding required program modifications, an employer shall incorporate those modifications into its CTR program and submit a revised CTR program description, including the required modifications or equivalent measures, to the Director.

4. If an affected employer does not submit an initial CTR program or an annual report, and no request for an extension or reconsideration is filed, the Director shall issue a final decision without issuing a preliminary decision.

(Ord. 116657 § 1(part), 1993.)

25.02.050Employer's annual report.

A. Submittal.

1. An affected employer shall submit an annual CTR report to the Director, beginning with the 1995 annual reporting date assigned by the Director after reviewing the employer's initial CTR program. Annual reports shall be due on the same date each year.

2. At least thirty (30) days prior to the date an annual report is due an employer may request a thirty (30) day extension to complete its annual report. This extension shall not change the normal reporting date for subsequent years.

B. Contents. The annual report shall include:

1. A description of each CTR program measure that was undertaken during the year;

2. The number of employees participating in each of the CTR program measures;

3. An evaluation of the effectiveness of the CTR program; and if necessary, a description of proposed revisions to the CTR program to help achieve the CTR goals;

4. A description of the method and frequency by which the information required by the approved CTR program was distributed;

5. A statement of the employer's method of measuring its VMT per employee, using either the average zonal trip length or the employer's average trip length from a survey;

6. a. Survey information or approved equivalent information must be provided in the 1995, 1997, and 1999 reports. Employee surveys of commuting behavior will be the primary source of data about an employer's CTR program performance. Washington State Energy Office goal measurement questionnaires shall be used to measure affected employer's progress towards goal attainment, unless the Director approves equivalent information which is provided by the employer.

b. Instead of surveying all affected employees at a worksite, an employer may conduct a survey based on a sample of its affected employees if there are at least five hundred (500) affected employees at its worksite. The employer must demonstrate to the Director that the sampling method is in accordance with generally accepted methods before the sampling is undertaken.

c. A minimum response rate of seventy percent (70%) of all affected employees in the population or seventy percent (70%) of the sample is required. When a seventy percent (70%) response rate is not achieved, an employer shall either:

(i) Provide supporting information, approved by the Director, to document mode choice of affected employees. This information may include transit pass sales, records of rideshare subsidies, parking lot counts (where affected employees' actual commute trip behavior is measured between six a.m. (6:00 a.m.) and nine a.m. (9:00 a.m.)) when access and egress points are completely monitored; or

(ii) Designate all non-responses below seventy percent (70%) of the affected employee population/sample as SOV trips; or

(iii) Use a combination of options c(i) and c(ii) above, if approved by the Director.

(Ord. 116657 § 1(part), 1993.)

25.02.060Commute trip reduction goals, zones and base-year values.

A. Employer CTR Goals.

1. The goals for commute trip vehicle miles traveled per employee and proportion of single-occupant vehicles are a fifteen percent (15%) reduction by January 1, 1995, a twenty-five percent (25%) reduction by January 1, 1997 and a thirty-five percent (35%) reduction by January 1, 1999, from the base-year value of the commute trip reduction zone in which the worksite is located.

2. An employer that becomes an affected employer after January 1, 1994 has two (2) years

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from the time it becomes affected to meet the closest preceding reduction goal and four (4) years to meet the subsequent goal. For example, an employer who becomes an affected employer in July 1998 has until July 2000 to achieve a twenty-five percent (25%) reduction and until July 2002 to achieve a thirty-five (35%) reduction.

a. If an affected employer drops below one hundred (100) affected employees and then returns to affected employer status within the same twelve (12) month period, that employer will be a reaffected employer, and will be subject to the same program goals that would have applied had it not dropped below one hundred (100) employees.

b. If an affected employer drops below one hundred (100) affected employees and then returns to affected employer status after twelve (12) months, it will be deemed a newly affected employer and will be subject to the same goals as other newly affected employers.

c. It is the responsibility of the employer to notify the Director and provide documentation of its change in status as an affected employer.

B. CTR Zones. Commute trip reduction zones for affected employers are shown in Attachment A.

C. Base-Year Values and Modifications. Base-year values for determining proportion of SOV trips and VMT per employee are identified in Attachment B[1] for each CTR zone. An employer may modify its base-year values by meeting either of the following two (2) conditions:

1. If an affected employer can demonstrate that its worksite is contiguous with a CTR zone boundary and that the worksite conditions affecting alternative commuting options are similar to those for employers in the adjoining CTR zone, the employer's worksite may be made subject to the base-year values for VMT per employee and SOV trips in the adjoining zone. The employer may only request this base-year value modification at least thirty (30) days prior to its initial CTR program submittal.

2. a. Beginning in 1995, if an affected employer can demonstrate that as a result of special characteristics of its business or its location, its SOV base-year value as determined by survey results is more than fifteen (15) percentage points higher than the base-year value for its zone, the affected employer may use its survey to apply for a modification of its SOV base-year value. If the modification is granted, the employer's surveyed proportion of SOV per employee will serve as the employer's SOV base-year value.

b. The survey must be conducted in conformance with this chapter and a seventy-percent (70%) response rate shall be required for an employer to be eligible to modify its base-year value. For example, if a CTR zone's base-year value for proportion of SOV is seventy-four percent (74%), and an employer's survey demonstrates that its proportion of SOV is ninety percent (90%), the employer may apply for a modification of its base-year value to conform with its survey results.

(Ord. 116657 § 1(part), 1993.)

1.Editor's Note: Attachment B is on file in the office of the City Clerk.

25.02.070Exemptions, credit, and adjustment to definition of affected employee.

A. Exemptions. Beginning in 1995, an affected employer may apply to the Director for an exemption from all CTR program requirements for a particular worksite. The Director may grant an exemption upon finding that, as a result of special characteristics of the employer's business or its location, the employer is unable to implement any requirements of Section 25.02.040. A request for an exemption must be made in writing no sooner than ninety (90) days after the employer's first annual report due date. The Director shall annually review all employer exemptions, and shall determine whether the exemption will be in effect during the following program year.

B. Credit for Successful Transportation Demand Management Program.

1. In either the initial CTR program description or any annual report, an affected employer who has already met both the VMT per employee and proportion of SOV trips goals for one (1) or more future goal years, may request a waiver from the requirement to submit the following year's annual report and from the required CTR program measures, except for the requirements to report performance in annual reports for the goal years. An employer receiving this waiver must commit in writing to continue its current CTR level of effort.

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2. If any of the goal-year annual reports indicates the employer does not satisfy the next applicable year's goal, the employer shall immediately become subject to all requirements of this chapter.

3. Requests for credit shall include results from a survey of employees, or equivalent information that establishes the applicant's reduction of VMT per employee and reduction of proportion of SOV trips. The survey or equivalent information shall conform to all applicable standards established in this chapter.

C. Credit for Telecommuting, Bicycling, Walking and Compressed Workweek Schedules. Trips avoided by telecommuting and compressed workweek schedules, and trips made by bicycling and walking, shall be multiplied by two-tenths (0.2) and subtracted from the number of SOV commute trips when calculating the proportion of SOV vehicle trips and VMT per employee.

D. Adjustment to the Calculation of Affected Employee.

1. a. An affected employer may request an adjustment to the calculation of affected employee if the employer can demonstrate that it requires certain employees to use the vehicles they drive to work during the workday for work purposes. Any employee who needs frequent and regular access to the vehicle he or she drives to work, for which no reasonable alternative commute mode exists, will not be included in the calculations of proportion of SOV trips and VMT per employee used to determine the employer's progress toward program goals.

b. The employer shall provide documentation indicating how many employees meet this condition and why.

c. Seasonal agricultural employees, including seasonal employees of processors of agricultural products, are excluded from the count of affected employees.

2. a. An affected employer may request an adjustment to the calculation of affected employee if it can demonstrate that it requires full-time employees to work varying shifts, so that these employees sometimes begin their shift between six a.m. (6:00 a.m.) to nine a.m. (9:00 a.m.) and at other times begin their shifts outside that time period. The employer shall provide documentation indicating how may employees meet this condition and must demonstrate that no reasonable alternative commute trip reduction program can be developed for these employees. Under this condition, the applicable goals will not be changed, but those full-time employees working varying shifts need not be included in the calculations of proportion of SOV trips and VMT per employee used to determine the employer's progress toward program goals.

b. Adjustments to the calculation of affected employee shall not apply to full-time employees who rotate shifts together, as a group.

3. An adjustment to the calculation of affected employee for the purpose of determining employer progress toward achieving the CTR goals does not change whether the employer is subject to this chapter.

(Ord. 116657 § 1(part), 1993.)

25.02.080Appeal of Director's final decision.

A. An affected employer may appeal the Director's final decision regarding exemptions, changes to its CTR program measures, credits, adjustments to the calculation of affected employee, and violations to the CTR Appeals Board. The notice of appeal must be filed with the Director within fifteen (15) days after the Director's final decision is mailed to the employer.

B. The Appeals Board shall review the appeal to determine if the Director's final decision is consistent with RCW Chapter 70.94 and this chapter. If the Appeals Board determines that the decision is inconsistent, it shall reverse or modify the decision as appropriate. If the Appeals Board determines that the decision is consistent, the Director's final decision shall be upheld.

(Ord. 116657 § 1(part), 1993.)

25.02.090Violation—Penalties.

A. Civil Penalties.

1. The Director shall notify the employer of his intent to impose a civil penalty for violation of this chapter. The Director may not impose a penalty until the completion of the administrative appeal authorized by SMC Section 25.02.080.

2. An affected employer who commits any of the following acts is subject to a civil penalty as a Class I civil infraction pursuant to RCW 7.80.120, as provided herein:

a. Failure to submit a CTR program or annual report to the Director as required by this chapter. Each day of failure to submit a CTR program or annual report shall constitute a separate violation and is subject to a civil penalty. The

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penalty for each violation shall be Two Hundred Fifty Dollars ($250.00) per day;

b. Failure to implement an approved CTR program or change an unacceptable CTR program measure after the first goal year, after receiving notice of violation. Each day of failure to implement an approved CTR program or individual CTR program measure is a separate violation and is subject to civil penalty. The penalty for each violation shall not exceed Two Hundred Fifty Dollars ($250.00) per day and shall be based on the degree of failure to implement;

c. Failure to make available to the Director any documentation supporting an annual report as required pursuant to subsection B6 of Section 25.02.050. Each day of failure to provide required documentation is a separate violation and is subject to civil penalty. The penalty for each violation shall be Two Hundred Fifty Dollars ($250.00) per day.

B. Pursuant to RCW 70.94.534 (4), an employer shall not be liable for civil penalties if a violation was the result of an inability to reach agreement with a certified collective bargaining agent under applicable laws where the issue was raised by an employer and pursued in good faith. A unionized employer shall be presumed to act in good faith if it:

1. Proposes to a recognized union any provision of the employer's CTR program that is subject to bargaining as defined by the National Labor Relations Act; and

2. Advises the union of the existence of the statute and the mandates of the CTR program approved by the City, and advises the union that the proposal being made is necessary for compliance with state law (RCW 70.94.531).

C. Criminal Penalties. An employer who submits a report pursuant to this chapter is subject to state and local laws making it a crime to submit false information. These laws include, but are not limited to, RCW 9A.76.020 and SMC Section 12A.16.040.

(Ord. 116657 § 1(part), 1993.)

25.02.100Administration.

A. Authority to Promulgate Administrative Rules. The Director is authorized to promulgate rules to implement this chapter.

B. Peer Review Panel. The Director shall appoint five (5) public and private sector employers to a peer review panel. Terms of appointment are two (2) years, and members may be reappointed. The peer review panel may consider employer disagreements with preliminary decisions by the Director regarding exemptions, credits, applicability of this chapter to the employer, violations, calculations of affected employees, and approval of the employer's CTR program or changes to the program.

C. Appeals Board. The three (3) members of the Appeals Board are a Director of a City Department designated by the Mayor, a member of the Seattle Planning commission designated by the chair of the Planning Commission, and a private sector employer appointed by the City Council. Terms of appointment are two (2) years and members may be reappointed.

(Ord. 116657 § 1(part), 1993.)

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ENVIRONMENTAL POLICIES AND PROCEDURES

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25.05.950 Severability. If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of this chapter or the application of the provision to other persons or circumstances shall not be affected.
(Ord. 111866 § 1(part), 1984.)

Subchapter I Purpose/Authority

25.05.010 Authority.
(See WAC 197-11-010).

This chapter is adopted as required by Washington Administrative Code (WAC) 197-11 to implement the State Environmental Policy Act and the State Environmental Policy Act Rules (WAC 197-11). This chapter may be cited as the "SEPA Rules," and "these rules" as used herein refers to this chapter. As required in RCW 43.21C.095 the SEPA Rules shall be given substantial deference in the interpretation of SEPA.
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.020 Purpose.
(See WAC 197-11-020).

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A. The purpose of these rules is to adopt the uniform requirements of WAC 197-11 for compliance with SEPA and to establish local procedures and policies where permitted. Many sections of WAC 197-11 are adopted verbatim or nearly so, and in all cases the last three (3) digits of each section number of this chapter corresponds to the comparable section of WAC 197-11.

B. These rules replace the previous guidelines in Chapter 197-10 WAC and Chapter 25.04 of the Seattle Municipal Code.

C. The provisions of these rules, Chapter 197-11 WAC and the State Environmental Policy Act must be read together as a whole in order to comply with the spirit and letter of the law. The City of Seattle adopts by reference the purposes and policies of SEPA as set forth in RCW 43.21C.010 and 43.21C.020.

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.030Policy.

A. The policies and goals set forth in SEPA are supplementary to existing agency authority.

B. Agencies shall to the fullest extent possible:

1. Interpret and administer the policies, regulations and laws of the state of Washington in accordance with the policies set forth in SEPA and these rules;

2. Find ways to make the SEPA process more useful to decisionmakers and the public; promote certainty regarding the requirements of the act; reduce paperwork and the accumulation of extraneous background data; and emphasize important environmental impacts and alternatives;

3. Prepare environmental documents that are concise, clear, and to the point, and are supported by evidence that the necessary environmental analyses have been made;

4. Initiate the SEPA process early in conjunction with other agency operations to avoid delay and duplication;

5. Integrate the requirements of SEPA with existing agency planning and licensing procedures and practices, so that such procedures run concurrently rather than consecutively;

6. Encourage public involvement in decisions that significantly affect environmental quality;

7. Identify, evaluate, and require or implement, where required by the act and these rules, reasonable alternatives that would mitigate adverse effects of proposed actions on the environment.

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.035Rules and departmental procedures.

The Mayor is authorized to promulgate rules pursuant to the Administrative Code (Chapter 3.02), consistent with this chapter, to facilitate the application of this chapter to City departments and operations. All departments subject to the provisions of this chapter are authorized and directed to develop and promulgate such supplementary procedures as they deem appropriate for implementing the provisions of this chapter within each department. All such supplemental procedures shall be consistent with this chapter, WAC 197-11 and the State Environmental Policy Act, and shall be kept on file at the SEPA Public Information Center.

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

Subchapter II General Requirements

25.05.040Definitions.

The terms used in these rules are explained in Subchapter VIII, Definitions, Sections 25.05.700 to 25.05.799. This terminology is uniform throughout the state as applied to SEPA, Chapter 43.21C RCW. In addition to the definitions set forth in WAC 197-11-700 through 197-11-799, this chapter includes definitions for Seattle, as indicated in Section 25.05.700 et seq.

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.050Lead agency.

A. A lead agency shall be designated when an agency is developing or is presented with a proposal, following the rules beginning at Section 25.05.922.

B. The lead agency shall be the agency with main responsibility for complying with SEPA's procedural requirements and shall be the only agency responsible for:

1. The threshold determination; and

2. Preparation and content of environmental impact statements.

C. In those instances in which the City is not the lead agency under the criteria of Sections 25.05.922 through 25.05.948, all departments shall use unchanged either a DNS subject to the limits of Section 25.05.390 or a final EIS subject

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to the limits of Subchapter VI of this chapter in connection with the decisions of the City on the proposal.
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.055Timing of the SEPA process.

A. Integrating SEPA and Agency Activities. The SEPA process shall be integrated with agency activities at the earliest possible time to ensure that planning and decisions reflect environmental values, to avoid delays later in the process, and to seek to resolve potential problems.

B. Timing of Review of Proposals. The lead agency shall prepare its threshold determination and environmental impact statement (EIS), if required, at the earliest possible point in the planning and decisionmaking process, when the principal features of a proposal and its environmental impacts can be reasonably identified.

1. A proposal exists when an agency is presented with an application or has a goal and is actively preparing to make a decision on one (1) or more alternative means of accomplishing that goal and the environmental effects can be meaningfully evaluated.

a. The fact that proposals may require future agency approvals or environmental review shall not preclude current consideration, as long as proposed future activities are specific enough to allow some evaluation of their probable environmental impacts.

b. Preliminary steps or decisions are sometimes needed before an action is sufficiently definite to allow meaningful environmental analysis.

2. A major purpose of the environmental review process is to provide environmental information to governmental decisionmakers for consideration prior to making their decision on any action. The actual decision to proceed with any actions may involve a series of individual approvals or decisions. Agencies may also organize environmental review in phases, as specified in Section 25.05.060 E.

3. Appropriate consideration of environmental information shall be completed before an agency commits to a particular course of action (Section 25.05.070).

C. Applications and Rulemaking. The timing of environmental review for applications and for rulemaking shall be as follows:

1. At the latest, the lead agency shall begin environmental review, if required, when an application is complete. The lead agency may initiate review earlier and may have informal conferences with applicants. A final threshold determination or FEIS shall normally precede or accompany the final staff recommendations, if any, in a quasi-judicial proceeding on an application. Environmental documents shall be submitted to the City Planning Commission and similar advisory bodies when their advice is sought.

2. For rulemaking, the DNS or DEIS, if required, shall normally accompany the proposed rule. An FEIS, if any, shall be issued at least seven (7) days before adoption of a final rule (Section 25.05.460 D).

D. Applicant Review at Conceptual Stage. In general, procedures contemplate environmental review and preparation of EIS's on private proposals at the conceptual stage rather than the final detailed design stage.

1. If an agency's only action is a decision on a building permit or other license that requires detailed project plans and specifications, agencies shall provide applicants with the opportunity for environmental review under SEPA prior to requiring applicants to submit such detailed project plans and specifications.

2. Agencies may specify the amount of detail needed from applicants for such early environmental review, consistent with Sections 25.05.100 and 25.05.335, in their SEPA or permit procedures. For master use permits, see Section 23.76.010.

3. This subsection does not preclude agencies or applicants from preliminary discus-

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sions or exploration of ideas and options prior to commencing formal environmental review.

E. Decision to Proceed. An overall decision to proceed with a course of action may involve a series of actions or decisions by one or more agencies. If several agencies have jurisdiction over a proposal they should coordinate their SEPA processes wherever possible. The agencies shall comply with lead agency determination requirements in Sections 25.05.050 and 25.05.922.

F. Circulation and Review of Environmental Documents. To meet the requirement to ensure that environmental values and amenities are given appropriate consideration along with economic and technical considerations, environmental documents and analyses shall be circulated and reviewed with other planning documents to the fullest extent possible.

G. Extension of Lead Agency Time Limits. For their own public proposals, lead agencies may extend the time limits prescribed in these rules.

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.060Content of environmental review.

A. Environmental review consists of the range of proposed activities, alternatives, and impacts to be analyzed in an environmental document, in accordance with SEPA's goals and policies. This section specifies the content of environmental review common to all environmental documents required under SEPA.

B. The content of environmental review:

1. Depends on each particular proposal, on an agency's existing planning and decisionmaking processes, and on the time when alternatives and impacts can be most meaningfully evaluated;

2. For the purpose of deciding whether an EIS is required, is specified in the environmental checklist, in Sections 25.05.330 and 25.05.444;

3. For an environmental impact statement, is considered its "scope" (Section 25.05.792 and Subchapter IV of these rules);

4. For any supplemental environmental review, is specified in Subchapter VI.

C. Proposals.

1. Agencies shall make certain that the proposal that is the subject of environmental review is properly defined.

a. Proposals include public projects or proposals by agencies, proposals by applicants, if any, and proposed actions and regulatory decisions of agencies in response to proposals by applicants.

b. A proposal by a lead agency or applicant may be put forward as an objective, as several alternative means of accomplishing a goal, or as a particular or preferred course of action.

c. Proposals should be described in ways that encourage considering and comparing alternatives. Agencies are encouraged to describe public or nonproject proposals in terms of objectives rather than preferred solutions. A proposal could be described, for example, as "reducing flood damage and achieving better flood control by one or a combination of the following means: Building a new dam; maintenance dredging; use of shoreline and land use controls; purchase of floodprone areas; or relocation assistance."

2. Proposals or parts of proposals that are related to each other closely enough to be, in effect, a single course of action shall be evaluated in the same environmental document. (Phased review is allowed under subsection E.) Proposals or parts of proposals are closely related, and they shall be discussed in the same environmental document, if they:

a. Cannot or will not proceed unless the other proposals (or parts of proposals) are implemented simultaneously with them; or

b. Are interdependent parts of a larger proposal and depend on the larger proposal as their justification or for their implementation.

3. Agencies may at their options analyze "similar actions" in a single environmental document.

a. Proposals are similar if, when viewed with other reasonably foreseeable actions, they have common aspects that provide a basis for evaluating their environmental consequences together, such as common timing, types of impacts, alternatives, or geography. This section does not require agencies or applicants to analyze similar actions in a single environmental document or require applicants to prepare environmental documents on proposals other than their own.

b. When preparing environmental documents on similar actions, agencies may find it

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useful to define the proposals in one of the following ways: (i) Geographically, which may include actions occurring in the same general location, such as a body of water, region, or metropolitan area; or (ii) generically, which may include actions which have relevant similarities, such as common timing, impacts, alternatives, methods of implementation, environmental media, or subject matter.

D. Impacts.

1. SEPA's procedural provisions require the consideration of "environmental" impacts (see definition of "environment" in Section 25.05.740 and of "impacts" in Section 25.05.752), with attention to impacts that are likely, not merely speculative. (See definition of "probable" in Section 25.05.782 and Section 25.05.080 on incomplete or unavailable information.)

2. In assessing the significance of an impact, a lead agency shall not limit its consideration of a proposal's impacts only to those aspects within its jurisdiction, including local or state boundaries (see Section 25.05.330 C also).

3. Agencies shall carefully consider the range of probable impacts, including short-term and long-term effects. Impacts shall include those that are likely to arise or exist over the lifetime of a proposal or, depending on the particular proposal, longer.

4. A proposal's effects include direct and indirect impacts caused by a proposal. Impacts include those effects resulting from growth caused by a proposal, as well as the likelihood that the present proposal will serve as a precedent for future actions. For example, adoption of a zoning ordinance will encourage or tend to cause particular types of projects or extension of sewer lines would tend to encourage development in previously unsewered areas.

5. The range of impacts to be analyzed in an EIS (direct, indirect, and cumulative impacts, Section 25.05.792) may be wider than the impacts for which mitigation measures are required of applicants (Section 25.05.660). This will depend upon the specific impacts, the extent to which the adverse impacts are attributable to the applicant's proposal, and the capability of applicants or agencies to control the impacts in each situation.

E. Phased Review.

1. Lead agencies shall determine the appropriate scope and level of detail of environmental review to coincide with meaningful points in their planning and decisionmaking processes. (See Section 25.05.055 on timing of environmental review.)

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2. Environmental review may be phased. If used, phased review assists agencies and the public to focus on issues that are ready for decision and exclude from consideration issues already decided or not yet ready. Broader environmental documents may be followed by narrower documents, for example, that incorporate prior general discussion by reference and concentrate solely on the issues to that phase of proposal.

3. Phased review is appropriate when:

a. The sequence is from a nonproject document to a document of narrower scope such as a site specific analysis (see, for example, Section 25.05.443); or

b. The sequence is from an environmental document on a specific proposal at an early stage (such as need and site selection) to a subsequent environmental document at a later stage (such as sensitive design impacts).

4. Phased review is not appropriate when:

a. The sequence is from a narrow project document to a broad policy document;

b. It would merely divide a larger system into exempted fragments or avoid discussion of cumulative impacts; or

c. It would segment and avoid present consideration of proposals and their impacts that are required to be evaluated in a single environmental document under Section 25.05.060 D2 or Section 25.05.305 A; however, the level of detail and type of environmental review may vary with the nature and timing of proposals and their component parts.

5. When a lead agency knows it is using phased review, it shall so state in its environmental document.

6. Agencies shall use the environmental checklist, scoping process, nonproject EIS's, incorporation by reference, adoption, and supplemental EIS's, and addenda, as appropriate, to avoid duplication and excess paperwork.

7. Where proposals are related to a large existing or planned network, such as highways, streets, pipelines, or utility lines or systems, the lead agency may analyze in detail the overall network as the present proposal or may select some of the future elements for present detailed consideration. Any phased review shall be logical in relation to the design of the overall system or network, and shall be consistent with this section and Section 25.05.070.

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.070Limitations on actions during SEPA process.

A. Until the responsible official issues a final determination of nonsignificance or final environmental impact statement, no action concerning the proposal shall be taken by a governmental agency that would:

1. Have an adverse environmental impact; or

2. Limit the choice of reasonable alternatives.

B. In addition, certain DNS's require a fifteen (15) day period prior to agency action (Section 25.05.340 B), and FEIS's require a seven (7) day period prior to agency action (Section 25.05.460 E).

C. In preparing environmental documents, there may be a need to conduct studies that may cause nonsignificant environmental impacts. If such activity is not exempt under Section 25.05.800 R (information collection and research), the activity may nonetheless proceed if a checklist is prepared and appropriate mitigation measures taken.

D. This section does not preclude developing plans or designs, issuing requests for proposals (RFP's), securing options, or performing other work necessary to develop an application for a proposal, as long as such activities are consistent with subsection A.

E. No final authorization of any permit shall be granted until expiration of the time period for filing an appeal in accordance with Section 25.05.680, or if an appeal is filed, until the fifth day following termination of the appeal. If, on or before the fifth day following termination of an appeal, a party of record files with the Director of Construction and Land Use, a written notice of intent to seek judicial review of the City's action,

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no direct modification of the physical environment shall begin or be authorized until the thirty-first day following termination of the appeal or until a court has disposed of any requests for preliminary injunctive relief, whichever occurs first. Where substantial injury to a party would result from a delay of construction, demolition, grading, or other direct modification of the physical environment, the official or body hearing the appeal shall grant an expedited hearing, in which case shorter notice less than twenty (20) days prior to the hearing may be given as permitted by Section 3.02.090 A.

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.080Incomplete or unavailable information.

A. If information on significant adverse impacts essential to a reasoned choice among alternatives is not known, and the costs of obtaining it are not exorbitant, agencies shall obtain and include the information in their environmental documents.

B. When there are gaps in relevant information or scientific uncertainty concerning significant impacts, agencies shall make clear that such information is lacking or that substantial uncertainty exists.

C. Agencies may proceed in the absence of vital information as follows:

1. If information relevant to adverse impacts is essential to a reasoned choice among alternatives, but it is not known, and the costs of obtaining it are exorbitant; or

2. If information relevant to adverse impacts is important to the decision and the means to obtain it are speculative or not known;

Then the agency shall weigh the need for the action with the severity of possible adverse impacts which would occur if the agency were to decide to proceed in the face of uncertainty. If the agency proceeds, it shall generally indicate in the appropriate environmental documents its worst case analysis and the likelihood of occurrence, to the extent this information can reasonably be developed.

D. Agencies may rely upon applicants to provide information as allowed in Section 25.05.100.

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.090Supporting documents.

If an agency prepares background or supporting analyses, studies, or technical reports, such material shall be considered part of the agency's record of compliance with SEPA, as long as the preparation and circulation of such material complies with the requirements in these rules for incorporation by reference and the use of supporting documents.

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.100Information required of applicants.

Further information may be required if the responsible official determines that the information initially supplied is not reasonably adequate to fulfill the purposes for which it is required. An applicant may, at any time, voluntarily submit information beyond that required under these rules. An agency is allowed to require information from an applicant in the following areas:

A. Environmental Checklist. An applicant may be required to complete the environmental checklist in Section 25.05.960 in connection with filing an application (see Section 25.05.315). Additional information may be required at an applicant's expense, but not until after initial agency review of the checklist (Sections 25.05.315 and 25.05.335).

B. Threshold Determination. Any additional information required by an agency after its initial review of the checklist shall be limited to those elements on the checklist for which the lead agency has determined that information accessible to the agency is not reasonably sufficient to evaluate the environmental impacts of the proposal. The lead agency may require field investigation or research by the applicant reasonably related to determining a proposal's environmental impacts (Section 25.05.335). An applicant may clarify or revise the checklist at any time prior to a threshold determination. Revision of a checklist after a threshold determination is issued shall be made under Section 25.05.340 or 25.05.360.

C. Environmental Impact Statements. The responsible official may require an applicant to provide relevant information that is not in the possession of the lead agency. Although an agency may include additional analysis not required under SEPA in an EIS (Sections

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25.05.440 G, 25.05.448 D and 25.05.640), the agency shall not require the applicant to furnish such information, under these rules. An applicant shall not be required to provide information requested of a consulted agency until the agency has responded or the time allowed for the consulted agency's response has elapsed, whichever is earlier. Preparation of an EIS by the applicant is in Section 25.05.420.
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

Subchapter III Categorical Exemptions and Threshold Determination

25.05.300Purpose of this subchapter.

