

Draft 2018 Environmental Procedures Code Conformance Amendments

September 17, 2018 Page 1

CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. _____

AN ORDINANCE amending the Bellevue City Code (BCC) Environmental Procedures Code, Chapter 22.02 BCC, for consistency with new State Environmental Policy Act (SEPA) rules; for general clean-ups and clarifications to correct errors, omissions and/or internal conflicts within the BCC; and establishing an effective date.

WHEREAS, in 2012, the Washington State Legislature enacted 2ESSB 6406, the Natural Resources Reform Bill, in order to streamline and improve the efficiency of regulatory processes, while maintaining natural resource protection; and

WHEREAS, the Washington State Department of Ecology, in response to 2ESSB 6406, has completed administrative updates to the SEPA rules in Chapter 197-11 of the Washington State Administrative Code (WAC), which are intended to improve this environmental law for cities, counties, and project applicants through more effective coordination with current land-use planning and development regulations and streamlined regulatory process; and

WHEREAS, the City's Environmental Procedures Code, Chapter 22.02 BCC, adopts the policies and objectives of SEPA, Chapter 43.21C RCW, has the purpose of implementing the requirements of SEPA and the SEPA rules, and adopts by reference sections and subsections of the SEPA rules, Chapter 197-11 WAC; and

WHEREAS, the City desires to amend its Environmental Procedures Code for consistency with the updated state regulations, and to clean-up and correct errors, omissions and/or internal conflicts within the Environmental Procedures Code; and

WHEREAS, the Environmental Procedures Code amendments proposed herein are to be known as the Environmental Procedures Code Conformance Amendments; and

WHEREAS, the Environmental Procedures Code Conformance Amendments constitute a procedural action that is categorically exempt from the State Environmental Policy Act (SEPA), Chapter 43.21C RCW, pursuant to WAC 197-11-800(19); now, therefore,

**THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES
ORDAIN AS FOLLOWS:**

Section 1. Section 22.02.020 of the Bellevue City Code is hereby amended to read as follows:

Commented [TT1]: Clean-up for consistency with state law.

22.02.020 Adoption by reference.

The city adopts by reference, as though fully set forth in this chapter, [Chapter 43.21C RCW](#) and the following sections and subsections of Chapter 197-11 WAC (the SEPA rules) as adopted by the Department of Ecology of the state of Washington, ~~and as now or the same may be~~ hereafter amended:

WAC

197-11-020 (3) Purpose;
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 the SEPA process;
197-11-080 Incomplete or unavailable information;
197-11-090 Supporting documents;
197-11-100 Information required of applicants;
197-11-158 [SEPA](#)/GMA project review – Reliance on existing plans, laws, and regulations;
197-11-164 Planned actions – Definition and criteria;
197-11-168 Ordinances or resolutions designating planned actions – Procedure for adoption;
197-11-172 Planned actions – Project review;
197-11-210 SEPA/GMA integration;
197-11-220 SEPA/GMA definitions;
197-11-228 Overall SEPA/GMA integration procedures;
197-11-230 Timing of an integrated GMA/SEPA process;
197-11-232 SEPA/GMA integration procedures for preliminary planning, environmental analysis, and expanded scoping;
197-11-235 [SEPA/GMA integration](#) documents;
197-11-300 Purpose of this part (Categorical 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;
197-11-355 Optional DNS process;
197-11-360 Determination of significance (DS)/initiation of scoping;
197-11-390 Effect of threshold determination;

Draft 2018 Environmental Procedures Code Conformance Amendments

September 17, 2018 Page 3

197-11-400 Purpose of EIS (Environmental Impact Statement);
197-11-402 General requirements;
197-11-405 EIS types;
197-11-406 EIS timing;
197-11-408 Scoping;
197-11-410 Expanded scoping- (Optional);
197-11-420 EIS preparation;
197-11-425 Style and size;
197-11-430 Format;
197-11-435 Cover letter or memo;
197-11-440 EIS contents;
197-11-442 Contents of EIS on nonproject proposals;
197-11-443 EIS contents when prior nonproject EIS;
197-11-444 Elements of the environment;
197-11-448 Relationship of EIS to other considerations;
197-11-450 Cost-benefit analysis;
197-11-455 Issuance of DEIS;
197-11-460 Issuance of FEIS;
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;
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;
197-11-650 Purpose of this part (SEPA and agency decisions);
197-11-655 Implementation;
197-11-660 Substantive authority and mitigation;
197-11-680 Appeals;
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;

Draft 2018 Environmental Procedures Code Conformance Amendments

September 17, 2018 Page 4

197-11-714 Agency;
197-11-716 Applicant;
197-11-718 Built environment;
197-11-720 Categorical exemption;
197-11-721 Closed record appeal;
197-11-722 Consolidated appeal;
197-11-724 Consulted agency;
197-11-726 Cost-benefit analysis;
197-11-728 County/city;
197-11-730 Decision maker;
197-11-732 Department;
197-11-734 Determination of nonsignificance (DNS);
197-11-736 Determination of significance (DS);
197-11-738 EIS;
197-11-740 Environment;
197-11-742 Environmental checklist;
197-11-744 Environmental document;
197-11-746 Environmental review;
197-11-750 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;
197-11-775 Open record hearing;
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;

