

ORDINANCE NO. 257

AN ORDINANCE relating to the protection of the environment and to environmental policy; prescribing and establishing procedures to implement the State Environmental Policy Act, as amended by 1983 legislation (Chapter 43.21C, RCW) and the SEPA guidelines since prepared by the State Department of Ecology (Chapter 197-11, WAC); providing for assessing of proposed actions and for environmental impact statements; providing for an effective date of October 1, 1984.

WHEREAS, the State Environmental Policy Act (SEPA), Chapter 43.21C RCW, sets forth an environmental policy for Washington State and requires that environmental impacts of many proposals be analyzed and, where appropriate, be mitigated; and

WHEREAS, SEPA was amended by the 1983 Legislature in various particulars, which amendments required the State Department of Ecology to issue new uniform statewide rules for carrying out SEPA, and which 1983 legislation (see RCW 43.21C.120 as amended) provides also that towns and other units of local government are to adopt new ordinances to effectuate Ch. 43.21C, as amended and policies and procedures consistent with the new SEPA rules, and to do so within 180 days of adoption of such new rules; and

WHEREAS, pursuant to Ch. 43.21C as amended new rules were adopted by the Department of Ecology, effective April 4, 1984, as Chapter 197-11 Washington Administrative Code, and an ordinance to effectuate such new statute and rules must be adopted by town council by October 1, 1984; and

WHEREAS, the town has provided public notice and opportunity for public comment as part of the process for adopting the new ordinance; and

WHEREAS, the town is authorized (WAC 197-11-904) to adopt by reference sections of the new SEPA Rules, and by such references

herein made sections of such new rules are made a part of this ordinance as if fully set forth herein, Now, Therefore,

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF YACOLT, WASHINGTON AS FOLLOWS:

PART ONE - AUTHORITY

Section 1.1: The Town of Yacolt adopts this ordinance pursuant to RCW 43.21C.120, as amended by Washington Laws 1983, Ch. 117, in order to comply with and carry out the State Environmental Policy Act (SEPA), Ch. 43.21C, RCW, and the new SEPA Rules, Ch. 197-11, WAC.

This ordinance contains the Town's "SEPA procedures and policies." The SEPA rules, Chapter 197-11 WAC, must be used in conjunction with this ordinance. As contemplated by such rules (WAC 197-11-904) the sections of the SEPA Rules hereinafter set forth by number are hereby adopted by reference as if fully set forth. Copies of said statute and said rules (WAC Ch. 197-11) shall be kept available for public inspection in the Town Hall, and a section by section summary of said adopted rules shall be advertised, all as contemplated by RCW 43.21C.135(2).

PART TWO - GENERAL REQUIREMENTS

Section 2.1: Purpose of This Part and Adoption by Reference.

This part (part two) contains the basic requirements that apply to the SEPA process. The Town adopts the following sections of Chapter 197-11 of the Washington Administrative Code by reference:

197-11-010	Authority
197-11-030	Policy
197-11-040	Definitions
197-11-050	Lead agency.
197-11-055	Timing of the SEPA process.
197-11-060	Content of environmental review.

197-11-070 Limitations on actions during SEPA process.
197-11-080 Incomplete or unavailable information.
197-11-090 Supporting documents.
197-11-100 Information required of applicants.

Section 2.2: Additional Definitions. In addition to those definitions contained within WAC 197-11-700 through 197-11-799, the following temrs are hereby defined and when used in this ordinance shall have the following meanings, unless the context indicates otherwise:

1. "Department" means any division, subdivision or organizational unit of the town which has been or shall be established by ordinance, resolution, rule, or order.

2. "SEPA Rules" means Chapter 197-11 WAC as adopted by the State Department of Ecology.

3. "Ordinance" means this ordinance, and in context may include any town ordinance, resolution, or other procedure by which the town has adopted regulations or policies.

4. "Early notice" means the town's response or advice to an applicant stating whether the town considers issuance of a determination of significance (DS) likely for the applicant's proposal.

Section 2.3: Designation of Responsible Official.