This subchapter provides rules for:

A. Administering categorical exemptions for proposals that would not have probable significant adverse impacts;

B. Deciding whether a proposal has a probable significant adverse impact and thus requires an EIS (the threshold determination);

C. Providing a way to review and mitigate nonexempt proposals through the threshold determination; and

D. Integrating SEPA into early planning to ensure appropriate consideration of SEPA's policies and to eliminate duplication and delay.
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.305Categorical exemptions.

A. If a proposal fits within any of the provisions in Subchapter IX of these rules, the proposal shall be categorically exempt from threshold determination requirements (Section 25.05.720) except as follows:

1. The proposal is not exempt under Section 25.05.908, environmentally sensitive areas;

2. The proposal is a segment of a proposal that includes:

a. A series of actions, physically or functionally related to each other, some of which are categorically exempt and some of which are not, or

b. A series of exempt actions that are physically or functionally related to each other, and that together may have a probable significant adverse environmental impact in the judgment of an agency with jurisdiction. If so, that agency shall be the lead agency, unless the agencies with jurisdiction agree that another agency should be the lead agency. Agencies may petition the Department of Ecology to resolve disputes (Section 25.05.946), or may petition the Mayor to resolve disputes between City agencies (Section 25.05.910).

For such proposals, the agency or applicant may proceed with the exempt aspects of the proposals, prior to conducting environmental review, if the requirements of Section 25.05.070 are met.

B. An agency is not required to document that a proposal is categorically exempt. Agencies may note on an application that a proposal is categorically exempt or place such a determination in agency files.

C. If requested by a private applicant, the responsible official shall make a preliminary determination as to the scope of a proposal and whether the proposal is categorically exempt within seven (7) days following submission of such request.
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.310Threshold determination required.

A. A threshold determination is required for any proposal which meets the definition of action and is not categorically exempt.

B. The responsible official of the lead agency shall make the threshold determination, which shall be made as close as possible to the time an agency has developed or is presented with a proposal (Section 25.05.784).

C. In most cases, the time to complete a threshold determination should not exceed fifteen (15) days. Threshold determinations on complex proposals, those where additional information is needed, and/or those accompanied by an inaccurate checklist may require additional time. Upon request by an applicant, the responsible official shall select a date for making the threshold determination and notify the applicant of such date in writing.

D. All threshold determinations shall be documented in:

1. A determination of nonsignificance (DNS) (Section 25.05.340); or

2. A determination of significance (DS) (Section 25.05.360).

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(Ord. 118012 § 59, 1996; Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.315Environmental checklist.

A. Agencies:

1. Shall use the environmental checklist substantially in the form found in Section 25.05.960 to assist in making threshold determinations for proposals, except for public proposals on which the lead agency has decided to prepare its own EIS, or proposals on which the lead agency and applicant agree an EIS will be prepared;

2. May use an environmental checklist whenever it would assist in their planning and decisionmaking, but shall not require an applicant to prepare a checklist under SEPA, unless a checklist is required by subsection A1 of this section.

B. The lead agency shall prepare the checklist or require an applicant to prepare the checklist.

C. The items in the environmental checklist are not weighted. The mention of one (1) or many adverse environmental impacts does not necessarily mean that the impacts are significant. Conversely, a probable significant adverse impact on the environment may result in the need for an EIS. (Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.330Threshold determination process.

An EIS is required for proposals for legislation and other major actions significantly affecting the quality of the environment. The lead agency decides whether an EIS is required in the threshold determination process, as described below.

A. In making a threshold determination, the responsible official shall:

1. Review the environmental checklist, if used:

a. Independently evaluating the responses of any applicant and indicating the result of its evaluation in the DS, in the DNS, or on the checklist, and

b. Conducting its initial review of the environmental checklist and any supporting documents without requiring additional information from the applicant;

2. Determine if the proposal is likely to have a probable significant adverse environmental impact, based on the proposed action, the information in the checklist (Section 25.05.960), and any additional information furnished under Section 25.05.335 (additional information) and Section 25.05.350 (mitigated DNS); and

3. Consider mitigation measures which an agency or the applicant will implement as part of the proposal.

B. In making a threshold determination, the responsible official should determine whether:

1. All or part of the proposal, alternatives, or impacts have been analyzed in a previously prepared environmental document, which can be adopted or incorporated by reference (see Subchapter VI);

2. Environmental analysis would be more useful or appropriate in the future in which case, the agency shall commit to timely, subsequent environmental review, consistent with Sections 25.05.055 through 25.05.070 and Subchapter VI.

C. In determining an impact's significance (Section 25.05.794), the responsible official shall take into account that:

1. The same proposal may have a significant adverse impact in one location but not in another location;

2. The absolute quantitative effects of a proposal are also important, and may result in a significant adverse impact regardless of the nature of the existing environment;

3. Several marginal impacts when considered together may result in a significant adverse impact;

4. For some proposals, it may be impossible to forecast the environmental impacts with precision, often because some variables cannot be predicted or values cannot be quantified;

5. A proposal may to a significant degree:

a. Adversely affect environmentally sensitive or special areas, such as loss or destruction of historic, scientific, and cultural resources, parks, prime farmlands, wetlands, wild and scenic rivers, or wilderness,

b. Adversely affect endangered or threatened species or their habitat,

c. Conflict with local, state, or federal laws or requirements for the protection of the environment, and

d. Establish a precedent for future actions with significant effects, involves unique and unknown risks to the environment, or may affect public health or safety.

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D. If after following Section 25.05.080 (incomplete or unavailable information), and Section 25.05.335 (additional information), the lead agency reasonably believes that a proposal may have a significant adverse impact, an EIS is required.

E. A threshold determination shall not balance whether the beneficial aspects of a proposal outweigh its adverse impacts, but rather, shall consider whether a proposal has any probable significant adverse environmental impacts under the rules stated in this section. For example, proposals designed to improve the environment, such as sewage treatment plants or pollution control requirements, may also have significant adverse environmental impacts.

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.335Additional information.

The lead agency shall make its threshold determination based upon information reasonably sufficient to evaluate the environmental impact of a proposal (Section 25.05.055 B and Section 25.05.060 C). The lead agency may take one (1) or more of the following actions if, after reviewing the checklist, the agency concludes that there is insufficient information to make its threshold determination:

A. Require an applicant to submit more information on subjects in the checklist;

B. Make its own further study, including physical investigation on a proposed site or communicating with interested parties;

C. Consult with other agencies, requesting information on the proposal's potential impacts which lie within the other agencies' jurisdiction or expertise (agencies shall respond in accordance with Section 25.05.550); or

D. Decide that all or part of the action or its impacts are not sufficiently definite to allow environmental analysis and commit to timely, subsequent environmental analysis, consistent with Sections 25.05.055 through 25.05.070.

(Ord. 118012 § 60, 1996; Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.340Determination of nonsignificance (DNS).

A. If the responsible official determines there will be no probable significant adverse environmental impacts from a proposal, the lead agency shall prepare and issue a determination of nonsignificance (DNS) substantially in the form provided in WAC 197-11-970. If an agency adopts another environmental document in support of a threshold determination (Subchapter VI), the notice of adoption (WAC 197-11-965) and the DNS shall be combined or attached to each other.

B. When a DNS is issued for any of the proposals listed in subsection B1 of this section, the requirements in this subsection shall be met.

1. An agency shall not act upon a proposal for fifteen (15) days after the date of issuance of a DNS if the proposal involves:

a. Another agency with jurisdiction;

b. Demolition of any structure or facility not exempted by Section 25.05.800 B6 (exempt construction other than historic) or Section 25.05.880 (emergency);

c. Issuance of clearing or grading permits not exempted in Subchapter IX of these rules; or

d. A DNS under Section 25.05.350 B, Section 25.05.350 C (mitigated DNS) or Section 25.05.360 D (withdrawn DS).

2. The responsible official shall send the DNS and environmental checklist to agencies with jurisdiction, the Department of Ecology, and affected tribes, the SEPA Public Information Center, and each local agency or political subdivision whose public services would be changed as a result of implementation of the proposal, and shall give notice under Section 25.05.510.

3. Any person, affected tribe, or agency may submit comments to the lead agency within fifteen (15) days of the date of issuance of the DNS.

4. The date of issue for the DNS is the date the DNS is sent to the Department of Ecology and agencies with jurisdiction and the SEPA Public Information Center and is made publicly available.

5. An agency with jurisdiction may assume lead agency status only within this fifteen (15) day period (Section 25.05.948).

6. The responsible official shall reconsider the DNS based on timely comments and may retain or modify the DNS or, if the responsible

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official determines that significant adverse impacts are likely, withdraw the DNS or supporting documents. When a DNS is modified, the lead agency shall send the modified DNS to agencies with jurisdiction.

C. 1. The lead agency shall withdraw a DNS if:

a. There are substantial changes to a proposal so that the proposal is likely to have significant adverse environmental impacts;

b. There is significant new information indicating a proposal's probable significant adverse environmental impacts; or

c. The DNS was procured by misrepresentation or lack of material disclosure; if such DNS resulted from the actions of an applicant, any subsequent environmental checklist on the proposal shall be prepared directly by the lead agency or its consultant at the expense of the applicant.

2. Subsection C1b shall not apply when a nonexempt license has been issued on a private project.

3. If the lead agency withdraws a DNS, the agency shall make a new threshold determination and notify other agencies with jurisdiction of the withdrawal and new threshold determination, and any appeal fees paid shall be refunded. If a DS is issued, each agency with jurisdiction shall commence action to suspend, modify, or revoke any approvals until the necessary environmental review has occurred (see also Section 25.05.070 (limitations on actions during SEPA process)). (Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.350Mitigated DNS.

The purpose of this section is to allow clarifications or changes to a proposal prior to making the threshold determination.

A. In making threshold determinations, an agency may consider mitigation measures that the agency or applicant will implement.

B. After submission of an environmental checklist and prior to the lead agency's threshold determination on a proposal, an applicant may ask the lead agency to indicate whether it is considering a DS. If the lead agency indicates a DS is likely, the applicant may clarify or change features of the proposal to mitigate the impacts which lead the agency to consider a DS likely. The applicant shall revise the environmental checklist as may be necessary to describe the clarifications or changes. The lead agency shall make its threshold determination based upon the changed or clarified proposal. If a proposal continues to have a probable significant adverse environmental impact, even with mitigation measures, an EIS shall be prepared.

C. Whether or not an applicant requests early notice under subsection B, if the lead agency specifies mitigation measures on an applicant's proposal that would allow it to issue a DNS, and the proposal is clarified, changed, or conditioned to include those measures, the lead agency shall issue a DNS. Mitigation measures specified by the lead agency may be based upon any adverse impacts revealed by the environmental checklist, and need not be limited to those permitted by agency SEPA policies. (Compare Section 25.05.660 A (substantive authority and mitigation).)

D. Environmental documents need not be revised and resubmitted if the clarifications or changes are stated in writing in documents that are attachments to, or incorporated by reference, the documents previously submitted. An addendum may be used, see Subchapter VI.

E. Agencies may clarify or change features of their own proposal, and may specify mitigation measures in their DNSs, as a result of comments by other agencies or the public or as a result of additional agency planning.

F. An agency's indication under this section that a DS appears likely shall not be construed as a determination of significance. Likewise, the preliminary discussion of clarifications or

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changes to a proposal shall not bind the lead agency to a mitigated DNS.

G. Anyone violating or failing to comply with any mitigation measure imposed under this section shall, upon conviction thereof, be subject to a civil penalty not exceeding Five Hundred Dollars ($500.00), and each day that anyone shall continue to violate or fail to comply with such measure after receiving notice of the violation shall be considered a separate offense. In addition, permits authorizing the work which is subject to the mitigation measure may be suspended or revoked.

H. As provided for in SMC 25.05.340 B1d, notice of a fifteen (15) day comment period, consistent with Section 25.05.510, shall be issued concurrently with a Mitigated DNS. No further action shall be taken until expiration of the comment period. Notice shall include information sufficient to inform the public of the mitigation proposed.

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.360Determination of significance (DS)/initiation of scoping.

A. If the responsible official determines that a proposal may have a probable significant adverse environmental impact, the responsible official shall prepare and issue a determination of significance (DS) substantially in the form provided in Section 25.05.980. The DS shall describe the main elements of the proposal, the location of the site, if a site-specific proposal, and the main areas the lead agency has identified for discussion in the EIS. A copy of the environmental checklist may be attached.

B. If an agency adopts another environmental document in support of a threshold determination (Subchapter VI), the notice of adoption (Section 25.05.965) and the DS shall be combined or attached to each other.

C. The responsible official shall put the DS in the lead agency's file and shall commence scoping (Section 25.05.408) by circulating copies of the DS to the applicant, agencies with jurisdiction and expertise, if any, affected tribes, and to the public. Notice shall be given under Section 25.05.510. The lead agency is not required to scope if the agency is adopting another environmental document for the EIS or is preparing a supplemental EIS.

D. If at any time after the issuance of a DS a proposal is changed so, in the judgment of the lead agency, there are no probable significant adverse environmental impacts, the DS shall be withdrawn and a DNS issued instead. The DNS shall be sent to all who commented on the DS. A proposal shall not be considered changed until all license applications for the proposal are revised to conform to the changes or other binding commitments made by agencies or by applicants.

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.390Effect of threshold determination.

A. When the responsible official makes a threshold determination, it is final and binding on all agencies, subject to the provisions of this section and Section 25.05.340 (DNS), Section 25.05.360 (Scoping), and Subchapter VI.

B. The responsible official's threshold determination:

1. For proposals listed in Section 25.05.340 B, shall not be final until fifteen (15) days after issuance;

2. Shall not apply if another agency with jurisdiction assumes lead agency status under Section 25.05.948;

3. Shall not apply when withdrawn by the responsible official under Section 25.05.340 or Section 25.05.360;

4. Shall not apply when reversed on appeal.

C. Regardless of any appeals, a DS or DNS issued by the responsible official may be considered final for purposes of other agencies' planning and decisionmaking unless subsequently changed, reversed, or withdrawn.

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

Subchapter IV Environmental Impact Statement (EIS)

25.05.400 Purpose of EIS.

A. The primary purpose of an environmental impact statement is to ensure that SEPA's policies are an integral part of the ongoing programs and actions of state and local government.

B. An EIS shall provide impartial discussion of significant environmental impacts and shall inform decisionmakers and the public of reasonable alternatives, including mitigation measures,

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that would avoid or minimize adverse impacts or enhance environmental quality.

C. Environmental impact statements shall be concise, clear, and to the point, and shall be supported by the necessary environmental analysis. The purpose of an EIS is best served by short documents containing summaries of, or reference to, technical data and by avoiding excessively detailed and overly technical information. The volume of an EIS does not bear on its adequacy. Larger documents may even hinder the decisionmaking process.

D. The EIS process enables government agencies and interested citizens to review and comment on proposed government actions, including government approval of private projects and their environmental effects. This process is intended to assist the agencies and applicants to improve their plans and decisions, and to encourage the resolution of potential concerns or problems prior to issuing a final statement. An environmental impact statement is more than a disclosure document. It shall be used by agency officials in conjunction with other relevant materials and considerations to plan actions and make decisions.
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.402General requirements.

Agencies shall prepare environmental impact statements as follows:

A. EIS's need analyze only the reasonable alternatives and probable adverse environmental impacts that are significant. Beneficial environmental impacts or other impacts may be discussed.

B. The level of detail shall be commensurate with the importance of the impact, with less important material summarized, consolidated, or referenced.

C. Discussion of insignificant impacts is not required; if included, such discussion shall be brief and limited to summarizing impacts or noting why more study is not warranted.

D. Description of the existing environment and the nature of environmental impacts shall be limited to the affected environment and shall be no longer than is necessary to understand the environmental consequences of the alternatives, including the proposal.

E. EIS's shall be no longer than necessary to comply with SEPA and these rules. Length should relate first to potential environmental problems and then to the size or complexity of the alternatives, including the proposal.

F. The basic features and analysis of the proposal, alternatives, and impacts shall be discussed in the EIS and shall be generally understood without turning to other documents; however, an EIS is not required to include all information conceivably relevant to a proposal, and may be supplemented by appendices, reports, or other documents in the agency's record.

G. Agencies shall reduce paperwork and the accumulation of background data by adopting or incorporating by reference, existing, publicly available environmental documents, wherever possible.

H. Agencies shall prepare EIS's concurrently with and coordinated with environmental studies and related surveys that may be required for the proposal under other laws, when feasible.

I. EIS's shall serve as the means of assessing the environmental impact of proposed agency action, rather than justifying decisions already made.
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.405EIS types.

A. Draft and final environmental impact statements (EIS's) shall be prepared; draft and final supplemental EIS's may be prepared.

B. A draft EIS (DEIS) allows the lead agency to consult with members of the public, affected tribes, and agencies with jurisdiction and expertise. The lead agency shall issue a DEIS and consider comments as stated in Subchapter V.

C. A final EIS (FEIS) shall revise the DEIS as appropriate and respond to comments as required in Section 25.05.560. An FEIS shall respond to opposing views on significant adverse environmental impacts and reasonable alternatives which the lead agency determines were not adequately discussed in the DEIS. The lead agency shall issue a FEIS as specified by Section 25.05.460.

D. A supplemental EIS (SEIS) shall be prepared as an addition to either a draft or final statement if:

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1. There are substantial changes to a proposal so that the proposal is likely to have significant adverse environmental impacts; or

2. There is significant new information indicating, or on, a proposal's probable significant adverse environmental impacts.

Preparation of a SEIS shall be carried out as stated in 25.05.620.

E. Agencies may use federal EIS's, as stated in Subchapter VI.

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.406EIS timing.

The lead agency shall commence preparation of the environmental impact statement as close as possible to the time the agency is developing or is presented with a proposal, so that preparation can be completed in time for the final statement to be included in appropriate recommendations or reports on the proposal (Section 25.05.055). The statement shall be prepared early enough so it can serve practically as an important contribution to the decisionmaking process and will not be used to rationalize or justify decisions already made. EIS's may be "phased" in appropriate situations (Section 25.05.060 E).

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.408Scoping.

A. The lead agency shall narrow the scope of every EIS to the probable significant adverse impacts and reasonable alternatives, including mitigation measures. For example, if there are only two (2) or three (3) significant impacts or alternatives, the EIS shall be focused on those.

B. To ensure that every EIS is concise and addresses the significant environmental issues, the lead agency shall:

1. Invite agency, affected tribes, and public comment on the DS (Section 25.05.360 (DS/scoping)). If the agency requires written comments, agencies, affected tribes and the public shall be allowed twenty-one (21) days from the date of issuance of the DS in which to comment, unless expanded scoping is used. The date of issuance for a DS is the date it is sent to the Department of Ecology and other agencies with jurisdiction, and is publicly available;

2. Identify reasonable alternatives and probable significant adverse environmental impacts;

3. Eliminate from detailed study those impacts that are not significant; and

4. Work with other agencies to identify and integrate environmental studies required for other government approvals with the EIS, where feasible.

C. Agencies, affected tribes, and the public should comment promptly and as specifically as permitted by the details available on the proposal.

D. Meetings or scoping documents, including notices that the scope has been revised, may be used but are not required. The lead agency shall integrate the scoping process with its existing planning and decisionmaking process in order to avoid duplication and delay.

E. The lead agency shall revise the scope of an EIS if substantial changes are made later in the proposal, or if significant new circumstances or information arise that bear on the proposal and its significant impacts.

F. DEIS's shall be prepared according to the scope decided upon by the lead agency in its scoping process.

G. EIS preparation may begin during scoping.

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.409Scoping on City-sponsored projects.

A. When a City department is lead agency for a City project or non-project action and the department determines that an EIS is required for the project, the department shall hold a public scoping meeting to determine the range of proposed actions, alternatives, possible mitigating measures, and impacts to be discussed in an EIS (see Sections 25.05.510 and 25.05.535).

B. Depending on the size, timing, public comment, or other relevant aspects of the project, the lead agency may, at its option, expand scoping according to the provisions set forth in Section 25.05.410.

(Ord. 114057 § 1(part), 1988.)

25.05.410Expanded scoping (optional).

A. At its option, the lead agency may expand the scoping process to include any or all of the following, which may be applied on a proposal-by-proposal basis:

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1. Using questionnaires or information packets;

2. Using meetings or workshops, which may be combined with any other early planning meetings of the agency;

3. Using a coordinator or team from inside or outside the agency;

4. Developing cooperative consultation and exchange of information among agencies before the EIS is prepared, rather than awaiting submission of comments on a completed document;

5. Coordinating and integrating other government reviews and approvals with the EIS process through memoranda or other methods;

6. Inviting participation of agencies with jurisdiction or expertise from various levels of government, such as regional or federal agencies;

7. Using other methods as the lead agency may find helpful.

B. Use of expanded scoping is intended to promote interagency cooperation, public participation, and innovative ways to streamline the SEPA process. Steps shall be taken, as the lead agency determines appropriate, to encourage and assist public participation. There are no specified procedural requirements for the methods, techniques, or documents which may be used in an expanded scoping process, to provide maximum flexibility to meet these purposes.

C. The lead agency shall consult with an applicant prior to deciding the method and schedule for an expanded scoping process.

D. Under expanded scoping, an applicant may request, in which case the lead agency shall set, a date by which the lead agency shall determine the scope of the EIS, including the need for any field investigations (to the extent permitted by the details available on the proposal). The date shall occur thirty (30) days or less after the DS is issued, unless the lead agency and applicant agree upon a later date.

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.420EIS preparation.

For draft and final EIS's and SEIS's:

A. Preparation of the EIS is the responsibility of the lead agency, by or under the direction of its responsible official, as specified by the lead agency's procedures. No matter who participates in the preparation of the EIS, it is the EIS of the lead agency. The responsible official, prior to distributing an EIS, shall be satisfied that it complies with these rules and the procedures of the lead agency.

B. The lead agency may have an EIS prepared by agency staff, an applicant or its agent, or by an outside consultant retained by either an applicant or the lead agency. In the event the responsible official determines that the applicant will be required to prepare an EIS, the applicant shall be so notified immediately after completion of the threshold determination. The lead agency shall assure that the EIS is prepared in a professional manner and with appropriate interdisciplinary methodology. The responsible official shall direct the areas of research and examination to be undertaken as a result of the scoping process, as well as the organization of the resulting document.

C. If a person other than the lead agency is preparing the EIS, the lead agency shall:

1. Coordinate any scoping procedures so that the individual preparing the EIS receives all substantive information submitted by any agency or person;

2. Assist in obtaining any information on file with another agency that is needed by the person preparing the EIS;

3. Allow any party preparing an EIS access to all public records of the lead agency that relate to the subject of the EIS, under Chapter 42.17 RCW (Public Disclosure and Public Records Law).

D. In the event the responsible official or his designee is preparing an EIS, the responsible official may require a private applicant to provide data and information not in the possession of the City which is relevant to any or all areas to be covered by an EIS. However, a private applicant shall not be required to provide information which the lead agency has requested of a consulted agency until the consulted agency has responded, or the thirty (30) days allowed for response by the consulted agency has expired, whichever is earlier. An applicant may volunteer to provide any information or effort desired, as long as the EIS is supervised and approved by the responsible official. These rules do not prevent an agency from charging any fees which the agency is otherwise allowed to charge (Section 25.05.914).

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(Ord. 118012 § 61, 1996; Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.425Style and size.

A. Environmental impact statements shall be readable reports, which allow the reader to understand the most significant and vital information concerning the proposed action, alternatives, and impacts, without turning to other documents, as provided below and in Section 25.05.402 (general requirements).

B. Environmental impact statements shall be concise and written in plain language. EISs shall not be excessively detailed or overly technical. EISs shall explain plainly the meaning of technical terms not generally understood by the general public. This may be done in a glossary or footnotes or by some other means. EISs may include an index for ease in using the statement.

C. Most of the text of an environmental impact statement shall discuss and compare the environmental impacts and their significance, rather than describe the proposal and the environmental setting. Detailed descriptions may be included in appendices or supporting documents.

D. The text of an EIS (Section 25.05.430 C) normally ranges from thirty (30) to fifty (50) pages and may be shorter. The EIS text shall not exceed seventy-five (75) pages; except for proposals of unusual scope or complexity, where the EIS shall not exceed one hundred fifty (150) pages. Appendices and background material shall be bound separately from the EIS if they exceed twenty-five (25) pages, except if the entire document does not exceed one hundred (100) pages or a FEIS is issued under Section 25.05.560 E (DEIS and addendum).

E. If the lead agency decides that additional descriptive material or supporting documentation may be helpful for readers, this background information may be placed in appendices or in separate documents, and shall be readily available to agencies and the public during the comment period.

F. Agencies shall incorporate material into an environmental impact statement by reference to cut down on bulk, if an agency can do so without impeding agency and public review of the action (Sections 25.05.600 and 25.05.635).

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.430Format.

A. A cover letter or memo from the lead agency shall precede the EIS (Section 25.05.435). A fact sheet (Section 25.05.440 A) shall be the first section of every EIS.

B. The following format should be used unless the lead agency determines that a different format would improve clear presentation of alternatives and environmental analysis for a particular proposal (except that the fact sheet shall always be the first section of an EIS):

1. Fact sheet;
2. Table of contents (may include the list of elements of the environment);
3. Summary;
4. Alternatives, including the proposed action;
5. Affected environment, significant impacts, and mitigation measures (other than those included in the proposed action);
6. Distribution list (may be included in appendix);
7. Appendices, if any (including, for FEIS, comment letters and any separate responses).

C. EIS Text. The EIS text is divided into two (2) sections: B4 and B5 above. Agencies have wide latitude to organize and present material as they see fit within these two (2) basic sections. Agencies are not required to discuss each subject in Section 25.05.440 D and E and Section 25.05.444 in a separate section of the EIS.

D. Additional Format Considerations.

1. Where relevant to the alternatives and impacts of proposal, the analysis specified in Section 25.05.440 shall be included regardless of the format of a particular statement.
2. The format of a FEIS may differ, as specified by Section 25.05.560.
3. Additional flexibility is provided in Sections 25.05.442 and 25.05.443 for environmental impact statements related to nonproject proposals.
4. The elements of the environment for purposes of analyzing environmental impacts are stated in Section 25.05.444.
5. Additional guidance on the distinction between environmental and other considerations is given in Sections 25.05.448 and 25.05.450.
6. EISs may be combined with other documents (Section 25.05.640).

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(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.435Cover letter or memo.

A. A cover letter or memo shall precede every EIS, but shall not be considered part of the EIS for adequacy purposes.

B. The cover letter or memo:

1. Shall not exceed two (2) pages;

2. Shall highlight the key environmental issues and options facing agency decisionmakers as known at the time of issuance;

3. May include beneficial, as well as adverse environmental impacts and may mention other relevant considerations for decisionmakers;

4. Shall identify, for SEISs, the EIS being supplemented.

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.440EIS contents.

An EIS shall contain the following, in the style and format prescribed in the preceding sections.

A. Fact Sheet. The fact sheet shall include the following information in this order:

1. A title and brief description (a few sentences) of the nature and location (by street address, if applicable) of the proposal, including principal alternatives;

2. The name of the person or entity making the proposal(s) and the proposed or tentative date for implementation;

3. The name and address of the lead agency, the responsible official, and the person to contact for questions, comments, and information;

4. A list of all licenses which the proposal is known to require. The licenses shall be listed by name and agency; the list shall be as complete and specific as possible;

5. Authors and principal contributors to the EIS and the nature or subject area of their contributions;

6. The date of issue of the EIS;

7. The date comments are due (for DEISs);

8. The time and place of public hearings or meetings, if any and if known;

9. The date final action is planned or scheduled by the lead agency, if known. Agencies may indicate that the date is subject to change. The nature or type of final agency action should be stated unless covered in subsection 1 above;

10. The type and timing of any subsequent environmental review to which the lead agency or other agencies have made commitments, if any;

11. The location of a prior EIS on the proposal, EIS technical reports, background data, adopted documents, and materials incorporated by reference for this EIS, if any;

12. The cost to the public for a copy of the EIS.

B. Table of Contents.

1. The table of contents should list, if possible, any documents which are appended, adopted, or serve as technical reports for this EIS (but need not list each comment letter).

2. The table of contents may include the list of elements of the environment (Section 25.05.444), indicating those elements or portions of elements which do not involve significant impacts.

C. Summary. The EIS shall summarize the contents of the statement and shall not merely be an expanded table of contents. The summary shall briefly state the proposal's objectives, specifying the purpose and need to which the proposal is responding, the major conclusions, significant areas of controversy and uncertainty, if any, and the issues to be resolved, including the environmental choices to be made among alternative courses of action and the effectiveness of mitigation measures. The summary need not mention every subject discussed in the EIS, but shall include a summary of the proposal, impacts, alternatives, mitigation measures, and significant adverse impacts that cannot be mitigated. The summary shall state when the EIS is part of a phased review, if known, or the lead

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agency is relying on prior or future environmental review (which should be generally identified). The lead agency shall make the summary significantly broad to be useful to the other agencies with jurisdiction.

