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ORDINANCE NO. 3818

AN ORDINANCE OF THE CITY OF EDMONDS, WASHINGTON, AMENDING THE PROVISIONS OF THE EDMONDS COMMUNITY DEVELOPMENT CODE BY REPEALING AND REENACTING CHAPTER 20.15A RELATING TO ENVIRONMENTAL REVIEW (SEPA), AMENDING CHAPTER 20.03 PUBLIC NOTICE REQUIREMENTS, TO ADD A NEW SECTION RELATING TO SEPA NOTICING REQUIREMENTS, AND FIXING A TIME WHEN THE SAME SHALL BECOME EFFECTIVE.

WHEREAS, the City's environmental review processes were established shortly after the adoption of the State Environmental Protection Act; and

WHEREAS, over the years, changes have been made both in the Act and in the regulations which implement its provisions; and

WHEREAS, following receipt of the recommendation of the City's Planning Board, and having considered the comments of the public as put forward at public hearings before both the Planning Board and the City Council, the City Council deems it to be in the public interest to amend the provisions of Chapter 20.15A to incorporate changes in state law and regulation and to amend the provisions of ECDC 20.03 relating to noticing requirements,

NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF EDMONDS, WASHINGTON, DO
ORDAIN AS FOLLOWS:

Section 1. The Edmonds Community Development Code is hereby amended by the repeal and reenactment of Chapter 20.15A to read as follows:

Chapter 20.15A
ENVIRONMENTAL REVIEW (SEPA)

Sections:

- 20.15A.010 Authority.**
- 20.15A.020 General SEPA Requirements - Adoption by reference.**
- 20.15A.025 Reliance on existing laws, plans and regulations**
- 20.15A.030 Additional definitions.**
- 20.15A.040 Designation of responsible official.**
- 20.15A.050 Lead agency determination and responsibilities.**
- 20.15A.060 Rules for deciding probable significant, adverse environmental impacts– Adoption by reference.**
- 20.15A.080 Categorical exemptions – Adoption by reference.**
- 20.15A.090 Categorical exemptions – Flexible thresholds.**
- 20.15A.100 Categorical exemptions – Use of exemptions.**
- 20.15A.110 Determination – Review at conceptual stage.**
- 20.15A.120 Environmental checklist.**
- 20.15A.130 Threshold determinations – Mitigated DNS.**
- 20.15A.140 Environmental impact statement (EIS) – Adoption by reference.**
- 20.15A.150 Preparation of EIS – Additional considerations.**
- 20.15A.160 Commenting – Adoption by reference.**
- 20.15A.170 Public notice.**
- 20.15A.180 Designation of official to perform consulted agency responsibilities.**
- 20.15A.190 Using existing environmental documents – Adoption by reference.**
- 20.15A.195 Planned Actions**
- 20.15A.200 SEPA decisions – Adoption by reference.**
- 20.15A.210 SEPA decisions – Nonexempt proposals.**
- 20.15A.220 SEPA decisions – Substantive authority.**
- 20.15A.230 SEPA – Policies.**
- 20.15A.240 Appeals.**
- 20.15A.250 Notice/statute of limitations.**
- 20.15A.260 Definitions – Adoption by reference.**
- 20.15A.270 Compliance with SEPA – Adoption by reference.**
- 20.15A.280 *Repealed.***
- 20.15A.290 Fees.**
- 20.15A.300 Forms – Adoption by reference.**
- 20.15A.310 Severability.**

20.15A.010 Authority.

The city of Edmonds adopts the ordinance codified in this chapter under the State Environmental Policy Act (SEPA), RCW 43.21C.120 and the SEPA rules WAC 197-11-904. The city's substantive policies and procedures for SEPA are contained in this chapter. The SEPA rules contained in Chapter 197-11 WAC must be used in conjunction with this chapter.

20.15A.020 General SEPA Requirements - Adoption by reference.

This part contains the basic requirements that apply to the SEPA process. The city adopts the following sections of Chapter 197-11 WAC, as now existing or hereinafter amended, by reference:

- 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.
- 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 Documents.
- 197-11-250 SEPA/Model Toxics Control Act integration.
- 197-11-253 SEPA lead agency for MTCA actions.
- 197-11-256 Preliminary evaluation.
- 197-11-259 Determination of nonsignificance for MTCA remedial actions.
- 197-11-262 Determination of significance and EIS for MTCA remedial actions.
- 197-11-265 Early scoping for MTCA remedial actions.
- 197-11-268 MTCA interim actions.