1. For proposals for which the town is the lead agency, the responsible official shall be the town mayor or the mayor's designee.

2. For all proposals for which the town is the lead agency, the responsible official shall make the threshold determination, supervise scoping and preparation of any required EIS, and perform any other functions assigned to the "lead agency" or "responsible official" by those sections of the SEPA rules adopted by reference in this ordinance.

3. The town shall retain all documents required by the SEPA Rules, and shall make them available to the public in accordance with Ch. 42.17, RCW.

Section 2.4: Lead Agency Determination and Responsibilities.

1. The department within the town receiving an application for or initiating a proposal that involves a nonexempt action shall determine the lead agency for that proposal under WAC 197-11-050 and WAC 197-11-922 through WAC 197-11-940, unless the lead agency has been previously determined or the department is aware that another department or agency is in the process of determining the lead agency.

2. When the town is the lead agency for a proposal, the department receiving the application shall determine the responsible official who shall supervise compliance with the threshold determination requirements and supervise preparation of the EIS if an EIS is required.

3. When the town is not the lead agency for a proposal, all departments of the town shall use and consider, as appropriate, either the DNS or the final EIS of the lead agency in making decisions on the proposal. No town department shall prepare or require preparation of a DNS or EIS in addition to that prepared by the lead agency, unless it finds it to be required under criteria of WAC 197-11-600. In some cases, the town may conduct supplemental environmental review under WAC 197-11-600.

4. If the town or any of its departments receives a lead agency determination made by another agency that appears to it to be inconsistent with the criteria of WAC 197-11-922 through 197-11-940, it may object to the determination. Any objection must be made to the agency originally making the determination and be resolved within fifteen days of receipt of the determination, or the town can, within such fifteen day period, petition the department of ecology for a lead agency

determination under WAC 197-11-946. Any such petition on behalf of the town shall be initiated by the town mayor or the mayor's designee.

5. Departments of the town are authorized to make agreements as to lead agency status or shared lead agency duties for a proposal under WAC 197-11-942 and 197-11-944.

6. Any department making a lead agency determination for a private project shall require sufficient information from the applicant to identify which other agencies have jurisdiction over the proposal, including agencies which require nonexempt licenses.

Section 2.5: Transfer of Lead Agency Status to a State Agency. For any proposal for a private project where the town would be the lead agency and for which one or more state agencies have jurisdiction, the town's responsible official may elect to transfer the lead agency duties to a state agency. The state agency with jurisdiction appearing first on the priority listing in WAC 197-11-936 shall be the lead agency and the town shall be an agency with jurisdiction. To transfer lead agency duties, the town's responsible official must transmit a notice of the transfer together with any relevant information available on the proposal to the appropriate state agency with jurisdiction. The responsible official of the town shall also give notice of the transfer to the private applicant and any other agencies with jurisdiction over the proposal.

Section 2.6: Additional Timing Considerations.

1. For nonexempt proposals, the DNS or a final EIS for the proposal shall accompany the town staff recommendation to any appropriate advisory body, such as the Planning Commission.

2. If the town's only action on a proposal is a decision as to issuance of a building permit or other license that requires detailed project plans and specifications, the applicant may request in writing that the town conduct environmental review

prior to submission by the applicant of the detailed plans and specifications, and the town may agree to such request. The point at which environmental review may be initiated for specific permits or other licenses requiring detailed project plans and specifications is upon filing of a completed application, environmental checklist, and preliminary or conceptual site development plans.

Section 3.1: Purpose of This Part and Adoption by Reference.

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

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

Section 3.2: Flexible Thresholds for Categorical Exemptions.

1. Pursuant to discretion and authority contemplated in WAC 197-11-800(1)(b) and (c), the town hereby establishes the following exempt levels for "minor new construction":

- a. For residential dwelling units in WAC 197-11-800(1)(b)(i): those containing 4 dwelling units or less.

b. For agricultural structures in WAC 197-11-800(1)(b)(ii): those containing 10,000 square feet or less.

c. For office, school, commercial, recreational, service or storage buildings in WAC 197-11-800(1)(b)(iii): those containing 4,000 square feet or less, and with associated parking facilities designed for 20 parking spaces or less.

d. For parking lots in WAC 197-11-800(1)(b)(iv): those containing 20 parking spaces or less.

e. For landfills and excavations in WAC 197-11-800(1)(b)(v): those consisting of 100 cubic yards or less.