D. Alternatives Including the Proposed Action.

1. This section of the EIS describes and presents the proposal (or preferred alternative, if one (1) or more exists) and alternative courses of action.

2. Reasonable alternatives shall include actions that could feasibly attain or approximate a proposal's objectives, but at a lower environmental cost or decreased level of environmental degradation.

a. The word "reasonable" is intended to limit the number and range of alternatives, as well as the amount of detailed analysis for each alternative.

b. The "no-action" alternative shall be evaluated and compared to other alternatives.

c. Reasonable alternatives may be those over which an agency with jurisdiction has authority to control impacts either directly, or indirectly through requirement of mitigation measures.

3. This section of the EIS shall:

a. Describe the objective(s), proponent(s), and principal features of reasonable alternatives. Include the proposed action, including mitigation measures that are part of the proposal;

b. Describe the location of the alternatives including the proposed action, so that a lay person can understand it. Include a map, street address, if any, and legal description (unless long or in metes and bounds);

c. Identify any phases of the proposal, their timing, and previous or future environmental analysis on this or related proposals, if known;

d. Tailor the level of detail of descriptions to the significance of environmental impacts. The lead agency should retain any detailed engineering drawings and technical data, that have been submitted, in agency files and make them available on request;

e. Devote sufficiently detailed analysis to each reasonable alternative to permit a comparative evaluation of the alternatives including the proposed action. The amount of space devoted to each alternative may vary. One (1) alternative (including the proposed action) may be used as a benchmark for comparing alternatives. The EIS may indicate the main reasons for eliminating alternatives from detailed study;

f. Present a comparison of the environmental impacts of the reasonable alternatives, and include the no action alternative. Although graphics may be helpful, a matrix or chart is not required. A range of alternatives or a few representative alternatives, rather than every possible reasonable variation, may be discussed;

g. Discuss the benefits and disadvantages of reserving for some future time the implementation of the proposal, as compared with possible approval at this time. The agency perspective should be that each generation is, in effect, a trustee of the environment for succeeding generations. Particular attention should be given to the possibility of foreclosing future options by implementing the proposal;

4. When a proposal is for a private project on a specific site, the lead agency shall be required to evaluate only the no-action alternative plus other reasonable alternatives for achieving the proposal's objective on the same site. This subsection shall not apply when the proposal includes a rezone, unless the rezone is for a use allowed in an existing comprehensive plan that was adopted after review under SEPA. Further, alternative sites may be evaluated if other locations for the type of proposed use have not been included or considered in existing planning or zoning documents.

E. Affected Environment, Significant Impacts, and Mitigation Measures.

1. This section of the EIS shall describe the existing environment that will be affected by the proposal, analyze significant impacts of alternatives including the proposed action, and discuss reasonable mitigation measures that would significantly mitigate these impacts. Elements of the environment that are not significantly affected need not be discussed. Separate sections are not required for each subject (see Section 25.05.430 C).

2. General requirements for this section of the EIS.

a. This section shall be written in a nontechnical manner which is easily understandable to lay persons whenever possible, with

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the discussion commensurate with the importance of the impacts. Only significant impacts must be discussed; other impacts may be discussed.

b. Although the lead agency should discuss the affected environment, environmental impacts, and other mitigation measures together for each element of the environment where there is a significant impact, the responsible official shall have the flexibility to organize this section in any manner useful to decisionmakers and the public (see Section 25.05.430 C).

c. This subsection is not intended to duplicate the analysis in subsection E and shall avoid doing so to the fullest extent possible.

3. This section of the EIS shall:

a. Succinctly describe the principal features of the environment that would be affected, or created, by the alternatives including the proposal under consideration. Inventories of species should be avoided, although rare, threatened, or endangered species should be indicated;

b. Describe and discuss significant impacts that will narrow the range or degree of beneficial uses of the environment or pose long-term risks to human health or the environment, such as storage, handling, or disposal of toxic or hazardous material;

c. Clearly indicate those mitigation measures (not described in the previous section as part of the proposal or alternatives), if any, that could be implemented or might be required, as well as those, if any, that agencies or applicants are committed to implement;

d. Indicate what the intended environmental benefits of mitigation measures are for significant impacts, and may discuss their technical feasibility and economic practicability, if there is concern about whether a mitigation measure is capable of being accomplished. The EIS need not analyze mitigation measures in detail unless they involve substantial changes to the proposal causing significant adverse impacts, or new information regarding significant impacts, and those measures will not be subsequently analyzed under SEPA (see Section 25.05.660 B). An EIS may briefly mention nonsignificant impacts or mitigation measures to satisfy other environmental review laws or requirements covered in the same document (Section 25.05.402 H and Section 25.05.640);

e. Summarize significant adverse impacts that cannot or will not be mitigated.

4. This section shall incorporate, when appropriate:

a. A summary of existing plans (for example: land use and shoreline plans) and zoning regulations applicable to the proposal, and how the proposal is consistent and inconsistent with them;

b. Energy requirements and conservation potential of various alternatives and mitigation measures, including more efficient use of energy, such as insulating, as well as the use of alternate and renewable energy resources;

c. Natural or depletable resource requirements and conservation potential of various alternatives and mitigation measures;

d. Urban quality, historic and cultural resources, and the design of the built environment, including the reuse and conservation potential of various alternatives and mitigation measures.

5. Significant impacts on both the natural environment and the built environment must be analyzed, if relevant (Section 25.05.444). This involves impacts upon and the quality of the physical surroundings, whether they are in wild, rural, or urban areas. Discussion of significant impacts shall include the cost of and effects on public services, such as utilities, roads, fire, and police protection, that may result from a proposal. EIS's shall also discuss significant environmental impacts upon land and shoreline use, which includes housing, physical blight, and significant impacts of projected population on environmental resources, as specified by RCW 43.21C.110(1)(d) and (f), as listed in Section 25.05.444.

6. Analysis of the following social, cultural, and economic issues shall be included in every EIS unless eliminated by the scoping process (Section 25.05.408):

a. Economic factors, including but not limited to employment, public investment, and taxation where appropriate, provided that this section shall not authorize the City to require disclosure of financial information relating to the private applicant or the private applicant's proposal;

b. Regional, City, and neighborhood goals, objectives, and policies adopted or recognized by the appropriate local governmental

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authority prior to the time the proposal is initiated;

c. The level of detail used in discussing these additional elements should be proportionate to the impacts the proposal may have if approved.

F. Appendices. Comment letters and responses shall be circulated with the FEIS as specified by Section 25.05.560. Technical reports and supporting documents need not be circulated with an EIS (Sections 25.05.425 D and 25.05.440 A11), but shall be readily available to agencies and the public during the comment period.

G. Additional Analysis. The lead agency may at its option include, in an EIS or appendix, the analysis of any impact relevant to the agency's decision, whether or not environmental. The inclusion of such analysis may be based upon comments received during the scoping process. The provision for combining documents may be used (Section 25.05.640). The EIS shall comply with the format requirements of this subchapter. The decision whether to include such information and the adequacy of any such additional analysis shall not be used in determining whether an EIS meets the requirements of SEPA.

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.442Contents of EIS on nonproject proposals.

A. The lead agency shall have more flexibility in preparing EIS's on nonproject proposals, because there is normally less detailed information available on their environmental impacts and on any subsequent project proposals. The EIS may be combined with other planning documents.

B. The lead agency shall discuss impacts and alternatives in the level of detail appropriate to the scope of the nonproject proposal and to the level of planning for the proposal. Alternatives should be emphasized. In particular, agencies are encouraged to describe the proposal in terms of alternative means of accomplishing a stated objective (see Section 25.05.060 C). Alternatives including the proposed action should be analyzed at a roughly comparable level of detail, sufficient to evaluate their comparative merits (this does not require devoting the same number of pages in an EIS to each alternative).

C. If the nonproject proposal concerns a specific geographic area, site specific analyses are not required, but may be included for areas of specific concern. The EIS should identify subsequent actions that would be undertaken by other agencies as a result of the nonproject proposal, such as transportation and utility systems.

D. The EIS's discussion of alternatives for a comprehensive plan, community plan, or other areawide zoning or for shoreline or land use plans shall be limited to a general discussion of the impacts of alternate proposals for policies contained in such plans, for land use or shoreline designations, and for implementation measures. The lead agency is not required under SEPA to examine all conceivable policies, designations, or implementation measures but should cover a range of such topics. The EIS content may be limited to a discussion of alternatives which have been formally proposed or which are, while not formally proposed, reasonably related to the proposed plan.

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.443EIS contents when prior nonproject EIS.

A. The provisions for phased review (Section 25.05.060 E) and use of existing environmental documents, Subchapter VI, apply to EIS's on nonproject proposals.

B. A nonproject proposal may be approved based on an EIS assessing its broad impacts. When a project is then proposed that is consistent with the approved nonproject action, the EIS on such a project shall focus on the impacts and alternatives including mitigation measures specific to the subsequent project and not analyzed in the nonproject EIS. The scope shall be limited accordingly. Procedures for use of existing documents shall be used as appropriate, see Subchapter VI.

C. When preparing a project EIS under the preceding subsection, the lead agency shall review the nonproject EIS to ensure that the analysis is valid when applied to the current proposal, knowledge, and technology. If it is not valid, the analysis shall be reanalyzed in the project EIS.

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

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25.05.444Elements of the environment.

A. Natural Environment.

1. Earth:
   a. Geology;
   b. Soils;
   c. Topography;
   d. Unique physical features;
   e. Erosion/enlargement of land area (accretion).
2. Air:
   a. Air quality;
   b. Odor;
   c. Climate.
3. Water:
   a. Surface water movement/quantity/quality;
   b. Runoff/absorption;
   c. Floods;
   d. Groundwater movement/quantity/quality;
   e. Public water supplies.
4. Plants and animals:
   a. Habitat for and numbers or diversity of species of plants, fish, or other wildlife;
   b. Unique species;
   c. Fish or wildlife migration routes.
5. Energy and natural resources:
   a. Amount required/rate of use/efficiency;
   b. Source/availability;
   c. Nonrenewable resources;
   d. Conservation and renewable resources;
   e. Scenic resources.

B. Built Environment.

1. Environmental health:
   a. Noise;
   b. Risk of explosion;
   c. Releases or potential releases to the environment affecting public health, such as toxic or hazardous materials.
2. Land and shoreline use:
   a. Relationship to existing land use plans and to estimated population;
   b. Housing;
   c. Light and glare;
   d. Aesthetics;
   e. Recreation;
   f. Historic and cultural preservation;
   g. Agricultural crops.
3. Transportation:
   a. Transportation systems;
   b. Vehicular traffic;
   c. Waterborne, rail, and air traffic;
   d. Parking;
   e. Movement/circulation of people or goods;
   f. Traffic hazards.
4. Public services and utilities:
   a. Fire;
   b. Police;
   c. Schools;
   d. Parks or other recreational facilities;
   e. Maintenance;
   f. Communications;
   g. Water/storm water;
   h. Sewer/solid waste;
   i. Other governmental services or utilities.

C. Elements May Be Combined. To simplify the EIS format, reduce paperwork and duplication, improve readability, and focus on the significant issues, some or all of the elements of the environment in Section 25.05.444 may be combined.

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.448Relationship of EIS to other considerations.

A. SEPA contemplates that the general welfare, social, economic, and other requirements and essential considerations of state policy will be taken into account in weighing and balancing alternatives and in making final decisions. However, the environmental impact statement is not required to evaluate and document all of the possible effects and considerations of a decision or to contain the balancing judgments that must ultimately be made by the decisionmakers. Rather, an environmental impact statement analyzes environmental impacts and must be used by agency decisionmakers, along with other relevant considerations or documents, in making final decisions on a proposal. The EIS provides a basis upon which the responsible agency and officials can make the balancing judgment mandated by SEPA, because it provides information on the environmental costs and impacts. SEPA does not require that an EIS be an agency's only decisionmaking document.

B. The term “socioeconomic” is not used in the statute or in these rules because the term does

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not have a uniform meaning and has caused a great deal of uncertainty. Areas of urban environmental concern which must be considered are specified in RCW 43.21C.110(1)(f), the environmental checklist (Section 25.05.960) and Sections 25.05.440 and 25.05.444. (See Section 25.05.440 E6.)

C. Examples of information that are not required to be discussed in an EIS are: Methods of financing proposals, economic competition, profits and personal income and wages, and social policy analysis such as fiscal and welfare policies and nonconstruction aspects of education and communications. EIS's may include whether housing is low, middle, or high income.

D. Agencies have the option to combine EIS's with other documents or to include additional analyses in EIS's, that will assist in making decisions (Sections 25.05.440 G and 25.05.640). Agencies may use the scoping process to help identify issues of concern to citizens.

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.450Cost-benefit analysis.

A cost-benefit analysis (Section 25.05.726) is not required by SEPA. If a cost-benefit analysis relevant to the choice among environmentally different alternatives is being considered by an agency for the proposal, it may be incorporated by reference or appended to the statement as an aid in evaluating the environmental consequences. For purposes of complying with SEPA, the weighing of the merits and drawbacks of the various alternatives need not be displayed in a monetary cost-benefit analysis and should not be when there are important qualitative considerations.

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.455Issuance of DEIS.

A. A draft EIS shall be issued by the responsible official and sent to the following:

1. The Department of Ecology (two (2) copies);
2. Each federal agency with jurisdiction over the proposal;
3. Each agency with jurisdiction over or environmental expertise on the proposal;
4. Each city/county in which adverse environmental impacts identified in the EIS may occur, if the proposal were implemented;
5. Each local agency or political subdivision whose public services would be changed as a result of implementation of the proposal;
6. The applicable local, area-wide, or regional agency, if any, that has been designated under federal law to conduct intergovernmental review and coordinate federal activities with state or local planning;
7. Any person requesting a copy of the EIS from the lead agency (fee may be charged for DEIS, see Section 25.05.504);
8. Any affected tribe;
9. The SEPA Public Information Center.

B. The lead agency is encouraged to send a notice of availability or a copy of the DEIS to any person, organization or governmental agency that has expressed an interest in the proposal, is known by the lead agency to have an interest in the type of proposal being considered, or receives governmental documents (for example, local and regional libraries). This is not meant to duplicate subsection A7 of this section.

C. The lead agency should make additional copies available at its offices to be reviewed or obtained.

D. The date of issue is the date the DEIS is publicly available and sent to the Department of Ecology, other agencies with jurisdiction and the SEPA Public Information Center.

E. Notice that a DEIS is available shall be given under Section 25.05.510.

F. Any person or agency shall have thirty (30) days from the date of issue in which to review and comment upon the DEIS.

G. Upon request, the lead agency may grant an extension of up to fifteen (15) days to the comment period. Agencies and the public must request any extension before the end of the comment period.

H. The rules for notice, costs, commenting, and response to comments on EIS's are stated in Subchapter V of these rules.

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(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.460Issuance of FEIS.

A. A final EIS (FEIS) shall be issued by the responsible official and sent to the Department of Ecology (two (2) copies), to all agencies with jurisdiction, to all agencies who commented on the DEIS, to the SEPA Public Information Center, and to anyone requesting a copy of the FEIS. (Fees may be charged for the FEIS, see Section 25.05.504.)

B. The responsible official shall send the FEIS, or a notice that the FEIS is available, to anyone who commented on the DEIS and to those who received but did not comment on the DEIS. If the agency receives petitions from a specific group or organization, a notice or EIS may be sent to the group or organization, a notice or EIS may be sent to the group and not to each petitioner. Failure to notify any individual under this subsection shall not affect the legal validity of an agency's SEPA compliance.

C. The lead agency should make additional copies available in its offices for review.

D. The date of issue is the date the FEIS, or notice of availability, is sent to the persons, agencies and SEPA Public Information Center specified in the preceding subsections and the FEIS is publicly available. Copies sent to the Department of Ecology shall satisfy the statutory requirement of availability to the Governor and to the Ecological Commission.

E. Agencies shall not act on a proposal for which an EIS has been required prior to seven (7) days after issuance of the EIS.

F. The lead agency shall issue the FEIS within sixty (60) days of the end of the comment period for the DEIS, unless the proposal is unusually large in scope, the environmental impact associated with the proposal is unusually complex, or extensive modifications are required to respond to public comments.

G. The form and content of the FEIS is specified in Section 25.05.560.

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

Subchapter V Commenting

25.05.500 Purpose of this subchapter.

This subchapter provides rules for:

A. Notice and public availability of environmental documents, especially environmental impact statements;

B. Consultation and comment by agencies and members of the public on environmental documents;

C. Public hearings and meetings; and

D. Lead agency response to comments and

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preparation of final environmental impact statements. Review, comment, and responsiveness to comments on a draft EIS are the focal point of the act's commenting process because the DEIS is developed as a result of scoping and serves as the basis for the final statement.
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.502Inviting comment.

A. Involving Other Agencies and the Public. Agency efforts to involve other agencies and the public in the SEPA process should be commensurate with the type and scope of the environmental document.

B. Agency Response. Consulted agencies have a responsibility to respond in a timely and specific manner to requests for comments (Sections 25.05.545, 25.05.550 and 25.05.724).

C. Threshold Determinations.

1. Agencies shall send DNS's to other agencies with jurisdiction, if any, as required by Section 25.05.340 B.

2. For DNS's issued under Section 25.05.340 B, agencies shall provide public notice under Section 25.05.510 and receive comments on the DNS for fifteen (15) days.

D. Scoping.

1. Agencies shall circulate the DS and invite comments on the scope of an EIS, as required by Sections 25.05.360, 25.05.408, and 25.05.510.

2. Agencies may use other reasonable methods to inform agencies and the public, such as those indicated in Section 25.05.410.

3. The lead agency determines the method for commenting (Sections 25.05.408 and 25.05.410).

E. DEIS.

1. Agencies shall invite comments on and circulate DEIS's as required by Section 25.05.455.

2. The commenting period shall be thirty (30) days unless extended by the lead agency under Section 25.05.455.

3. Agencies shall comment and respond as stated in this subchapter. This meets the Act's formal consultation and comment requirement in RCW 43.21C.030(2)(d).

F. Public Hearings and Meetings.

1. Public hearings or meetings may be held (Section 25.05.535). Notice of such public hearings shall be given under Section 25.05.510 and may be combined with other agency notice.

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2. In conjunction with the requirements of Section 25.05.510, notice of public hearings shall be published no later than ten (10) days before the hearing. For nonproject proposals, notice of the public hearing shall be published in the City official newspaper. For nonproject proposals having a regional or state-wide applicability, copies of the notice shall be given to the Olympia Bureaus of the Associated Press and United Press International.

G. FEIS. Agencies shall circulate FEIS's as required by Section 25.05.460.

H. Supplements.

1. Notice for and circulation of draft and final SEIS's shall be done in the same manner as other draft and final EIS's.

2. When a DNS is issued after a DS has been withdrawn (Section 25.05.360 D), agencies shall give notice under Section 25.05.510 and receive comments for fifteen (15) days.

3. An addendum need not be circulated unless required under Section 25.05.625.

I. Appeals. Notice provisions for appeals are in Section 25.05.680.

J. Circulating Documents. Agencies may circulate any other environmental documents for the purpose of providing information or seeking comment, as an agency deems appropriate.

K. Additional Notification. In addition to any required notice of circulation, agencies may use any other reasonable methods, to inform agencies and the public that environmental documents are available or that hearings will occur.

L. Combining Notices. Agencies may combine SEPA notices with other agency notices. However, the SEPA information must be identifiable.

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.504Availability and cost of environmental documents.

A. SEPA documents required by these rules shall be retained by the lead agency and made available in accordance with Chapter 42.17 RCW.

B. The lead agency shall make copies of any environmental document available in accordance with Chapter 42.17 RCW, charging only those costs allowed plus mailing costs. However, no charge shall be levied for circulation of documents to other agencies as required by these rules.

Agencies shall waive the charge for one (1) copy of an environmental document (not including the SEPA Register) provided to a public interest organization.

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.508SEPA Register.

A. The Department of Ecology (DOE) is required by WAC 197-11-508 to publish and mail each week a SEPA Register, giving notice of all environmental documents required to be sent to the DOE under these rules, specifically:

1. DNS's under Section 25.05.340 B;

2. DS's (scoping notices) under Section 25.05.408;

3. EIS's under Sections 25.05.455, 25.05.460, 25.05.620, and 25.05.630; and

4. Notices of Action under RCW 43.21C.080 and 43.21C.087.

B. All agencies shall submit the environmental documents listed in subsection A to DOE promptly and in accordance with procedures established by the DOE.

C. Agencies are encouraged to subscribe to the SEPA Register.

D. DOE is authorized by WAC 197-11-508:

1. To establish a reasonable format for publishing the required notices in the SEPA Register;

2. To charge a reasonable fee for the SEPA Register as allowed by law, in at least the amount allowed by Chapter 42.17 RCW, from agencies, members of the public, and interested organizations.

E. Members of the public, citizen and community groups, and educational institutions are encouraged by WAC 197-11-508 to subscribe and refer to the SEPA Register for notice of SEPA actions which may affect them.

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.510Public notice.

A. Notice for Master Use Permits and Council Land Use Decisions. For proposals requiring a Master Use Permit (MUP) or Council Land Use

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Decision under Chapter 23.76, a notice of availability of environmental documents, administrative SEPA appeals and SEPA public hearings shall be given pursuant to Chapter 23.76. These notice procedures shall be in lieu of the requirements of subsections C and D of this section. The general mailed releases (GMRs) constitute the City SEPA Register for these actions, as required by subsection B3 of this section, but do not satisfy publiction in the SEPA Register as required by subsection E of this section.

B. SEPA Public Information Center.

1. The Department of Construction and Land Use shall be responsible for establishing and maintaining the City's SEPA Public Information Center at a location readily accessible to the public, and for making the existence and location of the Center known to the general public and City employees, and for satisfying the public information requirements of WAC 197-11-510.

2. The following documents shall be maintained at the SEPA Public Information Center:

a. Copies of all declarations of significance and declarations of nonsignificance filed by the City, for a period of one (1) year;

b. Copies of all EIS's prepared by or on behalf of the City, for a period of three (3) years;

c. Copies of all decisions in administrative appeals wherein SEPA issues were raised;

d. Copies of all adoption notices and addenda issued under Subchapter VI of these rules;

e. Copies of all general mailed releases (notice of master use permit applications) relating to master use permit applictions requiring SEPA compliance;

f. For City of Seattle-sponsored projects, any programmatic EIS's adopted by the City.

3. In addition, the Department of Construction and Land Use shall maintain the following registers at the SEPA Public Information Center, each register including for each proposal its location, a brief (one (1) sentence or phrase) description of the nature of the proposal, the date first listed on the register, and the contact person or office from which further information may be obtained:

a. A "Declaration of Nonsignificance Register" which shall contain a listing of all declarations of nonsignificance made by the City during the previous year;

b. An "EIS in Preparation Register" which shall contain a listing of all proposals for which the City is currently preparing an EIS, and the date by which the EIS is expected to be available to the public;

c. An "EIS Available Register" which shall contain a listing of all draft and final EIS's prepared by or on behalf of the City during the previous six (6) months, including thereon the date by which comments must be received on draft EIS's, and the date for any public hearing scheduled for the proposal.

4. Each of the registers shall be kept current and maintained at the SEPA Public Information Center for public inspection. In addition, the registers, or updates thereof containing new entries added since the last mailing, shall be mailed once every week to those organizations and individuals who make written request unless no new entries are made on the register, in which event a copy of the register or update shall be mailed when a new entry is added. The Department of Construction and Land Use may charge a periodic fee for the service of mailing the registers or updates, which shall be reasonably related to the costs of reproduction and mailing.

5. The documents required to be maintained at the SEPA Public Information Center shall be available for public inspection and copies thereof shall be provided upon written request. The City shall charge a fee for copies in the manner provided by ordinance, and for the cost of mailing.

6. Copies of all documents filed and registers maintained at the SEPA Public Information Center shall be maintained at the main branch of the Seattle Public Library.

C. Notice of Declarations of Nonsignificance. Notice of Declarations of Nonsignificance shall be provided as follows:

1. The SEPA Public Information Center shall maintain a "Declaration of Nonsignificance Register" which shall contain a listing of all DNS's. The register shall be maintained and used in accordance with the provisions of subsection D.

2. The information in the register or its update, along with notice of the right to appeal a

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DNS in accordance with Section 25.05.680 shall be published once every week in the City official newspaper. In addition, notice of a DNS and notice of the right to appeal a DNS in accordance with Section 25.05.680, shall be submitted in a timely manner to at least one (1) community newspaper with distribution in the area impacted by the proposal for which the DNS was adopted, and shall be posted in a conspicuous place in the Department of Construction and Land Use.

D. Notice of Scoping, Declarations of Significance (DS), Draft and Final Eis's.

1. Upon publication, notice of scoping, DS (excluding those for MUPs), and the draft and the final EIS shall be filed by the responsible official with the City's SEPA Public Information Center.

2. Notice of a draft EIS shall be published in the official newspaper. Notice of a final EIS and the procedures for appeal pursuant to Section 25.05.680 shall be similarly published. In addition, such notices shall be submitted in a timely manner to at least one (1) community newspaper with distribution in the area impacted by the proposal for which the EIS was prepared. Notice shall be mailed to those organizations and individuals who make written request thereof, and shall be posted in a conspicuous place in the Department of Construction and Land Use.

E. Publication in the SEPA Register. Documents which are required to be sent to the Department of Ecology under these rules will be published in the SEPA Register, which will also constitute a form of public notice. However, publication in the SEPA Register shall not, in itself, be considered compliance with this section.
(Ord. 114057 § 1(part), 1988: Ord. 112522 § 20(part), 1985: Ord. 111866 § 1(part), 1984.)

25.05.535Public hearings and meetings.

A. If a public hearing on the proposal is held under some other requirement of law, such hearing shall be open to consideration of the environmental impact of the proposal, together with any environmental document that is available. This does not require extension of the comment periods for environmental documents.

B. A public hearing shall be held on every draft EIS.

C. In all other cases a public hearing on the environmental impact of a proposal shall be held whenever the lead agency determines, in its sole discretion, that a public hearing would assist it in meeting its responsibility to implement the purposes and policies of SEPA and these rules.

D. Whenever a public hearing is held under subsection B of this section, it shall occur no earlier than twenty-one (21) days from the date the draft EIS is issued, nor later than fifty (50) days from its issuance. Notice shall be given under Section 25.05.502 F and as provided for a draft EIS in Section 25.05.510 D2 and may be combined with other agency notice.

E. If a public hearing is required under this chapter, it shall be open to discussion of all environmental documents and any written comments that have been received by the lead agency prior to the hearing. A copy of the environmental document shall be available at the public hearing.

F. Comments at public hearings should be as specific as possible (see Section 25.05.550).

G. Agencies and their designees may hold informal public meetings or workshops. Such gatherings may be more flexible than public hearings and are not subject to the above notice and similar requirements for public hearings.
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.545Effect of no comment.

A. Consulted Agencies. If a consulted agency does not respond with written comments within the time periods for commenting on environmental documents, the lead agency may assume that the consulted agency has no information relating to the potential impact of the proposal as it relates to the consulted agency's jurisdiction or special expertise. Any consulted agency that fails to submit substantive information to the lead agency in response to a draft EIS is thereafter barred from alleging any defects in the lead agency's compliance with Subchapter IV of these rules.

B. Other Agencies and the Public. Lack of comment by other agencies or members of the public on environmental documents, within the time periods specified by these rules, shall be construed as lack of objection to the environmental analysis, if the requirements of Section 25.05.510 (public notice) are met. Other agencies and the public shall comment in the manner

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specified in Section 25.05.550. Each commenting citizen need not raise all possible issues independently. Appeals to the Hearing Examiner are considered de novo; the only limitation is that the issues on appeal shall be limited to those cited in the notice of appeal. (See Section 25.05.680 B3.)
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.550Specificity of comments.

A. Contents of Comments. Comments on an EIS, DNS, scoping notice or proposal shall be as specific as possible and may address either the adequacy of the environmental document or the merits of the alternatives discussed or both.

B. Documents Referenced. Commenters shall briefly describe the nature of any documents referenced in their comments, indicating the material's relevance, and should indicate where the material can be reviewed or obtained.

C. Methodology. When an agency criticizes a lead agency's predictive methodology, the commenting agency should describe, when possible, the alternative methodology which it prefers and why.

D. Additional Information. A consulted agency shall specify in its comments whether it needs additional information to fulfill other applicable environmental reviews or consultation requirements and what information it needs, to the extent permitted by the details available on the proposal.

E. Mitigation Measures. When an agency with jurisdiction objects to or expresses concerns about a proposal, it shall specify the mitigation measures, if any are possible, it considers necessary to allow an agency to grant or approve applicable licenses.

F. Comments by Other Agencies. Commenting agencies that are not consulted agencies shall specify any additional information or mitigation measures the commenting agency believes are necessary or desirable to satisfy its concerns.