Draft 2018 Environmental Procedures Code Conformance Amendments

September 17, 2018 Page 5

197-11-799	Underlying governmental action;
197-11-800	Categorical exemptions;
197-11-880	Emergencies;
<u>197-11-890</u>	<u>Petitioning DOE to change exemptions;</u>
197-11-900	Purpose of this part (Agency compliance);
197-11-902	Agency SEPA policies;
197-11-904	Agency SEPA procedures;
197-11-906	Content and consistency of agency procedures;
197-11-908	Critical areas;
197-11-910	Designation of responsible official;
197-11-912	Procedures of consulted agencies;
197-11-914	SEPA fees and costs;
197-11-916	Application to ongoing actions;
197-11-920	Agencies with environmental expertise;
<u>197-11-922</u>	<u>Lead agency rules;</u>
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 agencies for specific proposals;
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;
197-11-960	Environmental checklist;
197-11-965	Adoption notice;
197-11-970	Determination of nonsignificance (DNS);
197-11-980	Determination of significance and scoping notice (DS);
197-11-985	Notice of assumption of lead agency status;
197-11-990	Notice of action.

Section 2. Section 22.02.032.B of the Bellevue City Code is hereby amended to read as follows:

B. Pursuant to the authority provided by WAC 197-11-800(1)(c), the following categorical exemption thresholds apply to exemptions determined under WAC 197-11-800(1) for minor new construction in Bellevue, replacing those provided under WAC 197-11-800(1)(b)(i), ~~(ii)-(iii)~~ and (v), as now or hereafter amended:

Commented [TT2]: Clean-up for consistency with state law.

Draft 2018 Environmental Procedures Code Conformance Amendments

September 17, 2018 Page 6

1. The construction or location of residential structure(s) containing 10 or less dwelling units;
2. The construction of a barn, loafing shed, farm equipment storage building, produce storage or packing structure, or similar agricultural structure, covering 30,000 square feet, and to be used by the property owner or his or her agent in the conduct of farming the property. This exemption shall not apply to feed lots;
3. Any landfill or excavation of 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.

Section 3. Section 22.02.032.D of the Bellevue City Code is hereby amended to read as follows:

D. The following categorical exemptions in WAC 197-11-800, as now or hereafter amended, do not apply within any critical area described in subsection C of this section:

1. WAC 197-11-800(1), except that the construction or location of a single-family residence within a critical area, if otherwise allowed by applicable development regulations, is exempt;
2. WAC 197-11-800(2)(e)(d), except when necessary for construction or location of a single-family residence exempt under WAC 197-11-800(1) and subsection (D)(1) of this section;
3. WAC 197-11-800(2)(g)(f), except for single-family residences, the construction of which would be categorically exempt under WAC 197-11-800(1) and subsection (D)(1) of this section;
4. WAC 197-11-800(2)(h)(g);
5. WAC 197-11-800(6)(d)(a);
6. WAC 197-11-800(13)(c);
7. WAC 197-11-800(23)(c); and
8. WAC 197-11-800(23)(e).

An exemption from the requirements of this chapter does not limit the requirements of or the application of the Land Use Code critical areas regulations (Chapter 20.25H LUC, as now or hereafter amended) or any other development regulation.

Commented [TT3]: Clean-up for consistency with state law.

Section 4. Section 22.02.034.A of the Bellevue City Code is hereby amended to read as follows:

Commented [TT4]: Clean-up cross-reference error.

A. The environmental coordinator shall make the threshold determination and issue a determination of nonsignificance (DNS) or significance (DS). The environmental coordinator shall make such threshold determination in accordance with applicable sections of the SEPA rules, as adopted by this code. A threshold determination is a Process II decision governed by the procedures set out at LUC 20.35.200 et seq., as now or hereafter amended, except that the threshold determination associated with a Process IV or Process V action shall be merged with the Process IV and Process V action, and processed according to the notice, decision, appeal and other procedures set forth in LUC 20.35.400 to 20.35.450 (Process IV) or LUC 20.35.~~460-500~~ to 20.35.~~490-540~~ (Process V), as now or hereafter amended.

Section 5. Section 22.02.080.A of the Bellevue City Code is hereby amended to read as follows:

Commented [TT5]: Clean-up cross-reference error.

A. General. Except as provided in this section, the decision of the environmental coordinator in making a threshold determination may be appealed to the hearing examiner using the appeal provisions for Process II decisions (see LUC 20.35.200 et seq., as now or hereafter amended); provided, however, when the threshold determination is a determination of significance which has been agreed to by the proponent, it shall not be appealable. The appeal of a threshold determination issued on a Process IV or Process V action shall be appealable only in the manner set forth for Process IV decisions (LUC 20.35.400 et seq., as now or hereafter amended) or Process V decisions (LUC 20.35.~~500460~~ et seq., as now or hereafter amended). Any provisions of this section which conflict with LUC Part 20.35, as now or hereafter amended, control over those sections.

Passed by the City Council this _____ day of _____, 2018 and signed in authentication of its passage this _____ day of _____, 2018.

(SEAL)

John Chelminiak, Mayor

Approved as to form:

Lori M. Riordan, City Attorney

Draft 2018 Environmental Procedures Code Conformance Amendments

September 17, 2018 Page 8

Matthew B. McFarland, Assistant City Attorney

Attest:

Kyle Stannert, City Clerk

Published _____

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