Section 3.3: Use of Exemptions.

1. Each department within the town which receives an application for a license or, in the case of governmental proposals, the department which initiates the proposal, shall determine whether the license and/or the proposal is exempt. The department's determination that a proposal is exempt shall be final and not subject to administrative review. If a proposal is exempt, none of the procedural requirements of this ordinance apply to the proposal. The town shall not require completion of an environmental checklist for a proposal which it finds is exempt.

2. In determining whether or not a proposal is exempt, the department shall make certain the proposal is properly defined and shall identify any local governmental licenses or permits required. If a proposal includes exempt and also nonexempt actions, the department shall determine the lead agency, even if the license application which triggered the department's consideration is exempt.

3. If a proposal includes both exempt and nonexempt actions, the town may authorize the exempt actions to proceed prior to compliance with the procedural requirements of this ordinance, except that:

a. The town shall not give authorization for any actions that would have an adverse environmental impact or limit the choice of reasonable alternatives (see WAC 197-11-070).

b. A department may withhold approval of an exempt action which would lead to modification of the physical environment, when such modification would serve no purpose if nonexempt action(s), subsequently were not approved; and

c. A department may withhold approval of exempt actions which would lead to substantial financial expenditures by a private applicant when the expenditures would serve no purpose if nonexempt action(s) subsequently were not approved.

Section 3.4: Environmental Checklist.

1. A completed environmental checklist (or a copy), in the form provided in WAC 197-11-960, shall be filed at the same time as an application for a permit, license, certificate, or other approval not specifically exempted in this ordinance; provided, a checklist is not needed if the town and applicant agree an EIS is required, or if SEPA compliance has been completed, or if SEPA compliance has been initiated by another agency. The town shall use the environmental checklist to determine the lead agency and, if the town is the lead agency, to determine the responsible official for making the threshold determination.

2. For private proposals, the town will require the applicant to complete the environmental checklist, and shall provide assistance as the town determines necessary. For town proposals, the department initiating the proposal shall complete the environmental checklist for that proposal.

3. The town may require that it, and not the private applicant, will complete all or part of the environmental checklist for a private proposal, if either of the following occurs:

a. The town has technical information on a question or questions that is unavailable to the private applicant; or

b. The applicant has provided inaccurate information on previous proposals or on proposals currently under consideration.

Section 3.5: Mitigated Determination of Non-significance (DNS).

1. As provided in this section and in WAC 197-11-350, the responsible official may issue a determination of non-significance (DNS) based on conditions attached to the proposal by the responsible official or based on changes to, or clarifications of, the proposal made by the applicant.

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

a. Follow submission of a permit application and environmental checklist for a nonexempt proposal for which the department is lead agency; and

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

3. The responsible official should expect to respond to the request for early notice within 20 working days. Such response will:

a. Be written;

b. State whether the town currently considers issuance of a DS likely and, if so, indicate the general or specific area(s) of concern that are leading the town to consider a DS; and

c. State that the applicant may change or clarify the proposal to mitigate the indicated impacts and revise the environmental checklist and/or permit application as necessary to reflect the changes or clarifications.

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

5. If an applicant submits a changed or clarified proposal, along with a revised environmental checklist, the town shall base its threshold determination on the changed or clarified proposal and should make the determination within 15 days of receiving the changed or clarified proposal:

a. If the town had thus indicated specific mitigation measures in its response to the request for early notice, and that such measures would lead to a DNS, and if the applicant then changes or clarifies the proposal to include those specific mitigation measures, the town shall issue and circulate a Determination of Nonsignificance (DNS) under WAC 197-11-340(2).

b. If the town had indicated areas of concern, but did not indicate specific mitigation measures that would allow it to issue a DNS, the town shall make the threshold determination, issuing a DNS or DS as appropriate.

c. The applicant's proposed mitigation measures (clarification, changes or conditions) must be in writing and must be specific. For example, a proposal to "control noise" or "prevent stormwater runoff" would be inadequate, while a proposal to "muffle machinery to X decibel" or to "construct 200 foot stormwater retention pond at Y location" would be adequate.

d. Mitigation measures which justify issuance of a mitigated DNS may be incorporated in such a DNS by reference to agency staff reports, studies or other documents.