G. Citizen Comments. Recognizing their generally more limited resources, members of the public shall make their comments as specific as possible and are encouraged to comment on methodology needed, additional information, and mitigation measures in the manner indicated in this section.

H. Responding to Comments. An agency shall consider and may respond to comments as the agency deems appropriate; the requirements for responding in a FEIS shall be met (Section 25.05.560).
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.560FEIS response to comments.

A. The lead agency shall prepare a final environmental impact statement whenever a DEIS has been prepared, unless the proposal is withdrawn or indefinitely postponed. The lead agency shall consider comments on the proposal and shall respond by one (1) or more of the means listed below, including its response in the final statement. Possible responses are to:

1. Modify alternatives including the proposed action;
2. Develop and evaluate alternatives not previously given detailed consideration by the agency;
3. Supplement, improve, or modify the analysis;
4. Make factual corrections;
5. Explain why the comments do not warrant further agency response, citing the sources, authorities, or reasons that support the agency's response and, if appropriate, indicate those circumstances that would trigger agency reappraisal or further response.

B. All substantive comments received on the draft statement shall be appended to the final statement or summarized, where comments are repetitive or voluminous, and the summary appended. If a summary of the comments is used, the names of the commenters shall be included (except for petitions).

C. In carrying out subsection A, the lead agency may respond to each comment individually, respond to a group of comments, cross-reference comments and corresponding changes in the EIS, or use other reasonable means to indicate an appropriate response to comments. When extensive corrections or revisions to the DEIS are made, the affected sections of the FEIS shall be rewritten in full, with corrections and revisions indicated by underlining, italics or other method.

D. If the lead agency does not receive any comments critical of the scope or content of the DEIS, the lead agency may so state in an updated fact sheet (Section 25.05.440 A), which shall be

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circulated under Section 25.05.460. The FEIS shall consist of the DEIS and updated fact sheet.

E. If changes in response to comments are minor and are largely confined to the responses described in subsections A4 and A5 of this section, agencies may prepare and attach an addendum, which shall consist of the comments, the responses, the changes, and an updated fact sheet.

The FEIS, consisting of the DEIS and the addendum, shall be issued under Section 25.05.460, except that only the addendum need be sent to anyone who received the DEIS.

F. An FEIS shall be issued and circulated under Section 25.05.460.

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.570 Consulted agency costs to assist lead agency.

A consulted agency shall not charge the lead agency for any costs incurred in complying with Section 25.05.550, including providing relevant data to the lead agency and copying documents for the lead agency. This section shall not prohibit a consulted agency from charging those costs allowed by Chapter 42.17 RCW and SMC Section 3.104.010 for copying any environmental document requested by an agency other than the lead agency or by an individual or private organization. This section does not prohibit agencies from making interagency agreements on cost or personnel sharing to provide environmental information to each other.

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

Subchapter VI Using Existing Environmental Documents

25.05.600 When to use existing environmental documents.

A. This section contains criteria for determining whether an environmental document must be used unchanged and describes when existing documents may be used to meet all or part of an agency's responsibilities under SEPA.

B. An agency may use environmental documents that have previously been prepared in order to evaluate proposed actions, alternatives, or environmental impacts, provided that the information in the existing document(s) is accurate and reasonably up-to-date. The proposals may be the same as, or different than, those analyzed in the existing documents.

C. Other agencies acting on the same proposal shall use an environmental document unchanged, except in the following cases:

1. For DNS's, an agency with jurisdiction is dissatisfied with the DNS, in which case it may assume lead agency status (Section 25.05.340 B, C and Section 25.05.948).

2. For DNS's and EIS's, preparation of a new threshold determination or supplemental EIS is required if there are:

a. Substantial changes to a proposal so that the proposal is likely to have significant adverse environmental impacts (or lack of significant adverse impacts, if a DS is being withdrawn); or

b. New information indicating a proposal's probable significant adverse environmental impacts. (This includes discovery of misrepresentation or lack of material disclosure.) A new threshold determination or SEIS is not required if probable significant adverse environmental impacts are covered by the range of alternatives and impacts analyzed in the existing environmental documents.

3. For EIS's, the agency concludes that its written comments on the DEIS warrant additional discussion for purposes of its action than that found in the lead agency's FEIS (in which case the agency may prepare a supplemental EIS at its own expense).

D. Existing documents may be used for a proposal by employing one (1) or more of the following methods:

1. "Adoption," where an agency may use all or part of an existing environmental document to meet its responsibilities under SEPA. Agencies acting on the same proposal for which an environmental document was prepared are not required to adopt the document; or

2. "Incorporation by reference," where an agency preparing an environmental document includes all or part of an existing document by reference;

3. An addendum, that adds analyses or information about a proposal but does not substantially change the analysis of significant impacts and alternatives in the existing environmental document; or

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4. Preparation of a SEIS if there are:

a. Substantial changes so that the proposal is likely to have significant adverse environmental impacts, or

b. New information indicating a proposal's probable significant adverse environmental impacts.

5. If a proposal is substantially similar to one covered in an existing EIS, that EIS may be adopted; additional information may be provided in an addendum or SEIS (see D3 and 4 of this subsection).

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.610Use of NEPA documents.

A. An agency may adopt any environmental analysis prepared under the National Environmental Policy Act (NEPA) by following Section 25.05.600 (when to use existing environmental documents) and Section 25.05.630 (adoption procedures).

B. A NEPA environmental assessment may be adopted to satisfy requirements for a determination of nonsignificance or EIS, if the requirements of Sections 25.05.600 and 25.05.630 are met.

C. An agency may adopt a NEPA EIS as a substitute for preparing a SEPA EIS if:

1. The requirements of Sections 25.05.600 and 25.05.630 are met (in which case the procedures in Subchapters III through V of these rules for preparing an EIS shall not apply); and

2. The federal EIS is not found inadequate: (a) By a court; (b) by the Council on Environmental Quality (CEQ) (or is at issue in a predecision referral to CEQ) under the NEPA regulations; or (c) by the administrator of the United States Environmental Protection Agency under Section 309 of the Clean Air Act, 42 U.S.C. 1857.

D. Subsequent use by another agency of a federal EIS, adopted under subsection C of this section, for the same (or substantially the same) proposal does not require adoption, unless the criteria in Section 25.05.600 D are met.

E. If the lead agency has not held a public hearing within its jurisdiction to obtain comments on the adequacy of adopting a federal environmental document as a substitute for preparing a SEPA EIS, a public hearing for such comments shall be held if, within thirty (30) days of circulating its statement of adoption, a written request is received from at least fifty (50) persons who reside within the agency's jurisdiction or are adversely affected by the environmental impact of the proposal. The agency shall reconsider its adoption of the federal document in light of public hearing comments.

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.620Supplemental environmental impact statement—Procedures.

A. An SEIS shall be prepared in the same way as a draft and final EIS (Sections 25.05.400 to 25.05.600), except that scoping is optional. The SEIS should not include analysis of actions, alternatives, or impacts that is in the previously prepared EIS.

B. The fact sheet and cover letter or memo for the SEIS shall indicate the EIS that is being supplemented.

C. Unless the SEPA lead agency wants to prepare the SEIS, an agency with jurisdiction which needs the SEIS for its action shall be responsible for SEIS preparation.

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.625Addenda—Procedures.

A. An addendum shall clearly identify the proposal for which it is written and the environmental document it adds to or modifies.

B. An agency is not required to prepare a draft addendum.

C. An addendum for a (EIS shall be circulated to recipients of the initial DEIS under Section 25.05.455.

D. If an addendum to a final EIS is prepared prior to any agency decision on a proposal, the addendum shall be circulated to the recipients of the final EIS.

E. Agencies shall circulate notice of addendum availability to interested persons. Unless otherwise provided in these rules, however, agencies are not required to circulate an addendum.

F. Any person, affected tribe, or agency may submit comments to the lead agency within fifteen (15) days of the date of issuance of an addendum.

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

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25.05.630Adoption—Procedures.

A. The agency adopting an existing environmental document must independently review the content of the document and determine that it meets the adopting agency's environmental review standards and needs for the proposal. However, a document is not required to meet the adopting agency's own procedures for the preparation of environmental documents (such as circulation, commenting, and hearing requirements) to be adopted.

B. An agency shall adopt an environmental document by identifying the document and stating why it is being adopted, using the adoption form substantially as in Section 25.05.965. The adopting agency shall ensure that the adopted document is readily available to agencies and the public by:

1. Sending a copy to agencies with jurisdiction that have not received the document, as shown by the distribution list for the adopted document; and

2. Placing copies in libraries and other public offices, or by distributing copies to those who request one; and

3. Placing a copy in the SEPA Public Information Center.

C. When an existing EIS is adopted and:

1. A supplemental environmental impact statement or addendum is not being prepared, the agency shall circulate its statement of adoption as follows:

a. The agency shall send copies of the adoption notice to the Department of Ecology, to agencies with jurisdiction, to cities/counties in which the proposal will be implemented, to the SEPA Public Information Center, and to local agencies or political subdivisions whose public services would be changed as a result of implementation of the proposal.

b. The agency is required to send the adoption notice to persons or organizations that have expressed an interest in the proposal or are known by the agency to have an interest in the type of proposal being considered, or the lead agency should announce the adoption in agency newsletters or through other means.

c. No action shall be taken on the proposal until seven (7) days after the statement of adoption has been issued. The date of issuance shall be the date the statement of adoption has been sent to the Department of Ecology, the SEPA Public Information Center, and other agencies and is publicly available.

2. A SEIS is being prepared, the agency shall include the statement of adoption in the SEIS; or

3. An addendum is being prepared, the agency shall include the statement of adoption with the addendum and circulate both as in subsection C1 of this section.

D. A copy of the adopted document must accompany the current proposal to the decisionmaker; the statement of adoption may be included.

E. When a previous document (DNS or EIS) is adopted pursuant to this section and applied to a new project for which a decision has not been issued, the document can be appealed as an element of SEPA compliance for the new project (see Section 25.05.680 for appeal procedures and Section 25.05.510 for notice requirements).

F. Departments shall not adopt a portion of a document if the adequacy of that portion has been appealed to the City Hearing Examiner and is either pending the Hearing Examiner's decision or has been found by the Hearing Examiner to be inadequate. This does not preclude adoption of portions of the document which have not been challenged.

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.635Incorporation by reference—Procedures.

A. Agencies should use existing studies and incorporate material by reference whenever appropriate.

B. Material incorporated by reference (1) shall be cited, its location identified, and its relevant content briefly described; and (2) shall be made available for public review during applicable comment periods.

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.640Combining documents.

The SEPA process shall be combined with the existing planning, review, and project approval processes being used by each agency with jurisdiction. When environmental documents are required, they shall accompany a proposal through the existing agency review processes.

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Any environmental document in compliance with SEPA may be combined with any other agency documents to reduce duplication and paperwork and improve decisionmaking. The page limits in these rules shall be met, or the combined document shall contain, at or near the beginning of the document, a separate summary of environmental considerations, as specified by Section 25.05.440 C. SEPA page limits need not be met for joint state-federal EIS's prepared under both SEPA and NEPA, in which case the NEPA page restrictions (40 CFR 1502.7) shall apply.
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

Subchapter VII SEPA and Agency Decisions

25.05.650Purpose of this subchapter.

The purpose of this subchapter is to:

A. Ensure the use of concise, high quality environmental documents and information in making decisions;

B. Integrate the SEPA process with other laws and decisions;

C. Encourage actions that preserve and enhance environmental quality, consistent with other essential considerations of state policy;

D. Provide basic, uniform principles for the exercise of substantive authority and appeals under SEPA.
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.655Implementation.

A. See RCW 43.21C.020, 43.21C.030(1), 43.21C.060, 43.21C.075, and 43.21C.080.

B. Relevant environmental documents, comments, and responses shall accompany proposals through existing agency review processes, as determined by agency practice and procedure, so that agency officials use them in making decisions.

C. When a decisionmaker considers a final decision on a proposal:

1. The alternatives in the relevant environmental documents shall be considered.

2. The range of alternative courses of action considered by decisionmakers shall be within the range of alternatives discussed in the relevant environmental documents. However, mitigation measures adopted need not be identical to those discussed in the environmental document.

3. If information about alternatives is contained in another decision document which accompanies the relevant environmental documents to the decisionmaker, agencies are encouraged to make that information available to the public before the decision is made.
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.660Substantive authority and mitigation.

A. Any governmental action on public or private proposals that are not exempt may be conditioned or denied under SEPA to mitigate the environmental impact subject to the following limitations:

1. Mitigation measures or denials shall be based on policies, plans, rules, or regulations formally designated in Sections 25.05.665, 25.05.670 and 25.05.675 as a basis for the exercise of substantive authority and in effect when the DNS or DEIS is issued. (Compare Section 25.05.350 C).

2. Mitigation measures shall be related to specific, adverse environmental impacts clearly identified in an environmental document on the proposal and shall be stated in writing by the decisionmaker. The decisionmaker shall cite the City's SEPA policy that is the basis of any condition or denial under this chapter (for proposals of applicants). After its decision, each agency shall make available to the public a document that states the decision. The document shall state the mitigation measures, if any, that will be implemented as part of the decision, including any monitoring of environmental impacts. Such a document may be the license itself, or may be combined with other agency documents, or may reference relevant portions of environmental documents.

3. Mitigation measures shall be reasonable and capable of being accomplished.

4. Responsibility for implementing mitigation measures may be imposed upon an applicant only to the extent attributable to the identified adverse impacts of its proposal. Voluntary additional mitigation may occur.

5. Before requiring mitigation measures, agencies shall consider whether local, state, or federal requirements and enforcement would mitigate an identified significant impact.

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6. To deny a proposal under SEPA, an agency must find that:

a. The proposal would be likely to result in significant adverse environmental impacts identified in a final or supplemental environmental impact statement prepared under this chapter; and

b. Reasonable mitigation measures are insufficient to mitigate the identified impact.

B. Decisionmakers should judge whether possible mitigation measures are likely to protect or enhance environmental quality. EISs should briefly indicate the intended environmental benefits of mitigation measures for significant impacts (Section 25.05.440 E). EISs are not required to analyze in detail the environmental impacts of mitigation measures, unless the mitigation measures:

1. Represent substantial changes in the proposal so that the proposal is likely to have significant adverse environmental impacts, or involve significant new information indicating, or on, a proposal's probable significant adverse environmental impacts; and

2. Will not be analyzed in a subsequent environmental document prior to their implementation.

C. The City Clerk shall prepare a document that contains the City's SEPA policies (Sections 25.05.665, 25.05.670 and 25.05.675) so that applicants and members of the public know what these policies are. This document (and any documents referenced in it) shall be readily available to the public and shall be available to applicants prior to preparing a draft EIS.

D. Required mitigation measures or denials under this section shall be an additional ground for or issue in appeals of decisions otherwise provided by City ordinance; provided that for proposals involving more than one (1) action, such issue may be raised only with regard to the first decision which weighed the environmental impacts of the proposal or, the first decision of each phase if phased review is employed.

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.665SEPA policies—Overview.

A. Purpose of the SEPA Policies.

1. It is the City's policy to protect the environment and provide for reasonable property development while enhancing the predictability of land use regulation. In order to provide predictability, it is the City's intent to incorporate environmental concerns into its codes and development regulations to the maximum extent possible. However, comprehensive land use controls and other regulations cannot always anticipate or effectively mitigate all adverse environmental impacts.

2. The policies set forth in this part of the SEPA Rules shall serve as the basis for exercising substantive SEPA authority pursuant to SMC Section 25.05.660. Based on these policies, a decisionmaker may condition a proposal to reduce or eliminate its environmental impacts. The decisionmaker may deny a proposed project if an environmental impact statement has been prepared and if reasonable mitigating measures are insufficient to mitigate significant, adverse impacts identified in the environmental impact statement. Conditioning or denial of project proposals will occur pursuant to RCW 43.21C.060, WAC 197-11-660 and SMC Section 25.05.660.

B. Relationship to Other City Policies. Nothing in these SEPA policies shall diminish the independent effect and authority of other environmentally related policies adopted by the City. Such City policies shall be considered together with these SEPA policies to guide discretionary land use decisions such as conditional uses and legislative actions such as rezones, adoption of area plans and siting of City facilities. Such adopted City policies may serve as the basis for exercising substantive SEPA authority with respect to a project only to the extent that they are explicitly referenced herein.

C. Relationship to Neighborhood and Business District Plans. Neighborhood and business district plans which have been adopted by the City Council may serve as the basis for exercising substantive SEPA authority, subject to the following:

1. New Plans. A plan approved subsequent to the passage of this chapter[1] may serve as the basis of exercising substantive SEPA authority only to the extent that the provisions of the plan explicitly identify any of its elements intended to have application for SEPA purposes.

2. Existing Plans. A plan existing prior to the date of passage of this chapter[2] may be used as

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a basis for the exercise of substantive SEPA authority only to the extent that:

a. The plan identifies unusual circumstances such as substantially different site size or shape, topography, or inadequate infrastructure which would result in adverse environmental impacts which substantially exceed those anticipated by the code or zoning, or

b. The plan establishes a different balance of environmental and other goals than is characteristic of the land use code as a whole;

Provided that the authority and conditions based upon an existing plan do not exceed the limitations contained in the cumulative effects policy and the specific environmental policies contained in Sections 25.05.670 and 25.05.675 of this chapter, respectively; and

3. All Plans. SEPA conditions based upon a neighborhood or business district plan shall be consistent with any rezone action taken by the City Council subsequent to the adoption of the plan.

D. Relationship to City Codes. Many environmental concerns have been incorporated in the City's codes and development regulations. Where City regulations have been adopted to address an environmental impact, it shall be presumed that such regulations are adequate to achieve sufficient mitigation subject to the limitations set forth in subparagraphs D1 through D7 below. Unless otherwise specified in the Policies for Specific Elements of the Environment (SMC Section 25.05.675), denial or mitigation of a project based on adverse environmental impacts shall be permitted only under the following circumstances:

1. No City code or regulation has been adopted for the purpose of mitigating the environmental impact in question; or

2. The applicable City code or regulation has been judicially invalidated; or

3. The project site presents unusual circumstances such as substantially different site size or shape, topography, or inadequate infrastructure which would result in adverse environmental impacts which substantially exceed those anticipated by the applicable City code or zoning; or

4. The development proposal presents unusual features, such as unforeseen design, new technology, or a use not identified in the applicable City code, which would result in adverse environmental impacts which substantially exceed those anticipated by the applicable City code or zoning; or

5. The project is located near the edge of a zone, and results in substantial problems of transition in scale or use which were not specifically addressed by the applicable City code or zoning; or

6. The project is vested to a regulation which no longer reflects the City's policy with respect to the relevant environmental impact because of the adoption of more recent policies, provided that the new policies are in effect prior to the issuance of a DNS or DEIS for the project; or

7. The project creates undue impacts based on cumulative effects as provided for in SMC Section 25.05.670.

E. Relationship to Federal, State and Regional Regulations. Many of the environmental impacts addressed by these SEPA policies are also the subject of federal, state and regional regulations. In deciding whether these regulations provide sufficient impact mitigation, the City shall consult orally or in writing with the responsible federal, state or other agency with jurisdiction and environmental expertise and may expressly defer to that agency. The City shall base or condition its project decision on compliance with these other existing rules or laws. The City shall not so defer if such regulations did not anticipate or are otherwise inadequate to address a particular impact of a project.

(Ord. 118012 § 62, 1996; Ord. 114057 § 1(part), 1988.)

1.Editor's Note: Ordinance 114057 was passed by the City Council on July 11, 1988.

2.Editor's Note: The following neighborhood plans as constituted prior to the date of passage of this chapter shall be considered existing plans: Adams, Atlantic, Fremont, Leschi, Mount Baker, Harrison, Highland Park, Lawton Park, Madrona, Mann/Minor, North Beacon, North Delridge, North Greenwood, South Delridge, South Park, Stevens, Riverview, West Woodlawn, Eastlake, Capitol Hill, Queen Anne.

25.05.670Cumulative effects policy.

A. Policy Background.

1. A project or action which by itself does not create undue impacts on the environment may create undue impacts when combined with the cumulative effects of prior or simultaneous developments; further, it may directly induce

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other developments, due to a causal relationship, which will adversely affect the environment.

2. An individual project may have an adverse impact on the environment or public facilities and services which, though acceptable in isolation, could not be sustained given the probable development of subsequent projects with similar impacts.

B. Policies.

1. The analysis of cumulative effects shall include a reasonable assessment of:

a. The present and planned capacity of such public facilities as sewers, storm drains, solid waste disposal, parks, schools, streets, utilities, and parking areas to serve the area affected by the proposal;

b. The present and planned public services such as transit, health, police and fire protection and social services to serve the area affected by the proposal;

c. The capacity of natural systems — such as air, water, light, and land — to absorb the direct and reasonably anticipated indirect impacts of the proposal; and

d. The demand upon facilities, services and natural systems of present, simultaneous and known future development in the area of the project or action.

2. Subject to the policies for specific elements of the environment (SMC 25.05.675), an action or project may be conditioned or denied to lessen or eliminate its cumulative effects on the environment:

a. When considered together with prior, simultaneous or induced future development; or

b. When, taking into account known future development under established zoning, it is determined that a project will use more than its share of present and planned facilities, services and natural systems.

C. Unless otherwise specified in the Policies for Specific Elements of the Environment (SMC 25.05.675), if the scope of substantive SEPA authority is limited with respect to a particular element of the environment, the authority to mitigate that impact in the context of cumulative effects is similarly limited.

(Ord. 114057 § 1(part), 1988.)

25.05.675Specific environmental policies.

A. Air Quality.

1. Policy Background.

a. Air pollution can be damaging to human health, plants and animals, visibility, aesthetics, and the overall quality of life.

b. Seattle's air quality is adversely affected primarily by vehicular emissions which create “hot spots” and nonattainment areas (such as downtown Seattle, Northgate, and the University District) that are identifiable through quarterly monitoring.

c. Seattle's air quality is also affected by particulates from industries, power plants, and wood stoves, the burning of toxics or wastes, and other emissions, including odor impacts.

d. Federal auto emission controls, the state inspection/maintenance program, and public transportation improvements are the primary means of mitigating air quality impacts from motor vehicles.

e. The Puget Sound Air Pollution Control Agency is responsible for monitoring air quality in the Seattle area, setting standards and regulating development to achieve regional air quality goals.

f. Federal, state and regional regulations and programs cannot always anticipate or adequately mitigate adverse air quality impacts.

2. Policies.

a. It is the City's policy to minimize or prevent adverse air quality impacts.

b. For any project proposal which has a substantial adverse effect on air quality, the decisionmaker shall, in consultation with appropriate agencies with expertise, assess the probable effect of the impact and the need for mitigating measures. “Nonattainment areas” identified by the Puget Sound Air Pollution Control Agency shall be given special consideration.

c. Subject to the Overview Policy set forth in SMC 25.05.665, if the decisionmaker makes a written finding that the applicable federal, state and/or regional regulations did not anticipate or are inadequate to address the particular impact(s) of the project, the decisionmaker may condition or deny the proposal to mitigate its adverse impacts.

d. Mitigating measures may include but are not limited to:

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i. The use of alternative technologies, including toxic air control technologies;

ii. Controlling dust sources with paving, landscaping, or other means;

iii. Berming, buffering and screening;

iv. Landscaping and/or retention of existing vegetation; and

v. A reduction in size or scope of the project or operation.

B. Construction Impacts.

1. Policy Background.

a. For many projects, the construction process itself creates temporary adverse impacts on the site and the surrounding area.

b. Seattle's Street Use Ordinance,[1] Building Code[2] and Environmentally Critical Areas Ordinance[2A] are intended to address many of the impacts caused by the construction process. The codes may not, however, adequately address all construction impacts such as those relating to pedestrian flow and safety due to sidewalk and street closures, excessive mud and dust, noise, drainage, increased truck traffic, erosion, water quality degradation, and habitat disruption.

2. Policies.

a. It is the City's policy to minimize or prevent temporary adverse impacts associated with construction activities.

b. The decisionmaker may require, as part of the environmental review of a project, an assessment of noise, drainage, erosion, water quality degradation, habitat disruption, pedestrian circulation and transportation, and mud and dust impacts likely to result from the construction phase.

c. Based on such assessments, the decisionmaker may, subject to the Overview Policy set forth in SMC Section 25.05.665, condition or deny a project to mitigate adverse impacts of the construction process.

d. Noise. Mitigating measures to address adverse noise impacts during construction include, but are not limited to:

i. Limiting the hours of construction;

ii. Specifying the time and duration of loud noise;

iii. Specifying a preferred type of construction equipment; and

iv. Requiring sound buffering and barriers.

e. Drainage. Mitigating measures to address adverse drainage impacts during construction may include, but are not limited to:

i. Sedimentation traps and filters;

ii. Sedimentation tanks or ponds;

iii. Oil separators;

iv. Retention facilities;

v. Maintenance programs;

vi. Performance bonds; and

vii. Nondisturbance areas.

f. Pedestrian Circulation. Mitigating measures to address adverse impacts relating to pedestrian circulation during construction may include, but are not limited to:

i. Covered sidewalks or alternate safe, convenient and adequate pedestrian routes; and

ii. Limits on the duration of disruptions to pedestrian flow.

g. Transportation. Mitigating measures to address transportation impacts during construction may include, but are not limited to:

i. A construction phase transportation plan which addresses ingress and egress of construction equipment and construction worker vehicles at the project site;

ii. Traffic control and street maintenance in the vicinity of the construction site;

iii. Rerouting of public vehicular and pedestrian circulation in the vicinity of the construction site;

iv. Providing a temporary High Occupancy Vehicle (HOV) incentive program for construction workers at the site to reduce the number of their vehicles taking parking places in the vicinity of the construction site; and

v. HOV discounts for members of the public who were displaced from a traditional parking area by the construction activity.

C. Drainage.

1. Policy Background.

a. Property development and redevelopment often create increased volumes and rates of stormwater runoff, which may cause property damage, safety hazards, nuisance problems and water quality degradation.

b. Pollution, mechanical damage, excessive flows, and other conditions in drainage basins will increase the rate of down-cutting and/or the degree of turbidity, siltation, habitat destruction, and other forms of pollution in wetlands, riparian corridors and lakes. They may

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also reduce low flows or low water levels to a level which endangers aquatic or benthic life within these wetlands, riparian corridors and lakes.

c. The aesthetic quality and educational value of the water and watercourses, as well as the suitability of waters for contact recreation and wildlife habitat, may be destroyed.

d. Authority provided through the Grading and Drainage Control Ordinance[3] and the Environmentally Critical Areas Ordinance is intended to achieve mitigation of drainage impacts in most cases, although these ordinances may not anticipate or eliminate all impacts.

2. Policies.

a. It is the City's policy to protect wetlands, riparian corridors, lakes, drainage basins, wildlife habitat, slopes, and other property from adverse drainage impacts.

b. The decisionmaker may condition or deny projects to mitigate their adverse drainage impacts consistent with the Overview Policy set forth in SMC Section 25.05.665; provided, that in addition to projects which meet one (1) or more of the threshold criteria set forth in the Overview Policy, the following may be conditioned or denied:

i. Projects located in environmentally sensitive areas and areas tributary to them;

ii. Projects located in areas where downstream drainage facilities are known to be inadequate; and

iii. Projects draining into streams identified by the State Department of Fisheries or Wildlife as bearing anadromous fish.

c. To mitigate adverse drainage impacts associated with the projects identified in the policy set forth in subsection C2 above, projects may be required to provide drainage control measures designed to a higher standard than the design storm specified in the Grading and Drainage Control Ordinance[3] and the Environmentally Critical Areas Ordinance.[2A] Mitigating measures may include, but are not limited to:

i. Reducing the size or scope of the project;

ii. Requiring landscaping and/or retention of existing vegetation;

iii. Requiring additional drainage control or drainage improvements either on or off site; and

iv. Soil stabilization measures.

D. Earth.

1. Policy Background.

a. Property development and redevelopment sometimes contribute to landslides, accelerated soil creep, settlement and subsidence, and abnormal erosion. They may also be subject to seismic hazards such as strong ground motion and liquefaction.

b. The Grading and Drainage Control Ordinance[3] was specifically developed to prevent or minimize impacts resulting from earth fills and excavations and the Environmentally Critical Areas Ordinance[2A] was developed to minimize impacts resulting from activity in environmentally critical areas; however, these ordinances may not anticipate or adequately mitigate such impacts in all cases.

c. Drainage impacts, which are closely related to earth movement hazards, are addressed separately in subsection C of these policies.

2. Policies.

a. It is the City's policy to protect life and property from loss or damage by landslides, strong ground motion and soil liquefaction, accelerated soil creep, settlement and subsidence, abnormal erosion, and other hazards related to earth movement and instability.

b. The decisionmaker may condition or deny projects to mitigate impacts related to earth movement or earth instability consistent with the Overview Policy set forth in SMC Section 25.05.665; provided, that in addition to projects which meet one (1) or more of the threshold criteria set forth in the Overview Policy, projects located in environmentally sensitive areas and areas tributary to them may be conditioned or denied.

c. Mitigating measures may include, but are not limited to:

i. Reducing the size or scope of the operation or project;

ii. Limiting the duration of the project or the hours of operation;

iii. Requiring landscaping, the retention of existing vegetation or revegetation of the site;

iv. Requiring additional drainage-control measures or drainage facilities;

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v. Requiring water quality and erosion controls on or off site to control earth movement; and

vi. Requiring additional stabilization measures.

