

CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 6428

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:

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, as now or 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;
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;
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;
197-11-799	Underlying governmental action;
197-11-800	Categorical exemptions;
197-11-880	Emergencies;
197-11-890	Petitioning DOE to change exemptions;
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;
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 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), (iii) and (v), as now or hereafter amended:

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), 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), 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);
5. WAC 197-11-800(6)(d);
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.

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

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 20.35.500 to 20.35.540 (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:

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 20.35.500 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.

Section 6. Effective Date. This Ordinance shall take effect and be in force five (5) days after adoption and legal publication.

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

Matthew B. McFarland, Assistant City Attorney

Attest:

Kyle Stannert, City Clerk

Published _____