6. Mitigated DNS's issued under WAC 197-11-340(2), require a fifteen day comment period and public notice.

7. Mitigation measures incorporated in the mitigated DNS shall be deemed conditions of approval of the permit decision and may be enforced in the same manner as any term or condition of the permit, or enforced in any manner legally available to the town.

8. If the town's tentative decision on a permit or approval does not include mitigation measures that were incorporated in a

mitigated DNS for the proposal, the town should evaluate the threshold determination to assure consistency with WAC 197-11-340(3)(a) (withdrawal of DNS).

9. The town's written response under (2) of this section shall not be construed as a determination of significance. In addition, preliminary discussion of clarifications or changes to a proposal, as opposed to a written request for early notice, shall not bind the town to consider the clarifications or changes in its threshold determination.

PART FOUR - ENVIRONMENTAL IMPACT STATEMENT (EIS)

Section 4.1: Purpose of This Part and Adoption by Reference.

This part contains the rules for preparing environmental impact statements. The town adopts the following sections of SEPA Rules by reference, as supplemented by this part:

197-11-400	Purpose of EIS.
197-11-402	General requirements of an EIS.
197-11-405	EIS types; draft, final; supplemental.
197-11-406	EIS timing.
197-11-408	Scoping.
197-11-410	Expanded scoping.
197-11-420	EIS preparation.
197-11-425	Style and size of EIS.
197-11-430	Format of EIS.
197-11-435	Cover letter or memo for EIS.
197-11-440	EIS contents.
197-11-442	Contents of EIS on nonproject proposals.
197-11-443	EIS contents when prior nonproject EIS.
197-11-444	Elements of the environment.
197-11-448	Relationship of EIS to other considerations.
197-11-450	Cost-benefit analysis.
197-11-455	Issuance of draft EIS.
197-11-460	Issuance of final EIS.

Section 4.2: Preparation of EIS - Additional Considerations.

1. Preparation of draft and final EIS's (DEIS and FEIS) and draft and final supplemental EIS's (SEIS) is the responsibility of the mayor or the mayor's designee. Before the town issues an EIS, the responsible official shall be satisfied that it complies with this ordinance and Chapter 197-11 WAC.

2. The DEIS and FEIS or draft and final SEIS shall be prepared by town staff, the applicant, or by a consultant selected by the town or the applicant. If the responsible official requires an EIS for a proposal and determines that someone other than the town will prepare the EIS, the responsible official shall notify the applicant immediately after completion of the threshold determination. The responsible official shall also notify the applicant of the town's procedure for EIS preparation, including approval of the draft and final EIS prior to distribution.

3. The town may require an applicant to provide information the town does not possess and may require the applicant to make specific investigations. However, the applicant is not required to supply information that is not required under this ordinance or that is being requested from another agency, unless the town may request such information under another ordinance or statute.

Section 4.3: Additional Elements Which May be Covered in an EIS. The lead agency may 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 (WAC 197-11-640). The EIS shall comply with the format requirements of this part. 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.

PART FIVE - COMMENTING

Section 5.1: Adoption by Reference. This part contains rules for consulting, commenting, and responding on all environmental documents under SEPA, including rules for public notice and hearings. The town adopts the following sections of SEPA Rules by reference, as supplemented in this part:

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

Section 5.2: Public Notice.

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

a. If public notice is required for a nonexempt license, such public notice shall state whether a DS or DNS has been issued and state the date by which comments are due.

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

- i. Posting the property, for site-specific proposals;
- ii. Publishing notice in a newspaper of general circulation in the town, or general area where the proposal is located;
- iii. Posting the notice at the Town Hall;
- iv. Posting the notice at the town post office.

c. Whenever the town issues a DS under WAC 197-11-360(3), the town shall state the scoping procedure for the proposal in the public notice, and in the DS as required in WAC 197-11-408.