E. Energy.

1. Policy Background.

a. The City's Energy Code[4] is intended to regulate the design of buildings for adequate thermal resistance and low air leakage. It requires the design and selection of mechanical, electrical, water, heating and illumination systems which will enable the efficient use of energy. Application of the Energy Code results in projects which achieve substantial energy savings.

b. Industrial processes and manufacturing activities may have significant adverse energy impacts that are not addressed by the Seattle Energy Code.[4]

c. Energy conservation measures may conflict, in some cases, with the goal of preserving structures of historical significance.

2. Policies.

a. It is the City's policy to promote energy conservation and the most efficient possible use and production of energy.

b. All major projects shall be required to analyze and disclose their energy impacts by fuel type and end-use.

c. For projects with significant adverse energy impacts which involve activities not covered by the Energy Code,[4] such as heavy industrial activities, or which meet one (1) or more of the conditions set forth in the Overview Policy SMC 25.05.665 D, the decisionmaker may require that the environmental review include a reasonable assessment of alternatives and mitigating measures.

d. Subject to the Overview Policy set forth in SMC 25.05.665, the decisionmaker may condition or deny projects with significant adverse impacts relating to the use of the electrical energy in order to mitigate their adverse impacts to the City's electric utility system. Mitigating measures may include, but are not limited to conservation measures such as the use of alternative technologies.

e. In applying these policies to the rehabilitation of structures with historical significance, the decisionmaker shall be flexible in the application of energy conservation measures which may be in conflict with historical preservation goals and shall attempt to achieve a balance in meeting these competing objectives.

F. Environmental Health.

1. Policy Background.

a. The use, discharge, disposal, emission or application of toxic or hazardous materials may pose hazards to human health and to plants, animals and ecological systems. Hazardous materials include such things as pesticides, herbicides, and electromagnetic transmissions.

b. Federal, state and regional regulations are the primary means of mitigating risks associated with hazardous and toxic materials.

c. Federal, state and regional regulations cannot always anticipate or eliminate adverse impacts from hazardous materials and transmissions. Public knowledge regarding such hazardous materials and transmissions may develop more quickly than regulations can react and be implemented.

2. Policies.

a. It is the City's policy to minimize or prevent adverse impacts resulting from toxic or hazardous materials and transmissions.

b. For all proposed projects involving the use, treatment, transport, storage, disposal, emission, or application of toxic or hazardous chemicals, materials, wastes or transmissions, the decisionmaker shall, in consultation with appropriate agencies with expertise, assess the extent of potential adverse impacts and the need for mitigation.

c. Subject to the Overview Policy set forth in SMC 25.05.665, if the decisionmaker makes a written finding that applicable federal, state and regional laws and regulations did not anticipate or do not adequately address the adverse impacts of a proposed project, the project may be conditioned or denied to mitigate its adverse impacts. Mitigating measures may include, but are not limited to:

i. Use of an alternative technology;

ii. Reduction in the size or scope of a project or operation;

iii. Limits on the time and/or duration of operation; and

iv. Alternative routes of transportation.

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G. Height, Bulk and Scale.

1. Policy Background.

a. The City's adopted land use policies[5] are intended to provide for smooth transition between industrial, commercial, and residential areas, to preserve the character of individual city neighborhoods and to reinforce natural topography. The land use policies are set forth in SMC Chapter 23.12.

b. The Land Use Code (Title 23) which implements these policies controls height, bulk and scale but cannot anticipate or address all substantial adverse impacts resulting from incongruous height, bulk and scale. For example, unanticipated adverse impacts may occur when a project is located on a site with unusual topographic features or on a site which is substantially larger than the prevalent platting pattern in an area.

c. Whenever new land use policies are adopted, adverse impacts may result when height, bulk and scale permitted by previously adopted zoning conflicts with the new land use policies.

2. Policies.

a. It is the City's policy that the height, bulk and scale of development projects should be reasonably compatible with the general character of development anticipated by the adopted land use policies set forth in SMC Chapter 23.12 for the area in which they are located, and to provide for a reasonable transition between areas of less intensive zoning and more intensive zoning.

b. Subject to the Overview Policy set forth in SMC Section 25.05.665, the decision-maker may condition or deny a project to mitigate the adverse impacts of substantially incompatible height, bulk and scale. Mitigating measures may include but are not limited to:

i. Limiting the height of the development;

ii. Modifying the bulk of the development;

iii. Modifying the development's facade including but not limited to color and finish material;

iv. Reducing the number or size of accessory structures or relocating accessory structures including but not limited to towers, railings, and antennae;

v. Repositioning the development on the site; and

vi. Modifying or requiring setbacks, screening, landscaping or other techniques to offset the appearance of incompatible height, bulk and scale.

c. The Citywide Design Guidelines (and any Council-approved, neighborhood design guidelines) are intended to mitigate the same adverse height, bulk and scale impacts addressed in these policies. A project that is approved pursuant to the design review process shall be presumed to comply with these height, bulk and scale policies. This presumption may be rebutted only by clear and convincing evidence that height, bulk and scale impacts documented through environmental review have not been adequately mitigated. Any additional mitigation imposed by the decisionmaker pursuant to these height, bulk and scale policies on projects that have undergone design review shall comply with design guidelines applicable to the project.

H. Historic Preservation.

1. Policy Background.

a. Historic buildings, special historic districts, and sites of archaeological significance are found within Seattle. The preservation of these buildings, districts and sites is important to the retention of a living sense and appreciation of the past.

b. Historic sites, structures, districts and archaeological sites may be directly or indirectly threatened by development or redevelopment projects.

c. Historic buildings are protected by the Landmarks Preservation Ordinance,[6] as administered by the Landmarks Preservation Board. However, not all sites and structures meeting the criteria for historic landmark status have been designated yet.

d. Special districts have been established to protect certain areas which are unique in their historical and cultural significance, including for example Pike Place Market, Pioneer Square and the International District. These areas are subject to development controls and project review by special district review boards.

e. Archaeologically significant sites present a unique problem because protection of their integrity may, in some cases, eliminate any economic opportunity on the site.

2. Policies.

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a. It is the City's policy to maintain and preserve significant historic sites and structures and to provide the opportunity for analysis of archaeological sites.

b. For projects involving structures or sites which have been designated as historic landmarks, compliance with the Landmarks Preservation Ordinance[6] shall constitute compliance with the policy set forth in subsection H2a above.

c. For projects involving structures or sites which are not yet designated as historical landmarks but which appear to meet the criteria for designation, the decisionmaker or any interested person may refer the site or structure to the Landmarks Preservation Board for consideration. If the Board approves the site or structure for nomination as an historic landmark, consideration of the site or structure for designation as an historic landmark and application of controls and incentives shall proceed as provided by the Landmarks Preservation Ordinance.[6] If the project is rejected for nomination, the project shall not be conditioned or denied for historical preservation purposes, except pursuant to paragraphs d or e of this subsection.

d. When a project is proposed adjacent to or across the street from a designated site or structure, the decisionmaker shall refer the proposal to the City's Historic Preservation Officer for an assessment of any adverse impacts on the designated landmark and for comments on possible mitigating measures. Mitigation may be required to insure the compatibility of the proposed project with the color, material and architectural character of the designated landmark and to reduce impacts on the character of the landmark's site. Subject to the Overview Policy set forth in SMC Section 25.05.665, mitigating measures may be required and are limited to the following:

i. Sympathetic facade treatment;

ii. Sympathetic street treatment;

iii. Sympathetic design treatment; and

iv. Reconfiguration of the project and/or relocation of the project on the project site;

provided, that mitigating measures shall not include reductions in a project's gross floor area.

e. On sites with potential archaeological significance, the decisionmaker may require an assessment of the archaeological potential of the site. Subject to the criteria of the Overview Policy set forth in SMC Section 25.05.665, mitigating measures which may be required to mitigate adverse impacts to an archaeological site include, but are not limited to:

i. Relocation of the project on the site;

ii. Providing markers, plaques, or recognition of discovery;

iii. Imposing a delay of as much as ninety (90) days (or more than ninety (90) days for extraordinary circumstances) to allow archaeological artifacts and information to be analyzed; and

iv. Excavation and recovery of artifacts.

I. Housing.

1. Policy Background. Demolition or rehabilitation of low-rent housing units or conversion of housing for other uses can cause both displacement of low-income persons and reduction in the supply of housing.

2. Policies.

a. It is the City's policy to encourage preservation of housing opportunities, especially for low income persons, and to ensure that persons displaced by redevelopment are relocated.

b. Proponents of projects shall disclose the on-site and off-site impacts of the proposed projects upon housing, with particular attention to low-income housing.

c. Compliance with legally valid City ordinance provisions relating to housing relocation, demolition and conversion shall constitute compliance with this housing policy.

d. Housing preservation shall be an important consideration in the development of the City's public projects and programs. The City shall give high priority to limiting demolition of low-income housing in the development of its own facilities.

J. Land Use.

1. Policy Background.

a. The City has adopted land use policies[5] and code which are designed, in part, to minimize or prevent impacts resulting from incompatible land uses. The land use policies are set forth in SMC Chapter 23.12.

b. The adopted Land Use Code (Title 23) cannot identify or anticipate all possible uses and all potential land use impacts.

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c. When land use policy changes are adopted, adverse land use impacts may result when a proposed project includes uses which may be consistent with the applicable zoning requirements but are in conflict with the new land use policies.

d. Adverse cumulative land use impacts may result when a particular use or uses permitted under the Zoning Code occur in an area to such an extent that they foreclose opportunities for higher-priority, preferred uses called for in the City's land use policies.

e. Density-related impacts of development are addressed under the policies set forth in subsections G (height, bulk and scale), M (parking), R (traffic) and O (public services and facilities) of this section and are not addressed under this policy.

2. Policies.

a. It is the City's policy to ensure that proposed uses in development projects are reasonably compatible with surrounding uses and are consistent with any applicable, adopted City land use policies for the area in which the project is located.

b. Subject to the overview policy set forth in SMC Section 25.05.665, the decisionmaker may condition or deny any project to mitigate adverse land use impacts associated with a proposed project and achieve consistency with the applicable City land use policies set forth in SMC Chapter 23.12 and with the environmentally critical areas policies.

K. Light and Glare.

1. Policy Background.

a. Development projects sometimes include lighting and/or reflective surface materials which can adversely affect motorists, pedestrians, and the surrounding area. Such adverse impacts may be mitigated by alternative lighting techniques and surface materials.

b. The City's Land Use Code specifically addresses the issue of light and glare control associated with commercial and industrial projects.

2. Policies.

a. It is the City's policy to minimize or prevent hazards and other adverse impacts created by light and glare.

b. If a proposed project may create adverse impacts due to light and glare, the decisionmaker shall assess the impacts and the need for mitigation.

c. Subject to the Overview Policy set forth in SMC Section 25.05.665, the decisionmaker may condition or deny a proposed project to mitigate its adverse impacts due to light and glare.

d. Mitigating measures may include, but are not limited to:

i. Limiting the reflective qualities of surface materials that can be used in the development;

ii. Limiting the area and intensity of illumination;

iii. Limiting the location or angle of illumination;

iv. Limiting the hours of illumination; and

v. Providing landscaping.

L. Noise.

1. Policy Background.

a. Noise may be injurious to the public health, safety and welfare. It may have adverse impacts on commerce; the use, value and enjoyment of property; sleep and repose; and the physiological and psychological well-being of those who live and work in Seattle.

b. The Noise Control Ordinance[7] effectively addresses most noise impacts. However, some noise impacts are not addressed by the Noise Control Ordinance, such as the continual or repetitive noise of a project's operation.

c. The Land Use Code addresses noise generators and noise impacts associated with commercial and industrial uses. However, all noise impacts may not be anticipated and mitigated by the Land Use Code.

2. Policies.

a. It is the City's policy to minimize or prevent adverse noise impacts resulting from new development or uses.

b. The decisionmaker may require, as part of the environmental review of a project, an assessment of noise impacts likely to result from the project.

c. Based in part on such assessments, and in consultation with appropriate agencies with expertise, the decisionmaker shall assess the extent of adverse impacts and the need for mitigation.

d. Subject to the Overview Policy set forth in SMC Section 25.05.665, the decision-

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maker may condition or deny a proposal to mitigate its adverse noise impacts.

e. Mitigating measures may include, but are not limited to:

i. Use of an alternative technology;

ii. Reduction in the size or scope of a project or operation;

iii. Limits on the time and/or duration of operation; and

iv. Requiring buffering, landscaping, or other techniques to reduce noise impacts off-site.

M. Parking.

1. Policy Background.

a. Increased parking demand associated with development projects may adversely affect the availability of parking in an area.

b. Parking policies designed to mitigate most parking impacts and to accommodate most of the cumulative effects of future projects on parking are included in the City's land use policies[5] and implemented through the City's Land Use Code. However, in some neighborhoods, due to inadequate off-street parking, streets are unable to absorb any additional parking spillover. The policies recognize that the cost of providing additional parking may have an adverse effect on the affordability of housing.

2. Policies.

a. It is the City's policy to minimize or prevent adverse parking impacts associated with development projects.

b. Subject to the overview and cumulative effects policies set forth in SMC Sections 25.05.665 and 25.05.670, the decisionmaker may condition a project to mitigate the effects of development in an area on parking; provided, that no SEPA authority is provided to mitigate the impact of development on parking availability in the downtown zones; provided further, that in the SCM zone, no SEPA authority is provided for the decisionmaker to require more parking than the minimum required by the Land Use Code; provided further that with the exception of the Alki area, as described in subsection M2c below, parking impact mitigation for multifamily development may be required only where on-street parking is at capacity as defined by Seattle Transportation or where the development itself would cause on-street parking to reach capacity as so defined.

c. For the Alki area, as identified on Exhibit 2, a higher number of spaces per unit than is required by SMC Section 23.54.015 may be required to mitigate the adverse parking impacts of specific multifamily projects. Projects that generate a greater need for parking and that are located in places where the street cannot absorb that need — for example, because of proximity to the Alki Beach Park — may be required to provide additional parking spaces to meet the building's actual need. In determining that need, the size of the development project, the size of the units and the number of bedrooms in the units shall be considered.

d. Parking impact mitigation for projects outside of downtown zones may include but is not limited to:

i. Transportation management programs;

ii. Parking management and allocation plans;

iii. Incentives for the use of alternatives to single-occupancy vehicles, such as transit pass subsidies, parking fees, and provision of bicycle parking space;

iv. Increased parking ratios; and

v. Reduced development densities to the extent that it can be shown that reduced parking spillover is likely to result; provided, that parking impact mitigation for multifamily development may not include reduction in development density.

N. Plants and Animals.

1. Policy Background.

a. Many species of birds, mammals, fish, and other classes of animals and plants living in the urban environments are of aesthetic, educational, ecological and in some cases economic value.

b. Local wildlife populations are threatened by habitat loss through destruction and fragmentation of living and breeding areas and travelways, and by the reduction of habitat diversity.

c. Substantial protection of wildlife habitats and travel corridors within the City is provided by the Seattle Shoreline Master Program.

2. Policies.

a. It is the City's policy to minimize or prevent the loss of wildlife habitat and other vegetation which have substantial aesthetic, edu-

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cational, ecological, and/or economic value. A high priority shall be given to the preservation and protection of special habitat types. Special habitat types include, but are not limited to, wetlands and associated areas (such as upland nesting areas), and spawning, feeding, or nesting sites. A high priority shall also be given to meeting the needs of state and federal threatened, endangered, and sensitive species of both plants and animals.

b. For projects which are proposed within an identified plant or wildlife habitat or travelway, the decisionmaker shall assess the extent of adverse impacts and the need for mitigation.

c. When the decisionmaker finds that a proposed project would reduce or damage rare, uncommon, unique or exceptional plant or wildlife habitat, wildlife travelways, or habitat diversity for species (plants or animals) of substantial aesthetic, educational, ecological or economic value, the decisionmaker may condition or deny the project to mitigate its adverse impacts. Such conditioning or denial is permitted whether or not the project meets the criteria of the Overview Policy set forth in SMC Section 25.05.665; provided, that for any project subject to the City's Shoreline Master Program, the Overview Policy set forth in SMC Section 25.05.665 shall apply.

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d. Mitigating measures may include but are not limited to:

i. Relocation of the project on the site;

ii. Reducing the size or scale of the project;

iii. Preservation of specific on-site habitats, such as trees or vegetated areas;

iv. Limitations on the uses allowed on the site;

v. Limitations on times of operation during periods significant to the affected species (i.e., spawning season, mating season, etc.); and

vi. Landscaping and/or retention of existing vegetation.

O. Public Services and Facilities.

1. Policy Background. A single development, though otherwise consistent with zoning regulations, may create excessive demands upon existing public services and facilities. "Public services and facilities" in this context includes facilities such as sewers, storm drains, solid waste disposal facilities, parks, schools, and streets and services such as transit, solid waste collection, public health services, and police and fire protection, provided by either a public agency or private entity.

2. Policies.

a. It is the City's policy to minimize or prevent adverse impacts to existing public services and facilities.

b. The decisionmaker may require, as part of the environmental review of a project, a reasonable assessment of the present and planned condition and capacity of public services and facilities to serve the area affected by the proposal.

c. Based upon such analyses, a project which would result in adverse impacts on existing public services and facilities may be conditioned or denied to lessen its demand for services and facilities, or required to improve or add services and/or facilities for the public, whether or not the project meets the criteria of the Overview Policy set forth in SMC 25.05.665.

P. Public View Protection.

1. Policy Background.

a. Seattle has a magnificent natural setting of greenery, mountains, and water; visual amenities and opportunities are an integral part of the City's environmental quality.

b. The City has developed particular sites for the public's enjoyment of views of mountains, water and skyline and has many scenic routes and other public places where such views enhance one's experience.

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c. Obstruction of public views may occur when a proposed structure is located in close proximity to the street property line, when development occurs on lots situated at the foot of a street that terminates or changes direction because of a shift in the street grid pattern, or when development along a street creates a continuous wall separating the street from the view.

d. Authority provided through the Landmarks Preservation Ordinance[6] is intended to preserve sites and structures which reflect significant elements of the City's historic heritage and to designate and regulate such sites and structures as historic landmarks.

e. The adopted Downtown Land Use Policies and Code provide for the preservation of specified view corridors through setback requirements and policies for the use of street space.

f. Adopted Land Use Codes attempt to protect private views through height and bulk controls and other zoning regulations but it is impractical to protect private views through project-specific review.

2. Policies.

a. i. It is the City's policy to protect public views of significant natural and human-made features: Mount Rainer, the Olympic and Cascade Mountains, the downtown skyline, and major bodies of water including Puget Sound, Lake Washington, Lake Union and the Ship Canal, from public places consisting of the specified viewpoints, parks, scenic routes, and view corridors, identified in Attachment 1. (Attachment 1 is located at the end of this Section 25.05.675.)

ii. The decisionmaker may condition or deny a proposal to eliminate or reduce its adverse impacts on designated public views, whether or not the project meets the criteria of the Overview Policy set forth in SMC 25.05.665; provided that downtown projects may be conditioned or denied only when public views from outside of downtown would be blocked as a result of a change in the street grid pattern.

b. i. It is the City's policy to protect public views of historic landmarks designated by the Landmarks Preservation Board which, because of their prominence of location or contrasts of siting, age, or scale, are easily identifiable visual features of their neighborhood or the City and contribute to the distinctive quality or identity of their neighborhood or the City.

ii. A proposed project may be conditioned or denied to mitigate view impacts on historic landmarks, whether or not the project meets the criteria of the Overview Policy set forth in SMC Section 25.05.665.

c. Mitigating measures may include, but are not limited to:

i. Requiring a change in the height of the development;

ii. Requiring a change in the bulk of the development;

iii. Requiring a redesign of the profile of the development;

iv. Requiring on-site view corridors or requiring enhancements to off-site view corridors;

v. Relocating the project on the site;

vi. Requiring a reduction or rearrangement of walls, fences or plant material; and

vii. Requiring a reduction or rearrangement of accessory structures including, but not limited to towers, railings and antennae.

Q. Shadows on Open Spaces.

1. Policy Background.

a. Access to sunlight, especially in Seattle's climate, is an amenity of public open spaces.

b. It is possible to design and locate structures to minimize the extent to which they block light from public open spaces.

c. The Downtown Land Use Code[8] provides some protections against shadow impacts created by development in downtown. However, due to the scale of development permitted in downtown, it is not practical to prevent such blockage at all public open spaces downtown.

d. The City's Land Use Code (Title 23) attempts to protect private property from undue shadow impacts through height, bulk and setback controls, but it is impractical to protect private properties from shadows through project-specific review.

2. Policies. It is the City's policy to minimize or prevent light blockage and the creation of shadows on open spaces most used by the public.

a. Areas outside of downtown to be protected are as follows:

i. Publicly owned parks;

ii. Public schoolyards;

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iii. Private schools which allow public use of schoolyards during non-school hours; and

iv. Publicly owned street ends in shoreline areas.

b. Areas in downtown where shadow impacts may be mitigated are:

i. Freeway Park;

ii. Westlake Park and Plaza;

iii. Market (Steinbrueck) Park;

iv. Convention Center Park; and

v. Kobe Terrace Park and the publicly owned portions of the International District Community Garden.

c. The decisionmaker shall assess the extent of adverse impacts and the need for mitigation. The analysis of sunlight blockage and shadow impacts shall include an assessment of the extent of shadows, including times of the year, hours of the day, anticipated seasonal use of open spaces, availability of other open spaces in the area, and the number of people affected.

d. When the decisionmaker finds that a proposed project would substantially block sunlight from open spaces listed in subsections Q2a and Q2b above at a time when the public most frequently uses that space, the decisionmaker may condition or deny the project to mitigate the adverse impacts of sunlight blockage, whether or not the project meets the criteria of the Overview Policy set forth in SMC Section 25.05.665.

e. Mitigating measures may include, but are not limited to:

i. Limiting the height of the development;

ii. Limiting the bulk of the development;

iii. Redesigning the profile of the development;

iv. Limiting or rearranging walls, fences, or plant material;

v. Limiting or rearranging accessory structures, i.e., towers, railing, antennae; and

vi. Relocating the project on the site.

R. Traffic and Transportation.

1. Policy Background.

a. Excessive traffic can adversely affect the stability, safety and character of Seattle's communities.

b. Substantial traffic volumes associated with major projects may adversely impact surrounding areas.

c. Individual projects may create adverse impacts on transportation facilities which service such projects. Such impacts may result in a need for turn channelization, right-of-way dedication, street widening or other improvements including traffic signalization.

d. Seattle's land use policies call for decreasing reliance on the single occupant automobile and increased use of alternative transportation modes.

e. Regional traffic and transportation impacts arising as a result of downtown development have been addressed in substantial part by the Downtown Land Use and Transportation Plan. Actions underway to mitigate impacts include the implementation of the Downtown Land Use Code[8] and the construction of the downtown transit tunnel, both of which promote and encourage transit use.

f. The University District is an area of the City which is subject to particularly severe traffic congestion problems, as highlighted in the 1983 City-University Agreement, and therefore deserves special attention in the environmental review of project proposals.

2. Policies.

a. It is the City's policy to minimize or prevent adverse traffic impacts which would undermine the stability, safety and/or character of a neighborhood or surrounding areas.

b. In determining the necessary traffic and transportation impact mitigation, the decisionmaker shall examine the expected peak traffic and circulation pattern of the proposed project weighed against such factors as the availability of public transit; existing vehicular and pedestrian traffic conditions; accident history; the trend in local area development; parking characteristics of the immediate area; the use of the street as determined by the Seattle Transportation Department's Seattle Comprehensive Transportation Plan; and the availability of goods, services and recreation within reasonable walking distance.

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c. Mitigation of traffic and transportation impacts shall be permitted whether or not the project meets the criteria of the Overview Policy set forth in SMC Section 25.05.665.

d. Mitigation measures which may be applied to residential projects in downtown are limited to the following:

i. Signage;

ii. Provision of information on transit and ride-sharing programs; and

iii. Bicycle parking.

e. Mitigating measures which may be applied to nonresidential projects in downtown are limited to the following:

i. Provision of transit incentives including transit pass subsidies;

ii. Signage;

iii. Improvements to pedestrian and vehicular traffic operations, signalization, turn channelization, right-of-way dedication, street widening, or other improvements proportionate to the impact of the project; and

iv. Transportation management plans.

f. i. Mitigating measures which may be applied to projects outside of downtown may include, but are not limited to:

(A) Changes in access;

(B) Changes in the location, number and size of curb cuts and driveways;

(C) Provision of transit incentives including transit pass subsidies;

(D) Bicycle parking;

(E) Signage;

(F) Improvements to pedestrian and vehicular traffic operations including signalization, turn channelization, right-of-way dedication, street widening, or other improvements proportionate to the impacts of the project; and

(G) Transportation management plans.

ii. For projects outside downtown which result in adverse impacts, the decisionmaker may reduce the size and/or scale of the project only if the decisionmaker determines that the traffic improvements outlined under subparagraph R2fi above would not be adequate to effectively mitigate the adverse impacts of the project.

S. Water Quality.

1. Policy Background.

a. Seattle's water quality is adversely affected primarily by the dumping of pollutants and drainage-related sewage overflows into Puget Sound, Lake Union, the Lake Washington Ship Canal, the Duwamish Waterway and all lakes, riparian corridors, wetlands, and other systems draining into these bodies of water.

b. Seattle's water quality is also adversely affected by storm drainage runoff; non-point-source discharges from streets, parking lots and other impervious surfaces; construction site runoff; and sewage and graywater discharge from recreational and commercial watercraft.

c. Federal, state, local and regional water quality regulations and programs cannot always anticipate or eliminate adverse impacts to water quality.

2. Policies.

a. It is the City's policy to minimize or prevent adverse water quality impacts.

b. For any project proposal which poses a potential threat to water quality in Seattle, the decisionmaker shall assess the probable effect of the impact and the need for mitigating measures. The assessment shall be completed in consultation with appropriate agencies with expertise.

c. Subject to the Overview Policy set forth in SMC Section 25.05.665, if the decision-maker makes a written finding that the applicable federal, state and regional regulations did not anticipate or are inadequate to address the particular impact(s) of a project, the decisionmaker may condition or deny the project to mitigate its adverse impacts.

d. Mitigating measures may include, but are not limited to:

i. Use of an alternative technology;

ii. Reduction in the size or scope of the project or operation;

iii. Landscaping; and

iv. Limits on the time and duration of the project or operation.

(Ord. 118414 §§ 66, 67, 1996; Ord. 118409 § 218, 1996: Ord. 118294 § 1, 1996; Ord. 117929 §§ 13, 14, 1995; Ord. 116909 § 11, 1993; Ord. 116254 § 1, 1992; Ord. 116243 § 1, 1992; Ord. 116168 § 2, 1992; Ord. 116142 § 1, 1992; Ord. 114057 § 1(part), 1988.)

1.Editor's Note: The Street Use Ordinance is codified in Title 15, Subtitle I of this Code.

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2.Editor's Note: The current Seattle Building Code is adopted in Section 22.100.010, and subsequent amendments thereto are on file in the City Clerk's Office.

2A.The Environmentally Critical Areas Ordinance is set out at Chapter 25.09 of this title.

3.Editor's Note: The Grading and Drainage Control Ordinance is codified in Title 22, Subtitle VIII of this Code.

4.The Energy Code is codified in Title 22, Subtitle VII (Chapter 22.700) of this Code.

5.Several of the City's adopted land use policies are codified in Title 23, Subtitle II of this Code.

6.Editor's Note: The Landmarks Preservation Ordinance is codified in Chapter 25.12 of this Code.

7.Editor's Note: The Noise Control Ordinance is codified in Chapter 25.08 of this Code.

8.Editor's Note: The Downtown Land Use Code is codified in Chapter 23.49 of this Code.

ATTACHMENT 1

Alki Beach Park
Alki Avenue S.W.

Atlantic City Park
S. Henderson and Seward Park S.

Bagley Viewpoint
10th Avenue E. and E. Roanoke

Ballard High School
N.W. 65th Street and 14th Avenue N.W.

Banner Place
N.E. Banner Place off N.E. 75th Street

Bayview Playground
24th Avenue W. and W. Raye Street

Beacon Hill Playground
S. Holgate and 14th Avenue S.

Belvidere Viewpoint
S.W. Admiral Way and S.W. Olga

Bhy Kracke Park
Bigelow North and Comstock Place

Bitter Lake Playground
N. 130th and Linden Avenue N.

Briarcliff Elementary School
W. Dravus and 38th Avenue W.

Broadview Elementary School
12515 Greenwood Avenue N.

Carkeek Park
N.W. 110th off N. Greenwood

Cleveland High School Playfield
S. Lucile and 15th Avenue S.

Colman Park
36th S. and Lakeside S.

Colman Playground
23rd Avenue S. and S. Grant

Commodore Park
W. Commodore Way and W. Gilman

Denny Blaine Park
Lake Washington Boulevard E. and 40th E.