2. Whenever the town issues a draft EIS under WAC 197-11-455(5) or a supplemental EIS under WAC 197-11-620, notice of the availability of those documents shall be given by:

a. Indicating the availability of the DEIS in any public notice required for a nonexempt license, and by:

- i. Posting the property, for site-specific proposals;
- ii. Publishing notice in a newspaper of general circulation in the town, or general area where the proposal is located;
- iii. Posting the notice at the Town Hall;
- iv. Posting the notice at the town post office.

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

4. The town may require an applicant to complete the public notice requirements for the applicant's proposal at the applicant's expense.

Section 5.3: Designation of Official to Perform Consulted Agency Responsibilities for the Town.

1. The mayor or the mayor's designee shall be responsible for preparation of written comments for the town in response to a consultation request prior to a threshold determination, participation in scoping, and/or reviewing a draft EIS.

2. The mayor or the mayor's designee shall be responsible for the town's compliance with WAC 197-11-550 whenever the town is a consulted agency and the mayor or the mayor's designee is authorized to develop operating procedures that will ensure that

authorized to develop operating procedures that will ensure that responses to consultation requests are prepared in a timely fashion and include data from all appropriate departments of the town.

PART SIX - USING EXISTING ENVIRONMENTAL DOCUMENTS

Section 6.1: Purpose of This Part and Adoption by Reference.

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

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

PART SEVEN - SEPA AND AGENCY DECISIONS

Section 7.1: Purpose of This Part and Adoption by Reference.

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

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

Section 7.2: Substantive Authority.

1. The standards and requirements set forth in this ordinance are supplementary to those in other town ordinances and codes.

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

a. Such conditions are necessary to mitigate specific, probable, significant, and adverse environmental impacts identified in environmental documents prepared pursuant to SEPA or this ordinance; and

b. Such conditions are in writing; and

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

d. The town has considered whether other local, state, or federal mitigation measures applied to the proposal are sufficient to mitigate the identified impacts; and

e. Such conditions are based on one or more policies in subsection (4) below and are cited in the license or other decision document.

3. The town may deny a permit or approval for any proposal on the basis of SEPA conditions and/or impact upon the environment so long as:

a. A finding has been made by the responsible official that the proposal, if approved, would result in probable, significant, adverse environmental impacts identified in a final EIS or final supplemental EIS prepared pursuant to this ordinance; and

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

c. The denial is based on one or more policies stated in subsection (4) below and which are identified in writing in the decision document.

4. The town designates and adopts the following policies as the basis for the town's exercise of authority pursuant to this section:

a. The town shall use all practicable means, consistent with other essential considerations of town and state policy, to improve and coordinate plans, functions, programs, and resources to the end that the state and town and their citizens may:

i. Fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;

ii. Assure for all people of the state and/or town safe, healthful, productive, and aesthetically and culturally pleasing surroundings;

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

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

v. Maintain, whenever possible, an environment which supports diversity and variety of individual choice;

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

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

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

c. The town reaffirms the policies in the following town ordinances, and this ordinance shall be administered consistent

with the following, but in case of any conflict, this ordinance shall control:

i. The Zoning Ordinance, adopted by Ordinance ____.

5. Except for permits and variances issued pursuant to the town Zoning Ordinance, when any proposal or action not requiring a decision of the town is conditioned or denied on the basis of SEPA by a nonelected official, the decision shall be appealable to the Town Council. Such appeal may be perfected by the proponent or any aggrieved party by giving notice to the responsible official within ten days of the decision being appealed. Review by the Town Council shall be on a de novo basis.

Section 7.3: Appeals.