Discovery Park
36th W. and W. Government Way

Emerson Elementary School
9709 60th Avenue S.

Emma Schmitz Overlook
Beach Drive S.W. and S.W. Alaska

Four Columns
Pike and Boren at I-5

Frink Park
Lake Washington Boulevard and S. Jackson

Gasworks Park
N. Northlake Way and Meridian Avenue N.

Genesee Park
45th Avenue S. and S. Genesee

Golden Gardens Park
North end of Seaview Avenue N.W.

Green Lake
Beaches (E. Green Lake Drive N. and W. Green Lake Drive N.)
Playfield (E. Green Lake Drive N. and Latona Avenue N.E.)
Park (N. 73rd Street and Green Lake Drive N.)
Community Center (Latona Avenue N.E. and E. Green Lake Drive N.)

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Hamilton Viewpoint
California Avenue S.W. and S.W. Donald

Harborview Hospital Viewpoint
Eighth and Jefferson

Harbor Vista Park
1660 Harbor Avenue S.W.

Highland Park Playground
S.W. Thistle and 11th S.W.

Hughes Elementary School
S.W. Holden and 32nd Avenue S.W.

Inverness Ravine
Inverness Drive N.E. off N.E. 85th Street

Jose Rizal Park
S. Judkins and 12th Avenue S.

Kerry Park
W. Highland and Second Avenue W.

Kinnear Park
Seventh W. and W. Olympic Place

Kobe Terrace Park and the publicly owned portions of the International District Community Garden
Sixth Avenue and Washington Street

Lakeview Park
Lake Washington Boulevard E. and E. McGilvra

Lawton Playground
W. Emerson and Williams Avenue W.

Leschi Park
Lakeside W. off E. Alder

Lincoln Park
Fauntleroy S.W. and S.W. Webster

Louisa Boren Lookout/Boren-Interlaken Park
15th E. and E. Garfield

Lowman Beach
Beach Drive S.W. and 48th Avenue S.W.

Lynn Street-end Park
Lynn Street at east side of Lake Union

McCurdy Park
E. Hamlin and E. Park Drive

Madison Park Beach
E. Madison and Lake Washington Boulevard E.

Madrona Park Beach
Lake Washington Boulevard and Madrona Drive

Magnolia Elementary School Playground
W. Smith Street and 27th Avenue W.

Maple Leaf Playground
N.E. 82nd and Roosevelt Way N.E.

Marshall Park—Betty Bowen Viewpoint—Parsons Gardens Park
Seventh W. and W. Highland

Martha Washington Park
S. Holly Street and 57th Avenue S.

Mathews Beach
N.E. 93rd and Sand Point Way N.E.

Mayfair Park
Second Avenue N. and Raye Street

Mee-Kwa-Mooks
Beach Drive S.W. and S.W. Oregon

Montlake Park
E. Shelby and E. Park Drive E.

Montlake Playfield
16th Avenue E. and E. Calhoun

Mount Baker Park
S. McClellan and Lake Park Drive S.

Myrtle Edwards Park
Alaskan Way and Bay Street

Myrtle Street Reservoir
S.W. Myrtle and 35th S.W.

Newton Street-end Park

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Newton Street at east side of Lake Union

North and South Passage Point Park
Sixth Avenue N.E. and N.E. Northlake Way
Fuhrman E. and Fairview E.

Othello Park
43rd Avenue S. and S. Othello

Pritchard Beach
55th Avenue S. and S. Grattan

Riverview Playfield
7000 Block of 12th Avenue S.W.

Roanoke Street-end Park
Roanoke Street at east side of Lake Union

Rogers Park
Third Avenue W. and W. Fulton Street

Sand Point Park/Beach
Sand Point Way N.E. and N.E. 65th Street

Schmitz Park
Admiral Way S.W. and S.W. Stevens

Seward Park Beach
Lake Washington Boulevard S. and S. Juneau

Smith Cove Park
Pier 91

Soundview Terrace Park
11th W. and W. Wheeler

Sunset Hill Viewpoint
N.W. 77th and 34th Avenue N.W.

Twelfth Avenue South Viewpoint
12th Avenue S. and S. McClellan Street

U.S. Public Health Service Hospital
1131 14th Avenue S.

Victor Steinbrueck (Market) Park
Virginia Street and Western Avenue

Viretta Park
39th Avenue E. and E. John

Volunteer Park (Tower)
1400 E. Prospect

Wallingford Playfield
N. 43rd Street and Wallingford Avenue N.

Washington Park — Arboretum
E. Madison and Lake Washington Boulevard S.

Waterfront Park
Pier 57 On Alaskan Way

West Crest Park
S.W. Henderson Street and Eighth Avenue S.W.

West Seattle Municipal Golf Course
West Seattle Recreation Area
West Seattle Reservoir
S.W. Trenton Street and Eighth Avenue S.W.

West Seattle Rotary Viewpoint
S.W. Oregon Street and 35th Avenue S.W.

Woodland Park
N. 50th Street and Phinney Avenue N.

Scenic routes (1) described by Seattle Transportation, Traffic Division Map and by Ordinance 97027, and (2) identified as protected view rights-of-way in the Mayor's April 1987 Open Space Policies Recommendation. (See Exhibit 1 immediately following for a map of the designated SEPA Scenic Routes described above.)

25.05.680Appeals.
(See WAC 197-11-680, RCW 43.21C.060, 43.21C.075, and 43.21C.080.)

A. Master Use Permits and Council Land Use Decisions.

1. For proposals requiring a Master Use Permit under SMC Chapter 23.76, Procedures for Master Use Permits and Council Land Use Decisions, for which the Department of Construction and Land Use or a non-City agency is the lead agency, SEPA appeal procedures shall be as provided in Chapter 23.76.

2. For proposals requiring Master Use Permits or Council Land Use Decisions for which a City department other than the Department of Construction and Land Use is lead agency:

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a. The following agency environmental determinations shall be subject to appeal to the Hearing Examiner by any interested person as provided in this subsection:

(1) Determination of Nonsignificance (DNS). On appeal of a DNS, a party may also challenge the preliminary determinations.

(2) Adequacy of the Final EIS as filed in the SEPA Public Information Center.

b. An appeal shall be commenced by filing of a notice of appeal with the Office of the Hearing Examiner no later than five p.m. (5:00 p.m.) the fourteenth day following the filing of the decision in the SEPA Public Information Center or publication of the decision in the City official newspaper, whichever is later; provided that when a fifteen (15) day DNS comment period is required pursuant to this Chapter, appeals may be filed no later than the twenty-first day following such filing or publication. The appeal notice shall set forth in a clear and concise manner the alleged errors in the decision. Filing fees for appeals to the Hearing Examiner are established in Section 3.02.125.

c. The Hearing Examiner shall notify the parties of the receipt of the appeal but shall not set a date for hearing of the appeal until:

(1) For projects requiring a Master Use Permit, the close of the appeal period following notice of the decision on the Master Use Permit, or the receipt of an appeal of the Master Use Permit decision, whichever is earlier;

(2) For projects requiring a Type IV Council Land Use Decision: A recommendation is received from the Director at which time the Hearing Examiner shall schedule the hearing on the appeal to be consolidated with the predecision hearing.

d. In all other respects, the appeals shall be handled in the same manner as appeals related to Master Use Permits, Chapter 23.76.

B. Appeal to Hearing Examiner of Decisions Not Related to Master Use Permits or Council Land Use Decisions.

1. The following agency decisions on proposals not requiring a Master Use Permit shall be subject to appeal to the Hearing Examiner by any interested person as provided in this subsection:

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EXHIBIT 2 — ALKI PARKING AREA OVERLAY

The provisions of this ordinance apply to all multifamily and neighborhood commercial zones within the boundary lines noted.

Boundary Line _____

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a. Determination of Significance and, for a Public Project or Nonproject Action Only, a Determination of Nonsignificance. On appeal of a threshold determination, a party may also challenge the preliminary determinations.

b. Adequacy of the final EIS as Filed in the SEPA Public Information Center. Notice of all decisions described in this subsection shall be filed promptly by the responsible official in the City's SEPA Public Information Center.

2. An appeal shall be commenced by the filing of a notice of appeal with the office of the Hearing Examiner no later than the fifteenth day following the filing of the decision in the SEPA Public Information Center or publication of the decision in the City official newspaper, whichever is later; provided that when a fifteen (15) day DNS comment period is required pursuant to this chapter, appeals may be filed no later than the twenty-first day following such filing or publication. The appeal notice shall set forth in a clear and concise manner the alleged errors in the decision. Upon timely notice of appeal the Hearing Examiner shall set a date for hearing and send notice to the parties. Filing fees for appeals to the Hearing Examiner are established in Section 3.02.125.

3. Appeals shall be considered de novo and limited to the issues cited in the notice of appeal. The determination appealed from shall be accorded substantial weight and the burden of establishing the contrary shall be upon the appealing party. The Hearing Examiner shall have authority to affirm or reverse the administrative decisions below, to remand cases to the appropriate department with directions for further proceedings, and to grant other appropriate relief in the circumstances. Within fifteen (15) days after the hearing, the Hearing Examiner shall file and transmit to the parties written findings of fact, conclusions of law, and a decision.

4. The Hearing Examiner is authorized to promulgate rules and procedures to implement the provisions of this section. The rules shall be promulgated pursuant to Chapter 3.02 of this code.

5. If the agency has made a decision on a proposed action, the Hearing Examiner shall consolidate any allowed appeals of procedural and substantive determinations under SEPA. For example, an appeal of the adequacy of an EIS must be consolidated with an appeal of the agency's decision on the proposed action, if both appeals are allowed by ordinance.

C. Appeal to the City Council of Decisions Not Related to Master Use Permits or Council Land Use Decisions.

1. Any decision of the Hearing Examiner or of any other authorized City official or body concerning the approval, conditioning or denial of proposals pursuant to Section 25.05.660 (substantive authority and mitigation) on proposals not requiring a Master Use Permit may be appealed to the City Council according to the procedures and criteria set forth in this subsection.

2. An appeal to the City Council may be filed only by a party to the hearing before the Hearing Examiner or other authorized official or body. The appeal shall be filed with the City Clerk no later than the fifteenth day after the date the decision appealed from is filed with the SEPA Public Information Center.

3. Any person who supports the responsible official's decision regarding the approval, conditioning, or denial of a proposal pursuant to Section 25.05.660 may become a party to the appeal hearing before the Hearing Examiner or other authorized official or body by requesting intervenor status. Written requests for intervenor status must be filed with the Hearing Examiner not less than five (5) days before the date of the hearing. In their written request, intervenors shall indicate the grounds for their support of the responsible official's decision, including grounds not relied upon by the responsible official. Intervenors may provide testimony at the hearing regarding the grounds for their support of the decision as specified in their written request. Individuals in support of the responsible official's decision who do not request intervenor status shall not have the right to appeal the Hearing Examiner's decision to the City Council pursuant to subsection C of this section.

4. The Council shall accept for review those appeals which raise issues regarding: (a) Council intent with respect to interpretation of the City's substantive SEPA policies; or (b) the sufficiency or appropriateness of mitigation or denial of a proposal.

5. The City Council's review on appeal shall be limited to the issues identified under subsection C4 including issues of factual dispute. The Council's review shall be based upon the record from the hearing below; provided however, that the City Council or the appropriate City Council committee may allow oral or written arguments and may permit the record to be supplemented; and provided further, that members of the committee or of the full Council may make a site visit.

6. Findings of fact in the Hearing Examiner's decision and discretionary determinations regarding the sufficiency of and appropriateness of mitigation or denial shall be accorded

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substantial weight and shall be accepted by the Council unless clearly erroneous. The burden of establishing the contrary shall be upon the appealing party.

7. The City Council may affirm or reverse the administrative decisions below, remand cases to the appropriate department with directions for further proceedings, or grant other appropriate relief in the circumstances. The City Council is authorized to promulgate rules to implement the provisions of this section pursuant to the Administrative Code (SMC Chapter 3.02).

D. Judicial Appeals.

1. SEPA authorizes judicial appeals of both procedural and substantive compliance with SEPA.

2. When SEPA applies to a decision, any judicial appeal of that decision potentially involves both those issues pertaining to SEPA (SEPA issues) and those which do not (non-SEPA issues). If there is a time limit established by statute or ordinance for appealing the underlying governmental action, then appeals (or portions thereof) raising SEPA issues must be filed within such time period. If there is no time period for appealing the underlying governmental action, and a notice of action under RCW 43.21C.080 is used, appeals must be commenced within the time period specified by RCW 43.21C.080.

3. If the proposal requires more than one (1) governmental decision that will be supported by the same SEPA documents, then RCW 43.21C.080 still only allows one (1) judicial appeal of procedural compliance with SEPA, which must be commenced within the applicable time to appeal the first governmental decision.

4. If there is no time limit established by statute or ordinance for appeal, and the notice of action provisions are not used, then SEPA provides no time limit for judicial appeals. Appeal times may still be limited, however, by general statutes of limitation or the common law.

5. For the purposes of this subsection, “a time limit established by statute or ordinance” does not include time limits established by the general statutes of limitation in Chapter 4.16 RCW.

E. Reserved.

F. Official Notice of the Date and Place for Commencing an Appeal.

1. Official notice of the date and place for commencing an appeal must be given if there is a time limit established by statute or ordinance for commencing an appeal of the underlying governmental action. The notice shall include the time limit for commencing an appeal and where an appeal may be filed.

2. Notice is given by:

a. Delivery of written notice to the applicant, all parties to any administrative appeal, and all persons who have requested notice of decisions with respect to the particular proposal in question; and

b. Following the agency's normal methods of notice for the type of governmental action taken.

3. Written notice containing the information required by subsection F1 of this section may be appended to the permit, decision documents, or SEPA compliance documents or may be printed separately.

4. Official notices required by this subparagraph shall not be given prior to final agency action.

(Ord. 118181 § 9, 1996; Ord. 118012 § 63, 1996; Ord. 117789 § 14, 1995; Ord. 114090 § 1, 1988: Ord. 114057 § 1(part), 1988: Ord. 112522 § 20(part), 1985; Ord. 111866 § 1(part), 1984.)

Subchapter VIII Definitions

25.05.700Definitions.

A. The terms used in WAC 197-11 are to be uniform throughout the state as applied to SEPA (WAC 197-11-040). The City may add to certain of those definitions in its procedures, to help explain how it carries out SEPA, but may not change those definitions (WAC 197-11-906).

B. Unless the context clearly requires otherwise:

1. Use of the singular shall include the plural and conversely.

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2. "Preparation" of environmental documents refers to preparing or supervising the preparation of documents, including issuing, filing, printing, circulating, and related requirements.

3. "Impact" refers to environmental impact.

4. "Permit" means "license" (Section 25.05.760).

5. "Commenting" includes but is not synonymous with "consultation" (Subchapter V).

6. "Environmental cost" refers to adverse environmental impact and may or may not be quantified.

7. "EIS" refers to draft, final, and supplement EISs (Sections 25.05.405 and 25.05.738).

8. "Under" includes pursuant to, subject to, required by, established by, in accordance with, and similar expressions of legislative or administrative authorization or direction.

C. In these rules:

1. "Shall" is mandatory.

2. "May" is optional and permissive and does not impose a requirement.

3. "Includes" means "includes but not limited to."

D. The following terms are synonymous:

1. "Effect" and "impact" (Section 25.05.752);

2. "Environment" and "environmental quality" (Section 25.05.740);

3. "Major" and "significant" (Sections 25.05.764 and 25.05.794);

4. "Proposal" and "proposed action" (Section 25.05.784);

5. "Probable" and "likely" (Section 25.05.782).

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.702Act.

"Act" means the State Environmental Policy Act of 1971, Chapter 43.21C RCW, as amended, which is also referred to as "SEPA."

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

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25.05.704Action.

A. "Actions" include, as further specified below:

1. New and continuing activities (including projects and programs) entirely or partly financed, assisted, conducted, regulated, licensed, or approved by agencies;

2. New or revised agency rules, regulations, plans, policies, or procedures; and

3. Legislative proposals.

B. Actions fall within one (1) of two (2) categories:

1. Project Actions. A project action involves a decision on a specific project, such as a construction or management activity located in a defined geographic area. Projects include and are limited to agency decisions to:

a. License, fund, or undertake any activity that will directly modify the environment, whether the activity will be conducted by the agency, an applicant, or under contract;

b. Purchase, sell, lease, transfer, or exchange natural resources, including publicly owned land, whether or not the environment is directly modified.

2. Nonproject Actions. Nonproject actions involve decisions on policies, plans, or programs:

a. The adoption or amendment of legislation, ordinances, rules, or regulations that contain standards controlling use or modification of the environment;

b. The adoption or amendment of comprehensive land use plans or zoning ordinances;

c. The adoption of any policy, plan, or program that will govern the development of a series of connected actions (Section 25.05.060), but not including any policy, plan, or program for which approval must be obtained from any federal agency prior to implementation;

d. Creation of a district or annexations to any city, town or district;

e. Capital budgets; and

f. Road, street, and highway plans.

3. "Actions" do not include the activities listed above when an agency is not involved. Actions do not include bringing judicial or administrative civil or criminal enforcement actions (certain categorical exemptions in Subchapter IX identify in more detail governmental activities that would not have any environmental impacts and for which SEPA review is not required).

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.706Addendum.

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"Addendum" means an environmental document used to provide additional information or analysis that does not substantially change the analysis of significant impacts and alternatives in the existing environmental document. The term does not include supplemental EISs. An addendum may be used at any time during the SEPA process.
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.708Adoption.
"Adoption" means an agency's use of all or part of an existing environmental document to meet all or part of the agency's responsibilities under SEPA to prepare an EIS or other environmental document.
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.709Aesthetics.
"Aesthetics" as listed in Section 25.05.444 B2d shall be interpreted to include all views whether available from public or private property.
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.710Affected tribe.
"Affected tribe" or "treaty tribe" means any Indian tribe, band, nation or community in The State of Washington that is federally recognized by the United States Secretary of the Interior and that will or may be affected by the proposal.
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.712Affecting.
"Affecting" means having, or may be having, an effect on (see Section 25.05.752 on "impacts"). For purposes of deciding whether an EIS is required and what the EIS must cover, "affecting" refers to having probable, significant adverse environmental impacts (RCW 43.21C.031 and 43.21C.110(1)(c)).
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.714Agency.
A. "Agency" as defined in WAC 197-11-714(1) means any state or local governmental body, board, commission, department, or officer authorized to make law, hear contested cases, or otherwise take the actions stated in Section 25.05.704, except the judiciary and state legislature. An agency is any state agency (Section 25.05.796) or local agency (Section 25.05.762) or the City or a City department or organizational unit of the City established by charter or ordinance.

B. "Agency with environmental expertise" means an agency with special expertise on the environmental impacts involved in a proposal or alternative significantly affecting the environment. These agencies are listed in Section 25.05.920; the list may be expanded in agency procedures (Section 25.05.906). The appropriate agencies must be consulted in the environmental impact statement process, as required by Section 25.05.502.

C. "Agency with jurisdiction" means an agency with authority to approve, veto, or finance all or part of a nonexempt proposal (or part of a proposal). The term does not include an agency authorized to adopt rules or standards of general applicability that could apply to a proposal, when no license or approval is required from the agency for the specific proposal. The term also does not include a local, state, or federal agency involved in approving a grant or loan, that serves only as a conduit between the primary administering agency and the recipient of the grant or loan. Federal agencies with jurisdiction are those from which a license or funding is sought or required.

D. If a specific agency has been named in these rules, and the functions of that agency have changed or been transferred to another agency, the term shall mean any successor agency.

E. For those proposals requiring a hydraulic project approval under RCW 75.20.100, both the Department of Game and the Department of Fisheries shall be considered agencies with jurisdiction.
(Ord. 118012 § 64, 1996; Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.716Applicant.
"Applicant" means any person or entity, including an agency, applying for a license from an agency. Application means a request for a license.
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.718Built environment.

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"Built environment" means the elements of the environment as specified by RCW 43.21C-.110(1)(f) and SMC Section 25.05.444 B, which are generally built or made by people as contrasted with natural processes.
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.720Categorical exemption.
"Categorical exemption" means a type of action, specified in these rules, which does not significantly affect the environment (RCW 43.21C.110(1)(a)); categorical exemptions are found in Subchapter IX of these rules. Neither a threshold determination nor any environmental document, including an environmental checklist or environmental impact statement, is required for any categorically exempt action (RCW 43.21C.030). These rules provide for those circumstances in which a specific action that would fit within a categorical exemption shall not be considered categorically exempt (Section 25.05.305).
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.722Consolidated appeal.
"Consolidated appeal" means the procedure requiring a person to file an agency appeal challenging both procedural and substantive compliance with SEPA at the same time, as provided under RCW 43.21C.075(3)(b) and the exceptions therein. If an agency does not have an appeal procedure for challenging either the agency's procedural or its substantive SEPA determinations, the appeal cannot be consolidated prior to any judicial review. The requirement for a consolidated appeal does not preclude agencies from bifurcating appeal proceedings and allowing different agency officials to hear different aspects of the appeal. (Section 25.05.680).
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.724Consulted agency.
"Consulted agency" means any agency with jurisdiction or expertise that is requested by the lead agency to provide information during the SEPA process.
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.726Cost-benefit analysis.
"Cost-benefit analysis" means a quantified comparison of costs and benefits generally expressed in monetary or numerical terms. It is not synonymous with the weighing or balancing of environmental and other impacts or benefits of a proposal.
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.728County/city.
"County/city" means a county, city, or town. In WAC 197-11, duties and powers are assigned to a county, city, or town as a unit. The delegation of responsibilities among the various departments of a county, city, or town is left to the legislative or charter authority of the individual counties, cities, or towns.
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.730Decisionmaker.
"Decisionmaker" means the agency official or officials who make the agency's decision on a proposal. The decisionmaker and responsible official are not necesarily synonymous, depending on the agency and its SEPA procedures (Sections 25.05.906 and 25.05.910).
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

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25.05.732Department.

(See WAC 197-11-732)

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.733Department.

"Department" in this chapter means any City department or organizational unit of the City established by Charter or ordinance.

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.734Determination of nonsignificance (DNS).

"Determination of nonsignificance" (DNS) means the written decision by the responsible official of the lead agency that a proposal is not likely to have a significant adverse environmental impact, and therefore an EIS is not required (Sections 25.05.310 and 25.05.340).

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.736Determination of significance (DS).

"Determination of significance" (DS) means the written decision by the responsible official of the lead agency that a proposal is likely to have a significant adverse environmental impact, and therefore an EIS is required (Sections 25.05.310 and 25.05.360). The DS form is in Section 25.05.980 and must be used substantially in that form.

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.738EIS.

"EIS" means environmental impact statement. The term "detailed statement" in RCW 43.21C.030(2)(c) refers to a final EIS. The term "EIS" as used in these rules refers to draft, final, or supplemental EIS's (Section 25.05.405).

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.740Environment.

"Environment" means, and is limited to, those elements listed in Section 25.05.444, as required by RCW 43.21C.110(1)(f). Environment and environmental quality refer to the state of the environment and are synonymous as used in these rules and refer basically to physical environmental quality.

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.742Environmental checklist.

"Environmental checklist" means the form in Section 25.05.960. Rules for its use are in Section 25.05.315.

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.744Environmental document.

"Environmental document" means any written public document prepared under this chapter. Under SEPA, the terms environmental analysis, environmental study, environmental report, and environmental assessment do not have specialized meanings and do not refer to particular environmental documents (unlike various other state or federal environmental impact procedures).

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.746Environmental review.

"Environmental review" means the consideration of environmental factors as required by SEPA. The "environmental review process" is the procedure used by agencies and others under SEPA for giving appropriate consideration to the environment in agency decisionmaking.

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.747Environmentally critical area.

"Environmentally critical area" means those areas designated by The City of Seattle Environmentally Critical Areas Policies and regulated and mapped in SMC Chapter 25.09, Regulations for Environmentally Critical Areas, and other city codes.

(Ord. 116254 § 2, 1992.)

25.05.748Environmentally sensitive area.

"Environmentally sensitive area" means those environmentally critical areas designated and mapped by a county/city under Section 25.05.908. Certain categorical exemptions do not apply within environmentally sensitive areas (Sections 25.05.305, 25.05.908, and Subchapter IX of these rules).

(Ord. 116254 § 3, 1992: Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

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25.05.750Expanded scoping.

"Expanded scoping" is an optional process that may be used by agencies to go beyond minimum scoping requirements.

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.752Impacts.

"Impacts" are the effects or consequences of actions. Environmental impacts are effects upon the elements of the environment listed in Section 25.05.444.

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.754Incorporation by reference.

"Incorporation by reference" means the inclusion of all or part of any existing document in an agency's environmental documentation by reference (Sections 25.05.600 and 25.05.635).

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.755Interested person.

"Interested person" means any individual, partnership, corporation, association, or public or private organization of any character, significantly affected by or interested in proceedings before an agency, and shall include any party in a contested case.

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.756Lands covered by water.

"Lands covered by water" means lands underlying the water areas of the state below the ordinary high water mark, including salt waters, tidal waters, estuarine waters, natural water courses, lakes, ponds, artificially impounded waters, marshes, and swamps. Certain categorical exemptions do not apply to lands covered by water, as specified in Subchapter IX.

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.758Lead agency.

"Lead agency" means the agency with the main responsibility for complying with SEPA's procedural requirements (Sections 25.05.050 and 25.05.922). The procedures for determining lead agencies are in Subchapter X of these rules. "Lead agency" may be read as "responsible official" (Sections 25.05.788 and 25.05.910) unless the context clearly requires otherwise. Depending on the agency and the type of proposal, for example, there may be a difference between the lead agency's responsible official, who is at a minimum responsible for procedural determinations (such as Sections 25.05.330, 25.05.455, 25.05.460) and its decisionmaker, who is at a minimum responsible for substantive determinations (such as Sections 25.05.448, 25.05.655,

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(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.760License.

"License" means any form of written permission given to any person, organization, or agency to engage in any activity, as required by law or agency rule. A license includes all or part of any agency permit, certificate, approval, registration, charter, or plat approvals or rezones to facilitate a particular proposal. The term does not include a license required solely for revenue purposes.
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.762Local agency.

"Local agency" or "local government" means any political subdivision, regional governmental unit, district, municipal or public corporation, including cities, towns, and counties and their legislative bodies. The term encompasses but does not refer specifically to the departments within a city or county.
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.764Major action.

"Major action" means an action that is likely to have significant adverse environmental impacts. "Major" reinforces but does not have a meaning independent of "significantly" (Section 25.05.794).
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.766Mitigated DNS.

"Mitigated DNS" means a DNS that includes mitigation measures and is issued as a result of the process specified in Section 25.05.350.
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.768Mitigation.

"Mitigation" means:

A. Avoiding the impact altogether by not taking a certain action or parts of an action;

B. Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts;

C. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;

25.05.460) and its decisionmaker, who is at a minimum responsible for substantive determinations (such as Sections 25.058.448, 25.05.655, and 25.05.660).

D. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action;

E. Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and/or

F. Monitoring the impact and taking appropriate corrective measures.
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.770Natural environment.

"Natural environment" means those aspects of the environment contained in Section 25.05.444 A, frequently referred to as natural elements, or resources, such as earth, air, water, wildlife, and energy.
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.772NEPA.

"NEPA" means the National Environmental Policy Act of 1969 (42 USCA 4321 et seq., P.L. 91-190), that is like SEPA at the federal level. The federal NEPA regulations are located at 40 CFR 1500 et seq.
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.774Nonproject.

"Nonproject" means actions which are different or broader than a single site specific project, such as plans, policies, and programs (Section 25.05.704).
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.776Phased review.

"Phased review" means the coverage of general matters in broader environmental documents, with subsequent narrower documents concentrating solely on the issues specific to the later analysis (Section 25.05.060 E). Phased<HH> review may be used for a single proposal or EIS (Section 25.05.060).
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

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25.05.778Preparation.

"Preparation" of an environmental document means preparing or supervising the preparation of documents, including issuing, filing, printing, circulating, and related requirements (see Section 25.05.700 B).

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.780Private project.

"Private project" means any proposal primarily initiated or sponsored by an individual or entity other than an agency.

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.782Probable.

"Probable" means likely or reasonably likely to occur, as in "a reasonable probability of more than a moderate effect on the quality of the environment" (see Section 25.05.794 (Significant)). "Probable" is used to distinguish likely impacts from those that merely have a possibility of occurring, but are remote or speculative. This is not meant as a strict statistical probability test.

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.784Proposal.

"Proposal" means a proposed action. A proposal includes both actions and regulatory decisions of agencies as well as any actions proposed by applicants. A proposal exists at that state in the development of an action when an agency is presented with an application, or has a goal and is actively preparing to make a decision on one or more alternative means of accomplishing that goal, and the environmental effects can be meaningfully evaluated. (See Section 25.05.055 and Section 25.05.060 C. A proposal may therefore be a particular or preferred course of action or several alternatives. For this reason, these rules use the phrase "alternatives including the proposed action." The term "proposal" may therefore include "other reasonable courses of action," if there is no preferred alternative and if it is appropriate to do so in the particular context.