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

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

i. A final DNS. Appeal of the DNS, substantive determination on action, or both, must be made to the responsible official within thirty (30) days of the date the permit or other approval is issued. An appeal of both the DNS and the substantive determination on action must be consolidated.

ii. A DS. The appeal must be made to the responsible official within thirty (30) days of the date the DS is issued.

iii. An EIS. Appeal of the FEIS, substantive determination on the action, or both, must be made to the responsible official within thirty (30) days of the date the permit or other approval is issued. An appeal on the FEIS and the substantive determination on the action must be consolidated.

b. For any appeal under this subsection, the town shall provide for record that shall consist of the following:

- i. Findings and conclusions;
- ii. Testimony under oath; and
- iii. A taped or written transcript.

c. The town may require the appellant to provide an electronic transcript.

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

2. The town shall give official notice under WAC 197-11-680(5) whenever it issues a permit or approval for which a statute or ordinance establishes a time limit for commencing judicial appeal.

Section 7.4: Notice of Action/Statute of Limitations.

1. The town, the applicant for, or the proponent of an action may publish a "notice of action" therefore pursuant to RCW 43.21C.080.

2. The form of such notice shall be substantially in the form provided in WAC 197-11-990 and shall be published substantially in the form provided in WAC 197-11-990.

3. Any action to set aside, enjoin, review or otherwise challenge any action for which notice was so given shall be commenced within the time provided by RCW 43.21C.080 and within thirty days of completion of any required posting, publications and/or notifications or be barred. Such period of limitation shall not extend any other such limitation on review set by other law or ordinance.

PART EIGHT - DEFINITIONS

Section 8.1: Purpose of This Part and Adoption by Reference.

This part contains uniform usage and definitions of terms under SEPA. The town adopts the following sections of SEPA Rules by reference:

197-11-700	Definitions.
197-11-702	"Act."
197-11-704	"Action."
197-11-706	"Addendum."
197-11-708	"Adoption."
197-11-710	"Affected tribe."
197-11-712	"Affecting."
197-11-714	"Agency."
197-11-716	"Applicant."
197-11-718	"Built environment."
197-11-720	"Categorical exemption."
197-11-722	"Consolidated appeal."
197-11-724	"Consulted agency."
197-11-726	"Cost-benefit analysis."
197-11-728	"County/city."
197-11-730	"Decisionmaker."
197-11-732	"Department."
197-11-734	"Determination of nonsignificance (DNS)."
197-11-736	"Determination of significance (DS)."
197-11-738	"EIS."
197-11-740	"Environment."
197-11-742	"Environment checklist."
197-11-744	"Environment document."
197-11-746	"Environmental review."
197-11-748	"Environmentally sensitive area."
197-11-750	"Expanded scoping."
197-11-752	"Impacts."
197-11-754	"Incorporation by reference."

197-11-756	"Lands covered by water."
197-11-758	"Lead agency."
197-11-760	"License."
197-11-762	"Local agency."
197-11-764	"Major action."
197-11-766	"Mitigated DNS."
197-11-768	"Mitigation."
197-11-770	"Natural environment."
197-11-772	"NEPA."
197-11-774	"Nonproject."
197-11-776	"Phased review."
197-11-778	"Preparation."
197-11-780	"Private project."
197-11-782	"Probable."
197-11-784	"Proposal."
197-11-786	"Reasonable alternative."
197-11-788	"Responsible official."
197-11-790	"SEPA."
197-11-792	"Scope."
197-11-793	"Scoping."
197-11-794	"Significant."
197-11-796	"State agency."
197-11-797	"Threshold determination."
197-11-799	"Underlying governmental action."

PART NINE - CATEGORICAL EXEMPTIONS

Section 9.1: Adoption by Reference. The town adopts by reference the following rules for categorical exemptions, as supplemented in this ordinance: WAC 173-806-070 (Flexible thresholds), WAC 173-806-080 (Use of exemptions), and WAC 173-806-190 (Environmentally sensitive areas) and:

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

PART TEN - AGENCY COMPLIANCE

Section 10.1: Purpose of This Part and Adoption by Reference.