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.786Reasonable alternative.

"Reasonable alternative" means an action that could feasibly attain or approximate a proposal's objectives, but at a lower environmental cost or decreased level of environmental degradation. Reasonable alternatives may be those over which an agency with jurisdiction has authority to control impacts, either directly, or indirectly through requirement of mitigation measures. (See Sections 25.05.440 D and 25.05.660.) Also see the definition of "scope" for three (3) types of alternatives to be analyzed in EIS's (Section 25.05.792).

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.788Responsible official.

"Responsible official" means that officer or officers, committee, department, or section of the lead agency is designated by agency SEPA procedures to undertake its procedural responsibilities as lead agency (Section 25.05.910).

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.790SEPA.

"SEPA" means the State Environmental Policy Act of 1971 (Chapter 43.21C RCW), which is also referred to as the Act. The "SEPA process" means all measures necessary for compliance with the Act's requirements.

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.792Scope.

A. "Scope" means the range of proposed actions, alternatives, and impacts to be analyzed in an environmental document (Section 25.05.060 B (content of environmental review)).

B. To determine the scope of environmental impact statements, agencies consider three (3) types of actions, three (3) types of impacts, and three (3) types of alternatives.

1. Actions may be:

a. Single (a specific action which is not related to other proposals or parts of proposals);

b. Connected (proposals or parts of proposals which are closely related under Section 25.05.060 C or Section 25.05.305 A; or

c. Similar (proposals that have common aspects and may be analyzed together under Section 25.05.060 C).

2. Alternatives may be:

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a. No action;

b. Other reasonable courses of action; or

c. Mitigation measures (not in the proposed action).

3. Impacts may be:

a. Direct;

b. Indirect; or

c. Cumulative.

C. Section 25.05.060 provides general rules for the content of any environmental review under SEPA; Subchapter IV and Section 25.05.440 provide specific rules for the content of EIS's. The scope of an individual statement may depend on its relationship with other EIS's or on phased review.

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.793Scoping.

"Scoping" means determining the range of proposed actions, alternatives, and impacts to be discussed in an EIS. Because an EIS is required to analyze significant environmental impacts only, scoping is intended to identify and narrow the EIS to the significant issues. The required scoping process (Section 25.05.408) provides interagency and public notice of a DS, or equivalent notification, and opportunity to comment. The lead agency has the option of expanding the scoping process (Section 25.05.410), but shall not be required to do so. Scoping is used to encourage cooperation and early resolution of potential conflicts, to improve decisions, and to reduce paperwork and delay.

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.794Significant.

A. "Significant," as used in SEPA, means a reasonable likelihood of more than a moderate adverse impact on environmental quality.

B. Significance involves context and intensity (Section 25.05.330 (threshold determination process)) and does not limit itself to a formula or quantifiable test. The context may vary with the physical setting. Intensity depends on the magnitude and duration of an impact.

The severity of an impact should be weighed along with the likelihood of its occurrence. An impact may be significant if its chance of occurrence is not great, but the resulting environmental impact would be severe if it occurred.

C. Section 25.05.330 specifies a process, including criteria and procedures, for determining whether a proposal is likely to have a significant adverse environmental impact.

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.796State agency.

"State agency" means any state board, commission, department, or officer, including state universities, colleges, and community colleges, that is authorized by law to make rules, hear contested cases, or otherwise take the actions stated in Section 25.05.704, except the judiciary and state legislature.

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.797Threshold determination.

"Threshold determination" means the decision by the responsible official of the lead agency whether or not an EIS is required for a proposal that is not categorically exempt (Sections 25.05.310 and 25.05.330 A2).

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.799Underlying governmental action.

"Underlying government action" means the governmental action, such as zoning, or permit approvals, that is the subject of SEPA compliance.

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

Subchapter IX Categorical Exemptions

25.05.800Categorical exemptions.

The proposed actions contained in this subchapter are categorically exempt from threshold determination and EIS requirements, subject to the rules and limitations on categorical exemptions contained in Section 25.05.305.

A. Minor New Construction — Flexible Thresholds.

1. The exemptions in this subsection apply to all licenses required to undertake the construction in question, except when a rezone or any license governing emissions to the air or discharges to water is required. To be exempt under this section, the project must be equal to or smaller than the exempt level. For a specific proposal, the exempt level in subsection A2 of this section shall control. If the proposal is located

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in more than one (1) city/county, the lower of the agencies' adopted levels shall control, regardless of which agency is the lead agency.

2. The following types of construction shall be exempt, except when undertaken wholly or partly on lands covered by water or unless undertaken in environmentally sensitive areas (Section 25.05.908):

a. The construction or location of residential structures of four (4) or fewer dwelling units, in all Single-Family zones, Lowrise-One (L-1) and all Commercial zones; six (6) or fewer units in Lowrise-Two (L-2) zones; eight (8) or fewer units in Lowrise-Three (L-3) zones; and twenty (20) or fewer units in Midrise (MR), Highrise (HR), Seattle Cascade Mixed (SCM) and all Downtown zones;

b. The construction of a barn, loafing shed, farm equipment storage building, produce storage or packing structure, or similar agricultural structure, covering ten thousand (10,000) square feet, and to be used only by the property owner or his or her agent in the conduct of farming the property. This exemption shall not apply to feed lots;

c. The construction of the following office, school, commercial, recreational, service or storage buildings:

i. In Commercial-1 (C-1), Commercial-2 (C-2), Seattle Cascade Mixed (SCM), Manufacturing and Industrial zones, buildings with twelve thousand (12,000) square feet of gross floor area, and with associated parking facilities designed for twenty (20) automobiles,

ii. In all other zones, buildings with four thousand (4,000) square feet of gross floor area, and with associated parking facilities designed for twenty (20) automobiles;

d. The construction of a parking lot designed for twenty (20) automobiles, as well as the addition of twenty (20) spaces to existing lots if the addition does not remove the lot from an exempt class;

e. Any landfill or excavation of five hundred (500) 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;

f. Mixed-use construction, including but not limited to projects combining residential and commercial uses, is exempt if each use, when considered separately, is exempt under the criteria of subsections A2a through A2d above, unless the uses in combination may have a probable significant adverse environmental impact in the judgment of an agency with jurisdiction (see Section 25.05.305 A2b);

g. In zones not specifically mentioned in this subsection, the construction of residential structures of four (4) or fewer dwelling units and commercial structures of four thousand (4,000) or fewer square feet.

B. Other Minor New Construction. The following types of construction shall be exempt except where undertaken wholly or in part on lands covered by water (unless specifically exempted in this subsection); the exemptions provided by this section shall apply to all licenses required to undertake the construction in question, except where a rezone or any license governing emissions to the air or discharges to water is required:

1. The construction or designation of bus stops, loading zones, shelters, access facilities and pull-out lanes for taxicabs, transit and school vehicles;

2. The construction and/or installation of commercial on-premises signs, and public signs and signals;

3. The construction or installation of minor road and street improvements such as pavement marking, freeway surveillance and control systems, railroad protective devices (not including grade-separated crossings), grooving, glare screen, safety barriers, energy attenuators, transportation corridor landscaping (including the application of Washington State Department of Agriculture approved herbicides by licensed personnel for right-of-way weed control as long as this is not within watersheds controlled for the purpose of drinking water quality in accordance with WAC 248-54-660), temporary traffic controls and detours, correction of substandard curves and intersections within existing rights-of-way, widening of a highway by less than a single lane width where capacity is not significantly increased and no new right-of-way is required, adding auxiliary lanes for localized purposes, (weaving, climbing, speed change, etc), where capacity is not significantly increased and

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no new right-of-way is required, channelization and elimination of sight restrictions at intersections, street lighting, guard rails and barricade installation, installation of catchbasins and culverts, and reconstruction of existing roadbed (existing curb-to-curb in urban locations), including adding or widening of shoulders, addition of bicycle lanes, paths and facilities, and pedestrian walks and paths, but not including additional automobile lanes;

4. Grading, excavating, filling, septic tank installations, and landscaping necessary for any building or facility exempted by subsections A and B of this section, as well as fencing and the construction of small structures and minor accessory facilities;

5. Additions or modifications to or replacement of any building or facility exempted by subsections A and B of this section when such addition, modification or replacement will not change the character of the building or facility in a way that would remove it from an exempt class;

6. The demolition of any structure or facility, the construction of which would be exempted by subsections A and B of this section, except for structures or facilities with recognized historical significance;

7. The installation of impervious underground tanks, having a capacity of ten thousand (10,000) gallons or less;

8. The vacation of streets or roads;

9. The installation of hydrological measuring devices, regardless of whether or not on lands covered by water;

10. The installation of any property, boundary or survey marker, other than fences, regardless of whether or not on lands covered by water.

C. Repair, Remodeling And Maintenance Activities. The following activities shall be categorically exempt: the repair, remodeling, maintenance, or minor alteration of existing private or public structures, facilities or equipment, including utilities, involving no material expansions or changes in use beyond that previously existing; except that, where undertaken wholly or in part on lands covered by water, only minor repair or replacement of structures may be exempt (examples include repair or replacement of piling, ramps, floats, or mooring buoys, or minor repair, alteration, or maintenance of docks). The following maintenance activities shall not be considered exempt under this subsection:

1. Dredging;

2. Reconstruction/maintenance of groins and similar shoreline protection structures; or

3. Replacement of utility cables that must be buried under the surface of the bedlands. Repair/rebuilding of major dams, dikes, and reservoirs shall also not be considered exempt under this subsection.

D. Water Rights. The following appropriations of water shall be exempt, the exemption covering not only the permit to appropriate water, but also any hydraulics permit, shoreline permit or building permit required for a normal diversion or intake structure, well and pumphouse reasonably necessary to accomplish the exempted appropriation, and including any activities relating to construction of a distribution system solely for any exempted appropriation:

1. Appropriations of fifty (50) cubic feet per second or less of surface water for irrigation purposes, when done without a government subsidy;

2. Appropriations of one (1) cubic foot per second or less of surface water, or of two thousand two hundred fifty (2,250) gallons per minute or less of ground water, for any purpose.

E. Purchase or Sale of Real Property. The following real property transactions by an agency shall be exempt:

1. The purchase or acquisition of any right to real property;

2. The sale, transfer or exchange of any publicly owned real property, but only if the property is not subject to an authorized public use;

3. The lease of real property when the use of the property for the term of the lease will remain essentially the same as the existing use, or when the use under the lease is otherwise exempted by this chapter.

F. Minor Land Use Decisions. The following land use decisions shall be exempt:

1. Except upon lands covered by water, the approval of short plats or short subdivisions pursuant to the procedures required by RCW

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58.17.060, but not including further short subdivisions or short platting within a plat or subdivision previously exempted under this subsection;

2. Granting of variances based on special circumstances, not including economic hardship, applicable to the subject property, such as size, shape, topography, location or surroundings and not resulting in any change in land use or density;

3. Classifications of land for current use taxation under Chapter 84.35 RCW, and classification and grading of forest land under Chapter 84.33 RCW.

G. School Closures. The adoption and implementation of a plan, program, or decision for the closure of a school or schools shall be exempt. Demolition, physical modification or change of a facility from a school use shall not be exempt under this subsection.

H. Open Burning. Opening burning and the issuance of any license for open burning shall be exempt. The adoption of plans, programs, objectives or regulations by any agency incorporating general standards respecting open burning shall not be exempt.

I. Variances Under Clean Air Act. The granting of variances under RCW 70.94.181 extending applicable air pollution control requirements for one (1) year or less shall be exempt.

J. Water Quality Certifications. The granting or denial of water quality certifications under the federal Clean Water Act (Federal Water Pollution Control Act Amendments of 1972, 33 USC 1341) shall be exempt.

K. Activities of the State Legislature. All actions of the state legislature are exempted. This subsection does not exempt the proposing of legislation by an agency (Section 25.05.704).

L. Judicial Activity. The following shall be exempt:

1. All adjudicatory actions of the judicial branch;

2. Any quasi-judicial action of any agency if such action consists of the review of a prior administrative or legislative decision. Decisions resulting from contested cases or other hearing processes conducted prior to the first decision on a proposal or upon any application for a rezone, conditional use permit or other similar permit not otherwise exempted by this chapter, are not exempted by this subsection.

M. Enforcement and Inspections. The following enforcement and inspection activities shall be exempt:

1. All actions, including administrative orders and penalties, undertaken to enforce a statute, regulation, ordinance, resolution or prior decision. No license shall be considered exempt by virtue of this subsection; nor shall the adoption of any ordinance, regulation or resolution be considered exempt by virtue of this subsection;

2. All inspections conducted by an agency of either private or public property for any purpose;

3. All activities of fire departments and law enforcement agencies except physical construction activity;

4. Any action undertaken by an agency to abate a nuisance or to abate, remove or otherwise cure any hazard to public health or safety. The application of pesticides and chemicals is not exempted by this subsection but may be exempted elsewhere in these guidelines. No license or adoption of any ordinance, regulation or resolution shall be considered exempt by virtue of this subsection;

5. Any suspension or revocation of a license for any purpose.

N. Business and Other Regulatory Licenses. The following business and other regulatory licenses are exempt:

1. All licenses to undertake an occupation, trade or profession;

2. All licenses required under electrical, fire, plumbing, heating, mechanical, and safety codes and regulations, but not including building permits;

3. All licenses to operate or engage in amusement devices and rides and entertainment activities, including but not limited to cabarets, carnivals, circuses and other traveling shows, dances, music machines, golf courses, and theaters, including approval of the use of public facilities for temporary civic celebrations, but not including licenses or permits required for permanent construction of any of the above;

4. All licenses to operate or engage in charitable or retail sales and service activities, including but not limited to peddlers, solicitors, second hand shops, pawnbrokers, vehicle and housing rental agencies, tobacco sellers, close out

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and special sales, fireworks, massage parlors, public garages and parking lots, and used automobile dealers;

5. All licenses for private security services, including but not limited to detective agencies, merchant and/or residential patrol agencies, burglar and/or fire alarm dealers, guard dogs, locksmiths, and bail bond services;

6. All licenses for vehicles for-hire and other vehicle related activities, including but not limited to taxicabs, ambulances, and tow trucks; provided, that regulation of common carriers by the utilities and transportation commission shall not be considered exempt under this subsection;

7. All licenses for food or drink services, sales, and distribution, including but not limited to restaurants, liquor, and meat;

8. All animal control licenses, including but not limited to pets, kennels, and pet shops. Establishment or construction of such a facility shall not be considered exempt by this subsection;

9. The renewal or reissuance of a license regulating any present activity or structure so long as no material changes are involved.

O. Activities of Agencies. The following administrative, fiscal and personnel activities of agencies shall be exempt:

1. The procurement and distribution of general supplies, equipment and services authorized or necessitated by previously approved functions or programs;

2. The assessment and collection of taxes;

3. The adoption of all budgets and agency requests for appropriation; provided, that if such adoption includes a final agency decision to undertake a major action, that portion of the budget is not exempted by this subsection;

4. The borrowing of funds, issuance of bonds, or applying for a grant and related financing agreements and approvals;

5. The review and payment of vouchers and claims;

6. The establishment and collection of liens and service billings;

7. All personnel actions, including hiring, terminations, appointments, promotions, allocations of positions, and expansions or reductions in force;

8. All agency organization, reorganization, internal operational planning or coordination of plans or functions;

9. Adoptions or approvals of utility, transportation and solid waste disposal rates;

10. The activities of school districts pursuant to desegregation plans or programs; however, construction of real property transactions or the adoption of any policy, plan or program for such construction of real property transaction shall not be considered exempt under this subsection (see also Section 25.05.800 G).

P. Financial Assistance Grants. The approval of grants or loans by one agency to another shall be exempt, although an agency may at its option require compliance with SEPA prior to making a grant or loan for design or construction of a project.

This exemption includes agencies taking nonproject actions that are necessary to apply for federal or other financial assistance.

Q. Local Improvement Districts. The formation of local improvement districts, unless such formation constitutes a final agency decision to undertake construction of a structure or facility not exempted under Sections 25.05.800 and 25.05.880.

R. Information Collection and Research. Basic data collection, research, resource evaluation, request for proposals (RFPs), and the conceptual planning of proposals shall be exempt. These may be strictly for information-gathering, or as part of a study leading to a proposal that has not yet been approved, adopted or funded; this exemption does not include any agency action that commits the agency to proceed with such a proposal. (Also see Section 25.05.070 (limitations on actions during SEPA process)).

S. Acceptance of Filings. The acceptance by an agency of any document or thing required or authorized by law to be filed with the agency and for which the agency has no discretionary power to refuse acceptance shall be exempt. No license shall be considered exempt by virtue of this subsection.

T. Procedural Actions. The proposal or adoption of legislation, rules, regulations, resolutions or ordinances, or of any plan or program relating solely to governmental procedures, and containing no substantive standards respecting use or modification of the environment shall be exempt. Agency SEPA procedures shall be exempt.

U. Building Codes. The adoption by ordinance of all codes as required by the State Building Code Act (Chapter 19.27 RCW).

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V. Adoption of Noise Ordinances. The adoption by counties/cities of resolutions, ordinances, rules or regulations concerned with the control of noise which do not differ from regulations adopted by the Department of Ecology under Chapter 70.107 RCW. When a county/city proposes a noise resolution, ordinance, rule or regulation, a portion of which differs from the applicable state regulations (and thus requires approval of the Department of Ecology under RCW 70.107.060(4)), SEPA compliance may be limited to those items which differ from state regulations.

W. Review and Comment Actions. Any activity where one agency reviews or comments upon the actions of another agency or another department within an agency shall be exempt.

X. Utilities. The utility-related actions listed below shall be exempt, except for installation, construction, or alteration on lands covered by water. The exemption includes installation and construction, relocation when required by other governmental bodies, repair, replacement, maintenance, operation or alteration that does not change the action from an exempt class:

1. All communications lines, including cable TV, but not including communication towers or relay stations;

2. All stormwater, water and sewer facilities, lines, equipment, hookups or appurtenances including, utilizing or related to lines eight inches (8″) or less in diameter;

3. All electric facilities, lines, equipment or appurtenances, not including substations, with an associated voltage of fifty-five thousand (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 electrical facilities, lines, equipment or appurtenances;

4. All natural gas distribution (as opposed to transmission) lines and necessary appurtenant facilities and hookups;

5. All developments within the confines of any existing electrical substation, reservoir, pump station or well; provided, that additional appropriations of water are not exempted by this subsection;

6. 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;

7. All grants of rights-of-way by agencies to utilities for use for distribution (as opposed to transmission) purposes;

8. All grants of franchises by agencies to utilities;

9. All disposals of rights-of-way by utilities.

Y. Natural Resources Management. In addition to the other exemptions contained in this section, the following natural resources management activities shall be exempt:

1. All Class I, II III forest practices as defined by RCW 76.09.050 or regulations thereunder;

2. Issuance of new grazing leases covering a section of land or less, and issuance of all grazing leases for land that has been subject to a grazing lease within the previous ten (10) years;

3. Licenses or approvals to remove firewood;

4. Issuance of agricultural leases covering one hundred sixty (160) contiguous acres or less;

5. Issuance of leases for Christmas tree harvesting or brush picking;

6. Issuance of leases for school sites;

7. Issuance of leases for, and placement of, mooring buoys designed to serve pleasure craft;

8. Development of recreational sites not specifically designed for all-terrain vehicles and not including more than twelve (12) campsites;

9. Periodic use of chemical or mechanical means to maintain public park and recreational land; 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;

10. Issuance of rights-of-way, easements and use permits to use existing roads in nonresidential areas;

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11. Establishment of natural area preserves to be used for scientific research and education and for the protection of rare flora and fauna, under the procedures of Chapter 79.70 RCW.

(Ord. 118294 § 2, 1996; Ord. 116254 § 4, 1992; Ord. 114090 § 2, 1988; Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.810Exemptions and nonexemptions applicable to specific state agencies.

(See WAC 197-11-820 through 197-11-875.)

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.880Emergencies.

Actions that must be undertaken immediately or within a time too short to allow full compliance with this chapter, to avoid an imminent threat to public health or safety, to prevent an imminent danger to public or private property, or to prevent an imminent threat of serious environmental degradation, shall be exempt. Agencies may specify these emergency actions in their procedures.

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.890Petitioning DOE to change exemptions.

A. Except for Section 25.05.880, the City (see WAC 197-11-890) may create additional exemptions in these procedures only after receiving approval from the Department of Ecology under this section.

B. A petition to the Department of Ecology (DOE) to adopt additional exemptions or to delete existing exemptions must be authorized by ordinance. The petition shall state the language of the requested amendment, the City's views on the environmental impacts of the activities covered by the proposed amendment, and the approximate number of actions of this type which have come before the City over a particular period of time. DOE is to consider and decide upon a petition within thirty (30) days of receipt. If the determination is favorable, DOE is required to begin rule-making under Chapter 34.04 RCW. Any resulting amendments will apply either generally or to specified classes of agencies. The City shall then amend these rules accordingly.

C. The City may also petition DOE for an immediate ruling upon any request to add, delete, or change an exemption. If such a petition is granted, DOE is to notify the City, which may immediately include the change in these rules approved by DOE. DOE may thereafter begin rulemaking proceedings to amend WAC 197-11. Until WAC 197-11 is amended, any change granted under this subsection shall apply only to the City.

D. DOE is to provide public notice of any proposed amendments to these rules in the manner required by the administrative procedure act, Chapter 34.04 RCW. A copy of all approvals by DOE under the preceding subsection is required to be given to any person requesting DOE for advance notice of rulemaking.

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

Subchapter X Agency Compliance

25.05.900Purpose of Seattle SEPA rules sections.

(See WAC 197-11-900).

A. The City's SEPA policies designated as possible bases for the exercise of substantive authority under SEPA are set forth in Sections 25.05.665, 25.05.670 and 25.05.675.

B. The City's environmentally sensitive areas and the categorical exemptions which are inapplicable in such areas are set forth in Section 25.05.908.

C. Rules for designating the responsible department and responsible official when the City is the lead agency are provided in Section 25.05.910.

D. Procedures on requests for consultation are provided in Section 25.05.912.

E. Fees and costs for SEPA compliance for private projects are provided for in Section 25.05.914.

F. The application of these rules to ongoing actions is provided in Section 25.05.916.

G. Agencies with environmental expertise are provided in Section 25.05.920.

H. Rules for determining the lead agency are provided in Sections 25.05.922 through 25.05.948.

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984).

25.05.902Agency SEPA policies.

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(See WAC 197-11-902 and Sections 25.05.665, .670 and .675.)
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.904Agency SEPA procedures.
(See WAC 197-11-904.)
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.906Content and consistency of agency procedures.
(See WAC 197-11-906.)
(Ord. 111866 § 1(part), 1984.)

25.05.908Environmentally sensitive areas.
(See WAC 197-11-908.)

A. Environmentally sensitive areas are those environmentally critical areas designated in The City of Seattle Environmentally Critical Areas Policies and regulated and mapped in SMC Chapter 25.09, Regulations for Environmentally Critical Areas, and other City codes, located inside the city. Within these areas, certain categorically exempt activities listed in WAC 197-11-908(2) could have a significant adverse environmental impact, require additional environmental review to determine impacts, and may require mitigation beyond the development standards required by all applicable City codes. Those environmentally critical areas which require additional discretionary review and may require mitigation beyond that provided for in applicable City codes are designated environmentally sensitive areas and include:

1. Landslide-prone Areas. Landslide-prone areas are characterized by the following:

a. Known landslide areas identified by documented history, or any areas that have shown significant movement during the last ten thousand (10,000) years or are underlain by mass wastage debris that occurred during this period; or

b. Potential landslide areas based on documented geological characteristics, and based on a combination of geologic, topographic and hydrologic factors, including the following:

i. Areas over fifteen percent (15%) slope which have at least one (1) of the following characteristics:

(A) Impermeable soils (typically silt and clay) interbedded with permeable granular soils (predominantly sand and gravel); or impermeable soils overlain with permeable soils. This includes the area within one hundred feet (100′) either side of the contact between Esperance Sand and either Lawton Clay or Pre-Lawton sediments as is shown on the area noted as Class Four (4) on the Slope Stability Map of Seattle, in Causes, Mechanisms and Prediction of Landsliding in Seattle, by Donald Willis Tubbs, Ph.D. Dissertation, University of Washington, 1975 (“Tubbs Map”) or as otherwise mapped; or

(B) Identified relatively unstable soils such as either Lawton Clay or Pre-Lawton sediments, as is shown on the area noted as Class Three (3) of the Tubbs Map, or as otherwise mapped; or

(C) Springs or groundwater seepage.

ii. Steep slopes of forty percent (40%) average slope or greater as defined by the Director. A slope must have a vertical elevation change of at least ten feet (10′) to be considered a steep slope, although the ten feet (10′) may cross the boundaries of a site. Slopes that meet these characteristics shall be considered steep-slope environmentally critical areas in addition to being classified as potential landslide areas.

iii. Areas that would be covered under either subsections A1bi or A1bii above, but where the slope has been previously modified through the provision of retaining walls or nonengineered cut-and-fill operations.

iv. Any slope area potentially unstable as a result of rapid stream incision or stream bank erosion.

2. Riparian Corridors. Riparian corridors include all areas within one hundred feet (100′) measured horizontally from the top of the bank, or, if that cannot be determined, from the ordinary high water mark of the water body and watercourse, or a one hundred (100) year floodplain as mapped by FEMA, whichever is greater, and are classified as either a Class A Riparian Corridor or a Class B Riparian Corridor. Class A Riparian Corridors are stable, established streams and lakes that flow year-round and/or support

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salmonids, and include, but are not limited to, corridors that have an established floodplain as mapped by the FEMA Flood Insurance Program, which includes Longfellow, Thornton, Pipers, Venema, Mohlendorph, Fauntleroy, Ravenna, Mapes, DeadHorse/Mill, Maple Leaf and Little Brook Creeks, and Haller and Bitter Lakes. Class B Riparian Corridors are not mapped by FEMA and are intermittent streams without salmonids that still demonstrate a high water mark. Riparian corridors do not normally include those artificial drainage areas intentionally created from grass-lined swales, canals, detention facilities, wastewater treatment facilities, and landscape amenities.

3. Wetlands. Wetlands are those areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from non-wetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from non-wetland areas created to mitigate conversion of wetlands.

(The method for delineating wetlands shall follow the 1989 Federal Manual for Delineating Jurisdictional Wetlands until the Washington State Department of Ecology adopts a new manual for the delineation of wetlands in conformance with Section 11 of Chapter 382 of the Laws of 1995, in which case the method for delineating wetlands shall follow such manual; however, if prior to that time the King County Countywide Planning Policies are amended to allow use of the 1987 U.S. Corps of Engineers Wetlands Delineation Manual in conjunction with the U.S. Corps of Engineers Washington Regional Guidance on the 1987 Wetland Delineation Manual, the method for delineating wetlands shall follow such manuals of the Corps of Engineers until the Department of Ecology's manual is adopted.

4. Fish and Wildlife Habitat Conservation Areas. Fish and wildlife habitat conservation areas include, but are not limited to, the following:

a. Areas identified by the Washington State Department of Wildlife as priority habitat and species areas or urban natural open space habitat areas;

(1) Corridors connecting other priority habitat areas, especially areas that would otherwise be isolated;

(2) Areas that remain an isolated remnant of natural habitat larger than ten (10) acres or more and surrounded by urban development, with local consideration given to areas smaller than ten (10) acres;

b. All bodies of water that provided migration corridors and habitat for fish, especially salmonids, and including Lake Washington, Lake Union and the Lake Washington Ship Canal, Duwamish River, and that portion of Elliott Bay within the City's jurisdiction;

c. Commercial and recreational shellfish areas and kelp and eelgrass beds; and

d. Areas which provide habitat for species of local importance.

B. The following types of development shall not be categorically exempt in designated environmentally sensitive areas (see Section 25.05.800), unless a development site has been determined to be exempt under the exemption provisions contained in Chapter 25.09, Regulations for Environmentally Critical Areas:

1. Minor new construction:

a. One (1) single-family dwelling unit exceeding nine thousand (9,000) square feet of development coverage, or two (2) or more dwelling units,

b. Agricultural structures,

c. Office, school, commercial, recreational, service and storage buildings,

d. Parking lots,

e. Landfill or excavation;

2. Other minor new construction:

a. Construction/installation of minor road and street improvements, transportation corridor landscaping and herbicides for weed control;

3. Minor land use decisions:

a. Short plats or short subdivisions;

4. Utilities:

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a. Chemical means to maintain design condition;

5. Natural resources management:

a. Issuance of agricultural leases of one hundred (100) acres or less;

6. Issuance of leases for school sites;

7. Development of non-ATV recreational sites (twelve (12) campsites or less);

8. Chemical means to maintain public park or recreation land.

C. The Kroll Atlas of The City of Seattle contains overlays identifying the general boundaries of all known environmentally critical areas within the city, which reference The City of Seattle's Environmentally Critical Areas Maps to determine the general boundaries of each environmentally critical area. The Environmentally Critical Areas Maps specify those designated areas which are subject to SEPA pursuant to WAC 25.05.908. A copy of the maps shall be maintained in the SEPA Public Information Center. The maps shall be used and amended as follows:

1. The maps shall be advisory and used by the Director of DCLU to provide guidance in determining applicability of SEPA to a property. Likewise, environmentally sensitive areas which are incorrectly mapped may be exempted from SEPA by the Director of DCLU when the provisions of subsection D of Section 25.09.040 of the regulations for environmentally critical areas apply.