This part contains rules for town compliance with SEPA, including rules for charging fees under the SEPA process, designating environmentally sensitive areas, listing agencies with environmental expertise, selecting the lead agency, and applying these rules to current agency activities. The town has not designated any area as "environmentally sensitive" under WAC 197-11-908. The town adopts the following sections of SEPA Rules by reference, as supplemented by WAC 173-806-050 through 173-806-053 and this part:

197-11-900 Purpose of this part; agency compliance.
197-11-902 Agency SEPA policies.
197-11-916 Application to ongoing actions.
197-11-920 Agencies with environmental expertise.
197-11-922 Lead agency rules.
197-11-924 Determining the lead agency.
197-11-926 Lead agency for governmental proposals.
197-11-928 Lead agency for public and private proposals.
197-11-930 Lead agency for private projects with one
 agency with jurisdiction.
197-11-932 Lead agency for private projects requiring
 licenses from more than one agency, when one
 of the agencies is a county/city.
197-11-934 Lead agency for private projects requiring
 licenses from a local agency, not a county/
 city, and one or more state agencies.
197-11-936 Lead agency for private projects requiring
 licenses from more than one state agency.

197-11-938	Lead agency for specific proposals.
197-11-940	Transfer of lead agency status to a state agency.
197-11-942	Agreements on lead agency status.
197-11-944	Agreements on division of lead agency duties.
197-11-946	DOE resolution of lead agency disputes.
197-11-948	Assumption of lead agency status.

Section 10.2: Fees.

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

(1) Threshold determination. For every environmental checklist the town will review when it is lead agency, the town shall collect a fee of \$50 from the proponent of the proposal prior to undertaking the threshold determination. The time periods provided by this ordinance for making a threshold determination shall not begin to run until payment of the fee. When the town completes the environmental checklist at the applicant's request or under Section 3.4 of this ordinance, an additional \$50 shall be collected.

(2) Environmental impact statement.

(a) When the town is the lead agency for a proposal requiring an EIS and the responsible official determines that the EIS shall be prepared by employees of the town, the town may charge and collect a reasonable fee from any applicant to cover costs incurred by the town in preparing the EIS. The responsible official shall advise the applicant(s) of the projected costs for the EIS prior to actual preparation; the applicant shall post bond or otherwise ensure payment of such costs.

(b) The responsible official may determine that the town will contract directly with a consultant for preparation of an EIS, or a portion of the EIS, for activities initiated by some persons or entity other than the town and may bill such costs and expenses directly to the applicant. The town may require the

applicant to post bond or otherwise ensure payment of such costs. Such consultants shall be selected by mutual agreement of the town and applicant after a call for proposals.

(c) If a proposal is modified so that an EIS is no longer required, the responsible official shall refund any fees collected under (a) or (b) of this subsection which remain after incurred costs are paid.

(3) The town may collect a reasonable fee from an applicant to cover the cost of meeting the public notice requirements of this ordinance relating to the applicant's proposal.

(4) The town shall not collect a fee for performing its duties as a consulted agency.

(5) The town may charge any person for copies of any document prepared under this ordinance, and for mailing the document, in a manner provided by chapter 42.17 RCW.

Section 10.3: Effective. The effective date of this ordinance is October 1, 1984.

Section 10.4: Severability. If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of this ordinance, or the application of the provision to other persons or circumstances, shall not be affected. WAC 197-11-950 (severability) is hereby adopted by reference.

PART ELEVEN - FORMS

Section 20.01.230: Adoption by Reference of Certain Forms.
The town adopts the following sections of SEPA Rules by reference, which sections contain certain forms hereby adopted.

197-11-960	Environmental checklist.
197-11-965	Adoption notice.
197-11-970	Determination of nonsignificance (DNS).
197-11-980	Determination of significance and scoping notice (DS).

197-11-985

Notice of assumption of lead agency status.

197-11-990

Notice of action.

SIGNED this 20 day of November, 1984.

Jim Worthington
JIM WORTHINGTON, Mayor

Attest:

Irene Christiansen
IRENE CHRISTIANSEN,
Town Clerk

Approved as to form:

MARK B. HANSEN,
Town Attorney

AYES

Paul Grooms
W. J. Larson, Gaylen M. Madison,

NAYES

~~Gaylen M. Madison~~

ABSENT

Councilman Hallenback, Councilmember Bell