2. The boundaries and contents of these designated environmentally sensitive areas maps may be amended by the Director following the environmentally critical areas maps amendment process as set forth in subsection C of Section 25.09.020 of the regulations for environmentally critical areas.

D. Proposals that will be located within environmentally sensitive areas are to be treated no differently than other proposals under this chapter, except as stated in the prior subsection. A threshold determination shall be made for all such actions, and an EIS shall not be automatically required for a proposal merely because it is proposed for location in an environmentally sensitive area.

E. Certain categorical exemptions do not apply on lands covered by water, and this remains true regardless of whether or not lands covered by water are mapped.

(Ord. 117789 § 15, 1995; Ord. 116976 § 1, 1993; Ord. 116254 § 5, 1992; Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.910 Designation of responsible department and responsible official where City is lead agency.

(See WAC 197-11-910).

A. For each proposal where the City is the lead agency, the responsible department shall be designated prior to designation of the responsible official.

B. In designating the responsible department:

1. The first department receiving or initiating a proposal which involves a major action, and for which the City is the lead agency, shall determine the responsible department for that proposal;

2. If that department determines that another department is the responsible department, it shall immediately notify such department of its determination;

3. When a department determines that it is the responsible department, it shall immediately notify all other departments with jurisdiction over the proposal;

4. Except for the Legislative Department, the responsible department for all proposals initiated by a department shall be the department making the proposal. In the event that two (2) or more departments share in the initiation of a proposal, the departments shall by agreement determine which department will assume the status of responsible department;

5. When the proposal will involve both private and public construction activity, it shall be characterized as either a private or a public project for the purposes of responsible department designation, depending upon whether the primary sponsor or initiator of the project is a department or from the private sector. Any project in which department and private interests are too intertwined to make this characterization shall be considered a public project.

6. For proposals for private projects which require licenses from more than one (1) department, the responsible department shall be the department with responsibility for making the final recommendation or report on the first major action of the proposal or the first action which would result in irreversible commitment to the proposal; or in the event these conditions do not

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apply, the responsible department shall be the department whose action, license, or licenses will have the greatest effect on the environment;

7. Nothing in this section shall prohibit a department from assuming the role of responsible department as the result of an agreement among all departments with jurisdiction;

8. In the event that the departments with jurisdiction are unable to determine which department is the responsible department under this subchapter, any department with jurisdiction may petition the Mayor for such determination. The petition shall clearly describe the proposal in question and include a list of all licenses and approvals required for the proposal. The petition shall be filed with the Mayor within fifteen (15) days after receipt by the petitioning department of the determination to which it objects. Within fifteen (15) days of receipt of a petition, the Mayor shall designate the responsible department.

C. The responsible official shall be the official within the responsible department who is responsible for making the final recommendation or report on the first major action of the proposal or on the first action which would result in irreversible commitment to the proposal. The department head shall designate for each proposed action, or for classes of actions, the responsible official in accordance with the criteria of this subsection.

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.912Procedures on consulted agencies.

(See WAC 197-11-912).

Any request for consultation with the City by another agency shall be directed to the Mayor. The Mayor shall establish and promulgate procedures for responding to such requests.

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.914SEPA costs and fees.

(See WAC 197-11-914).

A. For the purpose of reimbursing the City for necessary costs and expenses related to its compliance with the SEPA rules and this chapter in connection with private projects, the following schedule of fees, in addition to those otherwise provided by ordinance, is established:

1. For a threshold determination which requires information in addition to that contained in or accompanying the environmental checklist, a fee in an amount equal to the actual costs and expenses incurred by the City in conducting any studies or investigations necessary to provide such information; provided that the fee shall not be less than Twenty Dollars ($20.00) nor more than Five Hundred Dollars ($500.00);

2. For all private projects requiring an EIS for which the City is the lead agency and for which the responsible official determines that the EIS shall be prepared by employees of the City, or that the City will contract directly with a consultant or consultants for the preparation of an EIS, a fee in an amount equal to the actual costs and expenses incurred by the City in preparing the EIS. Such fee shall also apply when the applicant prepares the EIS, and the responsible official determines that substantial rewriting or reassessing of impacts must be performed by employees of the City to insure compliance with the provisions of the SEPA Guidelines and this subchapter.

3. When the responsible official is the Director of Construction and Land Use, fees shall be paid as described in the Permit Fee Ordinance (SMC Chapter 22.900).

B. If the responsible official determines that an EIS is required, and that the EIS shall be prepared by employees of the City or by a consultant or consultants retained by the City, or that the applicant-prepared EIS shall be substantially rewritten by employees of the City, the private applicant shall be advised by the responsible official of the estimated costs and expenses of preparing or rewriting the EIS prior to actual preparation or rewriting, and the private applicant shall post bond or otherwise insure payment of such costs and expenses. The ultimate charge to the applicant shall not exceed the estimate. A consultant or consultants shall be selected by the responsible official in consultation with the private applicant.

C. All fees owed the City under this section shall be paid in full by the private applicant prior to final action by the City on the private project. Any fee owed the City under subsection A1 shall be paid by the private applicant prior to the initiation of actual preparation of an EIS (if required) or actual rewriting of an applicant-prepared EIS by the City of its consultant(s). If the private applicant disputes the amount of fee charged, the fee

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may be paid under protest and without prejudice to the applicant's right to file a claim and bring an action to recover the fee.

D. Proceeds from fees and charges imposed pursuant to this subchapter shall be transmitted to the City Finance Director and shall be deposited in the General Fund; provided, that proceeds from fees and charges collected by the Director of Construction and Land Use shall be deposited in the Department of Construction and Land Use Fund.

(Ord. 116368 § 308, 1992; Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.916Application to ongoing actions.

A. These SEPA procedures shall apply to any proposal initiated after the effective date of these SEPA procedures or those of the agency proposing the action.

B. For proposals made before the effective date of these agency SEPA procedures, the revised procedures shall apply to those elements of SEPA compliance initiated after the procedures went into effect. Agency procedures adopted under RCW 43.21.120 and these rules shall not be applied to invalidate or require modification of any threshold determination, EIS or other element of SEPA compliance undertaken or completed before the effective date of these procedures or those of the agency proposing the action.

C. Agencies are responsible for compliance with any statutory requirements that went into effect before the adoption of these rules and agency SEPA procedures (for example, the statutory requirements for appeals).

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.917Relationship of Chapter 197-11 WAC with Chapter 197-10 WAC.

(See WAC 197-11-917).

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

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25.05.918 Lack of agency procedures.

(See WAC 197-11-918)

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.920 Agencies with environmental expertise.

The following agencies shall be regarded as possessing special expertise relating to those categories of the environment under which they are listed:

A. Air Quality.

1. Department of Ecology.
2. Department of Natural Resources (only for burning in forest areas).
3. Department of Social and Health Services.
4. Regional air pollution control authority or agency.

B. Water Resources and Water Quality.

1. Department of Wildlife.
2. Department of Ecology.
3. Department of Natural Resources (state-owned tidelands, shorelands, harbor areas or beds of navigable waters).
4. Department of Social and Health Services (public water supplies, sewer systems, shellfish habitats).
5. Department of Fisheries.
6. Municipality of Metropolitan Seattle (METRO).

C. Hazardous and Toxic Substances (including radiation).

1. Department of Ecology.
2. Department of Social and Health Services.
3. Department of Agriculture (foods or pesticides).
4. Department of Fisheries (introduction into waters).
5. Department of Wildlife (introduction into waters).

D. Solid and Hazardous Waste.

1. Department of Ecology.
2. Department of Fisheries (dredge spoils).
3. Department of Social and Health Services.
4. Department of Wildlife (dredge spoils).

E. Fish and Wildlife.

1. Department of Wildlife.
2. Department of Fisheries.

F. Natural Resources Development.

1. Department of Commerce and Economic Development.
2. Department of Ecology.
3. Department of Natural Resources.
4. Department of Fisheries.
5. Department of Wildlife.

G. Energy Production, Transmission and Consumption.

1. Department of Ecology.
2. Department of Natural Resources (geothermal, coal, uranium).
3. State Energy Office.
4. Energy Facility Site Evaluation Council.
5. Utilities and Transportation Commission.

H. Land Use and Management.

1. Department of Commerce and Economic Development.
2. Department of Ecology.
3. Department of Fisheries (affecting surface or marine waters).
4. Department of Natural Resources (tidelands, shorelands, or state-owned or managed lands).
5. Planning and Community Affairs Agency.
6. Department of Wildlife.

I. Noise.

1. Department of Ecology.
2. Department of Social and Health Services.

J. Recreation.

1. Department of Commerce and Economic Development.
2. Department of Wildlife.
3. Department of Fisheries.
4. Parks and Recreation Commission.
5. Department of Natural Resources.

K. Archaeological/historical.

1. Office of Archaeology and Historic Preservation.
2. Washington State University at Pullman (Washington Archaeological Research Center).

L. Transportation.

1. Department of Transportation.
2. Utilities and Transportation Commission.

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3. Municipality of Metropolitan Seattle (METRO).

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.922Lead agency rules.

The rules for deciding when and how an agency is the lead agency (Section 25.05.050) are contained in this subchapter. The method and criteria for lead agency selection are in Section 25.05.924. Lead agency rules for different types of proposals as well as for specific proposals are in Sections 25.05.926 through 25.05.940. Rules for interagency agreements are in Sections 25.05.942 through 25.05.944. Rules for asking the Department of Ecology to resolve lead agency disputes are in WAC 197-11-946. Rules for the assumption of lead agency status by another agency with jurisdiction are in Section 25.05.948. Rules for designation of responsible department where the City is the lead agency are in Section 25.05.910.

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.924Determining the lead agency.

A. The first agency receiving an application for or initiating a nonexempt proposal shall determine the lead agency for that proposal, unless the lead agency has been previously determined, or the agency receiving the proposal is aware that another agency is determining the lead agency. The lead agency shall be determined by using the criteria in Sections 25.05.926 through 25.05.944.

B. If an agency determines that another agency is the lead agency, it shall mail to such lead agency a copy of the application it received, together with its determination of lead agency and an explanation. If the agency receiving this determination agrees that it is the lead agency, it shall notify the other agencies with jurisdiction. If it does not agree, and the dispute cannot be resolved by agreement, the agencies shall immediately petition the Department of Ecology (DOE) for a lead agency determination under Section 25.05.946.

C. Any agency receiving a lead agency determination to which it objects shall either resolve the dispute, withdraw its objection, or petition DOE for a lead agency determination within fifteen (15) days of receiving the determination. Any such petition on behalf of the City shall be initiated by the Mayor or the Mayor's designee.

D. An applicant may also petition DOE to resolve the lead agency dispute under Section 25.05.946.

E. To make the lead agency determination, an agency must determine to the best of its ability the range of proposed actions for the proposal (Section 25.05.060) and the other agencies with jurisdiction over some or all of the proposal. This can be done by:

1. Describing or requiring an applicant to describe the main features of the proposal;

2. Reviewing the list of agencies with expertise;

3. Contacting potential agencies with jurisdiction either orally or in writing.

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.926Lead agency for governmental proposals.

A. When an agency initiates a proposal, it is the lead agency for that proposal. If two (2) or more agencies share in the implementation of a proposal, the agencies shall by agreement determine which agency will be the lead agency. For the purposes of this section, a proposal by an agency does not include proposals to license private activity.

B. Whenever possible, agency people carrying out SEPA procedures should be different from agency people making the proposal.

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.928Lead agency for public and private proposals.

When the proposal involves both private and public activities, it shall be characterized as either a private or a public project for the purposes of lead agency designation, depending upon whether the primary sponsor or initiator of the project is an agency or from the private sector. Any project in which agency and private interests are too intertwined to make this characterization shall be considered a public project. The lead agency for all public projects shall be determined under Section 25.05.926.

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

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25.05.930 Lead agency for private projects with one agency with jurisdiction.

For proposed private projects for which there is only one (1) agency with jurisdiction, the lead agency shall be the agency with jurisdiction.
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.932 Lead agency for private projects requiring licenses from more than one agency when one of the agencies is a county/city.

For proposals for private projects that require nonexempt licenses from more than one (1) agency, when at least one (1) of the agencies requiring such a license is a county/city, the lead agency shall be that county/city within whose jurisdiction is located the greatest portion of the proposed project area, as measured in square feet. For the purposes of this section, the jurisdiction of a county shall not include the areas within the limits of cities or towns within such county.
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.934 Lead agency for private projects requiring licenses from a local agency not a county/city, and one or more state agencies.
(See WAC 197-11-934)
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.936 Lead agency for private projects requiring licenses from more than one state agency.
(See WAC 197-11-936)
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.938 Lead agencies for specific proposals.

Notwithstanding the lead agency designation criteria contained in Sections 25.05.926 through 25.05.936, the lead agency for proposals within the areas listed below shall be as follows:

A. For all governmental actions relating to energy facilities for which certification is required under Chapter 80.50 RCW, the lead agency shall be the Energy Facility Site Evaluation Council (EFSEC); however, for any public project requiring such certification and for which the study under RCW 80.50.175 will not be made, the lead agency shall be the agency initiating the project.

B. For all private projects relating to the use of geothermal resources under Chapter 79.76 RCW, the lead agency shall be the Department of Natural Resources.

C. For all private projects requiring a license or other approval from the Oil and Gas Conservation Committee under Chapter 78.52 RCW, the lead agency shall be the Department of Natural Resources; however, for projects under RCW 78.52.125, the EIS shall be prepared in accordance with that section.

D. For all private activity requiring a license or approval under the Forest Practices Act of 1974, Chapter 76.09 RCW, the lead agency shall be the Department of Natural Resources; however, for any proposal that will require a license from a county/city acting under the powers enumerated in RCW 76.09.240, the lead agency shall be the county/city requiring the license.

E. For all private projects requiring a license or lease to use or affect state lands, the lead agency shall be the state agency managing the lands in question; however, this subsection shall not apply to the sale or lease of state-owned tidelands, harbor areas or beds of navigable waters, when such sale or lease is incidental to a larger project for which one or more licenses from other state or local agencies is required.

F. For all proposals which are being processed under the Environmental Coordination Procedures Act of 1973 (ECPA), Chapter 90.62 RCW, the lead agency shall be determined under the standards of these rules.

G. For a pulp or paper mill or oil refinery not under the jurisdiction of EFSEC, the lead agency shall be the Department of Ecology, when a National Pollutant Discharge Elimination System (NPDES) permit is required under Section 402 of the Federal Water Pollution Control Act (33 USC 1342).

H. For proposals to construct a pipeline greater than six inches (6″) in diameter and fifty (50) miles in length, used for the transportation of crude petroleum or petroleum fuels or oil or derivatives thereof, or for the transportation of synthetic or natural gas under pressure not under the jurisdiction of EFSEC, the lead agency shall be the Department of Ecology.

I. For proposals that will result in an

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impoundment of water with a water surface in excess of forty (40) acres, the lead agency shall be the Department of Ecology.

J. For proposals to construct facilities on a single site designed for, or capable of, storing a total of one million (1,000,000) or more gallons of any liquid fuel not under the jurisdiction of EFSEC, the lead agency shall be the Department of Ecology.

K. For proposals to construct any new oil refinery, or an expansion of an existing refinery that shall increase capacity by ten thousand (10,000) barrels per day or more not under the jurisdiction of EFSEC, the lead agency shall be the Department of Ecology.

L. For proposals to construct any new metallic mineral processing plant, or to expand any such existing plant by ten percent (10%) or more of design capacity, the lead agency shall be the Department of Ecology.

M. For proposals to construct, operate, or expand any uranium or thorium mill, any tailings areas generated by uranium or thorium milling or any low-level radioactive waste burial facilities, the lead agency shall be the Department of Social and Health Services.

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.940Transfer of lead agency status to a state agency.

(See WAC 197-11-940)

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.942Agreements on lead agency status.

Any agency may assume lead agency status if all agencies with jurisdiction agree.

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.944Agreements on division of lead agency duties.

Two (2) or more agencies may by agreement share or divide the responsibilities of lead agency through any arrangement agreed upon. In such event, however, the agencies involved shall designate one (1) of them as the nominal lead agency, which shall be responsible for complying with the duties of the lead agency under these rules. Other agencies with jurisdiction shall be notified of the agreement and determination of the nominal lead agency.

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.946DOE resolution of lead agency disputes.

A. If the agencies with jurisdiction are unable to determine which agency is the lead agency under the rules, any agency with jurisdiction may petition the Department of Ecology (DOE) for a determination. The petition shall clearly describe the proposal in question, and include a list of all licenses and approvals required for the proposal. The petition shall be filed with DOE within fifteen (15) days after receipt by the petitioning agency of the determination to which it objects. Copies of the petition shall be mailed to any applicant involved, as well as to all other agencies with jurisdiction over the proposal. The applicant and agencies with jurisdiction may file with DOE a written response to the petition within ten (10) days of the date of the initial filing.

B. Within fifteen (15) days of receipt of a petition, DOE shall make a written determination of the lead agency, which shall be mailed to the applicant and all agencies with jurisdiction. DOE shall make its determination in accordance with these rules and considering the following factors (which are listed in order of descending importance):

1. Magnitude of an agency's involvement;
2. Approval/disapproval authority over the proposal;
3. Expertise concerning the proposal's impacts;
4. Duration of an agency's involvement;
5. Sequence of an agency's involvement.

C. For resolution of interdepartmental lead agency disputes see Section 25.05.910.

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.948Assumption of lead agency status.

A. An agency with jurisdiction over a proposal, upon review of a DNS (Section 25.05.340) may transmit to the initial lead agency a completed "Notice of Assumption of Lead Agency Status." This notice shall be substantially similar to the form in Section 25.05.985. Assumption of lead agency status shall occur only within fifteen (15) days of issuance of a DNS, and must first be approved by the Mayor or the Mayor's designee.

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B. The DS by the new lead agency shall be based only upon information contained in the environmental checklist attached to the DNS transmitted by the first lead agency on the matters contained in the environmental checklist.

C. Upon transmitting the DS and notice of assumption of lead agency status, the consulted agency with jurisdiction shall become the "new" lead agency and shall expeditiously prepare an EIS. In addition, all other responsibilities and authority of a lead agency under this chapter shall be transferred to the new lead agency.

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.955Effective date.

(See WAC 197-11-955 for effective date of WAC 197-11)

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

Subchapter XI Forms

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The checklist questions apply to all parts of your proposal, even if you plan to do them over a period of time or on different parcels of land. Attach any additional information that will help describe your proposal or its environmental effects. The agency to which you submit this checklist may ask you to explain your answers or provide additional information reasonably related to determining if there may be significant adverse impact.

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For nonproject actions, the references in the checklist to the words "project," "applicant," and "property or site" should be read as "proposal," "proposer," and "affected geographic area," respectively.

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2. Name of applicant:

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4. Date checklist prepared:

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5. Agency requesting checklist:

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7. Do you have any plans for future additions, expansion, or further activity related to or connected with this proposal?

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If yes, explain.

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TO BE COMPLETED BY APPLICANT

EVALUATION FOR AGENCY USE ONLY

3. **Water**

a. Surface:

c. What general types of soils are found on the site (for example, clay, sand, gravel, peat, muck)? If you know the classification of agricultural soils, specify them and note any prime farmland.

d. Proposed measures to reduce or control erosion, or other impacts to the earth, if any:

8. List any environmental information you know about that has been prepared, or will be prepared, directly related to this proposal.

9. Do you know whether applications are pending for governmental approvals of other proposals directly affecting the property covered by your proposal? If yes, explain.

10. List any government approvals or permits that will be needed for your proposal, if known.

11. Give brief, complete description of your proposal, including the proposed uses and the size of the project and site. There are several questions later in this checklist that ask you to describe certain aspects of your proposal. You do not need to repeat those answers on this page. (Lead agencies may modify this form to include additional specific information on project description).

12. Location of the proposal. Give sufficient information for a person to understand the precise location of your proposed project, including a street address, if any, and section, township, and range, if known. If a proposal would occur over a range of area, provide the range or boundaries of the site(s). Provide a legal description, site plan, vicinity map, and topographic map, if reasonably available. While you should submit any plans required by the agency, you are not required to duplicate maps or detailed plans submitted with any permit applications related to this checklist.

TO BE COMPLETED BY APPLICANT

EVALUATION FOR AGENCY USE ONLY

B. ENVIRONMENTAL ELEMENTS

1. **Earth**

a. General description of the site (circle one): Flat, rolling, hilly, steep slopes, mountainous.

c. Proposed measures to reduce or control erosion, or other impacts to the earth, if any:

b. What is the steepest slope on the site (approximate percent slope)?

2. **Air**

a. What type of emissions to the air would result from the proposed project (including the following: dust, automobile, odor, manufacturing, heating, cooling, and other)?

b. Are there any off-site sources of emissions or odor that may affect your proposal? If so, generally describe.

c. Proposed measures to reduce or control emissions or other impacts to air, if any:

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TO BE COMPLETED BY APPLICANT

EVALUATION FOR
AGENCY USE ONLY

D. SUPPLEMENTAL SHEET FOR NONPROJECT ACTIONS

(Do not use this sheet for project actions)

Because these questions are very general, it may be helpful to read them in conjunction with the list of the elements of the environment.

When answering these questions, be aware of the extent the proposal, or the types of activities likely to result from the proposal, would affect the item at a greater intensity or at a faster rate than if the proposal were not implemented. Respond briefly and in general terms.

1. How would the proposal be likely to increase discharge to water; emissions to air; production, storage, or release of toxic or hazardous substances; or production of noise?

Proposed measures to reduce or respond to such demand(s) are:

2. How would the proposal be likely to affect plants, animals, fish, or marine life?

Proposed measures to protect or conserve plants, animals, fish, or marine life are:

3. How would the proposal be likely to deplete energy or natural resources?

Proposed measures to protect or conserve energy and natural resources are:

4. How would the proposal be likely to use or affect environmentally sensitive areas or areas designated (or eligible or under study) for governmental protection: such as parks, wilderness, wild and scenic rivers, threatened or endangered species habitat, historic or cultural sites, wetlands, floodplains, or prime farmlands?

Proposed measures to protect such resources or to avoid or reduce impacts are:

5. How would the proposal be likely to affect land and shoreline use, including whether it would allow or encourage land or shoreline uses incompatible with existing plans?

Proposed measures to avoid or reduce shoreline and land impacts are:

6. How would the proposal be likely to increase demands on transportation or public services and utilities?

Proposed measures to reduce or respond to such demand(s) are:

7. Identify, if possible, whether the proposal may conflict with local, state, or federal laws or requirements for the protection of the environment.

Proposed measures to avoid or reduce such increases are:

(Seattle 12-88)

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

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25.05.965Adoption notice.

ADOPTION OF EXISTING ENVIRONMENTAL DOCUMENT

Adoption for (check appropriate box) ☐ DNS ☐ EIS ☐ other _____

Description of current proposal _____

_____

_____

Proponent _____

Location of current proposal _____

_____

_____

Title of document being adopted _____

Agency that prepared document being adopted _____

Date adopted document was prepared _____

Description of document (or portion) being adopted _____

_____

_____

If the document being adopted has been challenged (197-11-630), please describe:

_____

_____

The document is available to be read at (place/time) _____

_____

We have identified and adopted this document as being appropriate for this proposal after independent review. The document meets our environmental review needs for the current proposal and will accompany the proposal to the decisionmaker.

Name of agency adopting document _____

Contact person, if other than
responsible official _____ Phone _____

Responsible official _____

Position/title _____ Phone _____

Address _____

Date _____ Signature _____

(Seattle 12-88)

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

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25.05.970Determination of nonsignificance (DNS).

DETERMINATION OF NONSIGNIFICANCE

Description of proposal _____

_____

_____

Proponent _____

Location of proposal, including street address, if any _____

_____

_____

Lead agency _____

The lead agency for this proposal has determined that it does not have a probable significant adverse impact on the environment. An environmental impact statement (EIS) is not required under RCW 43.21C.030(2)(c). This decision was made after review of a completed environmental checklist and other information on file with the lead agency. This information is available to the public on request.

☐ There is no comment period for this DNS.

☐ This DNS is issued under 197-11-340(2); the lead agency will not act on this proposal for 15 days from the date below. Comments must be submitted by _____.

Responsible official _____

Position/title _____Phone _____

Address _____

Date _____ Signature _____

(OPTIONAL)

☐ You may appeal this determination to (name) _____
at (location) _____
no later than (date) _
by (method) _____

You should be prepared to make specific factual objections.
Contact _____ to read or ask about the procedures
for SEPA appeals.

☐ There is no agency appeal.

(Seattle 12-88)

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)V

For current SMC, contact
the Office of the City Clerk

Seattle Municipal Code
August, 1997, code update file
Text provided for historic reference only.
See ordinances creating and amending
sections for complete text, graphics,
and tables and to confirm accuracy of
this source file.

25.05.980 Determination of significance and scoping notice (DS).

DETERMINATION OF SIGNIFICANCE
AND REQUEST FOR COMMENTS ON SCOPE OF EIS

Description of proposal _____

_____

_____

Proponent _____

Location of proposal, _____

_____

Lead agency _____

EIS Required. The lead agency has determined this proposal is likely to have a significant adverse impact on the environment. An environmental impact statement (EIS) is required under RCW 43.21C.030(2)(c) and will be prepared. An environmental checklist or other materials indicating likely environmental impacts can be reviewed at our offices.

The lead agency has identified the following areas for discussion in the EIS: _____

_____

_____

Scoping. Agencies, affected tribes, and members of the public are invited to comment on the scope of the EIS. You may comment on alternatives, mitigation measures, probable significant adverse impacts, and licenses or other approvals that may be required. The method and deadline for giving us your comments is:

_____

_____

Responsible official _____

Position/title _____ Phone _____

Address _____

Date _____ Signature _____

(OPTIONAL)

☐ You may appeal this determination of significance
to (name) _____
at (location) _____
no later than (date) _
by (method) _____

You should be prepared to make specific factual objections.
Contact _____ to read or ask about the procedures
for SEPA appeals.

☐ There is no agency appeal.

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

(Seattle 12-88)

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25.05.985Notice of assumption of lead agency status.

NOTICE OF ASSUMPTION OF LEAD AGENCY STATUS

Description of proposal _____

_____

_____

Proponent _____

Location of proposal _____

_____

Initial lead agency _____

The initial lead agency concluded that this proposal was not likely to have significant adverse impact on the environment, according to its determination of nonsignificance dated _____.

We have reviewed the environmental checklist and related information. In our opinion, an environmental impact statement (EIS) is required on the proposal, because of the following impacts: _____

_____

_____

You are being notified that we assume the responsibility of lead agency under SEPA, including the duty to prepare an EIS on the proposal.

Responsible official _____

Position/title _____Phone _____

Address _____

Date _____ Signature _____

(Seattle 12-88)

For current SMC, contact
the Office of the City Clerk

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

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25.05.990Notice of action.

NOTICE OF ACTION

NOTICE IS GIVEN UNDER SEPA, RCW 43.21C.080, THAT (NAME OF AGENCY OR ENTITY) _____ TOOK THE ACTION DESCRIBED IN (2) BELOW ON (DATE) _____.

1. ANY ACTION TO SET ASIDE, ENJOIN, REVIEW, OR OTHERWISE CHALLENGE SUCH ACTION ON THE GROUNDS O NONCOMPLIANCE WITH THE PROVISIONS OF CHAPTER 43.21C RCW (STATE ENVIRONMENTAL POLICY ACT) SHALL BE COMMENCED ON OR BEFORE (DATE) _____.

2. DESCRIPTION OF AGENCY ACTION: _____
_____
_____

3. DESCRIPTION OF PROPOSAL (IF NOT COVERED BY (2)):
_____
_____

4. LOCATION OF PROPOSAL (A SUFFICIENT DESCRIPTION SHOULD BE GIVEN TO LOCATE THE SITE, IF ANY, BUT A COMPLETE LEGAL DESCRIPTION IS NOT REQUIRED):
_____
_____

5. TYPE OF ENVIRONMENTAL REVIEW UNDER SEPA (INCLUDE NAME AND DATE OF ANY ENVIRONMENTAL DOCUMENTS):
_____

6. DOCUMENTS MAY BE EXAMINED DURING REGULAR BUSINESS HOURS AT (LOCATION, INCLUDING ROOM NUMBER, IF ANY):
_____

7. NAME OF AGENCY, PROPONENT, OR APPLICANT GIVING NOTICE:
_____

8. THIS NOTICE IS FILED BY (SIGNATURE OF INDIVIDUAL AND CAPACITY IN WHICH THE PERSON IS SIGNING):
_____

_____ DATE _____

(Seattle 6-89)

(Ord. 114057 § 1(part), 1988: Ord. 111866 §1(part), 1984.)

For current SMC, contact
the Office of the City Clerk