20.15A.025 Reliance on existing plans, laws and regulations

In reviewing the environmental impacts of a project and making a threshold determination, the City may determine that the

requirements for environmental analysis, protection, and mitigation measures in the City's development regulations and comprehensive plan adopted under chapter 36.70A RCW, and in other applicable local, state, or federal laws or rules, provide adequate analysis of and mitigation for some or all of the specific adverse environmental impacts of the project consistent with the initial SEPA analysis identified in ECDC 20.04.002.

20.15A.030 Additional definitions.

In addition to those definitions contained within WAC 197-11-700 through 197-11-799 and 197-11-220, when used in this chapter the following terms shall have the following meanings, unless the content indicates otherwise:

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

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

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

D. "Early notice" means the city's response to an applicant stating whether it considers issuance of a determination of significance likely for the applicant's proposal (mitigated determination of nonsignificance (DNS) procedures).

20.15A.040 Designation of responsible official.

A. For those proposals for which the city is a lead agency, the responsible official shall be the planning manager or his/her designee.

B. For all proposals for which the city is a 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 rule that have been adopted by reference.

C. The city shall retain all documents required by the SEPA rules (Chapter 197-11 WAC) and make them available in accordance with chapter 42.17 RCW.

20.15A.050 Lead agency determination and responsibilities.

A. The responsible official or the department 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, WAC 197-11-253, and WAC 197-11-922 through 197-11-940, unless the lead agency has been previously determined or the department is aware that another department or agency is in the process of determining the lead agency.

B. When the city is the lead agency for a proposal, the responsible official shall supervise compliance with the threshold determination requirements, and if an EIS is necessary, shall supervise preparation of the EIS.

C. When the city is not the lead agency for a proposal, all departments of the city shall use and consider as appropriate either the DNS or the final EIS of the lead agency in making decisions on the proposal. No city department shall prepare or require preparation of a DNS or EIS in addition to that prepared by the lead agency unless the city determines a supplemental environmental review is necessary under WAC 197-11-600.

D. If the city, or any of its departments, receives a lead agency determination made by another agency that appears inconsistent with the criteria of WAC 197-11-253 or 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 resolved within 15 days of receipt of the determination or the city must petition the Department of Ecology for a lead agency determination under WAC 197-11-946 within the 15-day time period. Any such petition on behalf of the city may be initiated by the responsible official.

E. The responsible official is 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; provided, that the responsible official and any department that will incur responsibilities as the result of such agreement approve that agreement.

F. The responsible official shall require sufficient information from the applicant to identify which other agencies have jurisdiction over the proposal.

G. When the city is lead agency for a MTCA remedial action, the Department of Ecology shall be provided an opportunity under WAC 197-11-253(5) to review the environmental documents prior to public notice being provided. If the SEPA and MTCA documents are issued together with one public comment period under WAC 197-11-253(6), the city shall decide jointly with Ecology who receives the comment letters and how copies of the comments letters will be distributed to the other agency.

20.15A.060 Rules for deciding probable significant, adverse environmental impact – 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 impacts of proposals not requiring an EIS. The city adopts the following sections of Chapter 197-11 WAC, as now existing or hereinafter amended by reference as supplemented in this chapter:

- 197-11-300 Purpose of this part.
- 197-11-305 Categorical exemptions.
- 197-11-310 Threshold determination required.
- 197-11-315 Environmental checklist.
- 197-11-330 Threshold determination process.
- 197-11-335 Additional information.
- 197-11-340 Determination of nonsignificance (DNS).
- 197-11-350 Mitigated DNS.
- 197-11-355 Optional DNS process.
- 197-11-360 Determination of significance (DS)/initiation of scoping.
- 197-11-390 Effect of threshold determination.

20.15A.080 Categorical exemptions – Adoption by reference.

The city adopts the following rules for categorical exemption of Chapter 197-11, as now existing or hereinafter amended, by reference, as supplemented in this chapter:

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

20.15A.090 Categorical exemptions – Flexible thresholds.

A. The proposed actions contained in this section are categorically exempt from threshold determination and EIS requirements, subject to the rules and limitations on categorical exemptions contained in ECDC 20.15A.100. The exemptions in this section apply to all licenses required to undertake the construction in question, except when undertaken wholly or partly on lands covered by water. To be exempt under this section, the project must be equal to or smaller than the exempt level.

B. The city establishes the following exempt level for minor new construction based on local conditions in addition to those standards adopted by reference.

C. For landfills and excavations in WAC 197-11-800(1)(b)(v) up to 500 cubic yards.

D. The responsible official shall send copies of all adopted flexible thresholds to the Department of Ecology, Headquarters Office, Olympia, Washington.

20.15A.100 Categorical exemptions – Use of exemptions.

A. When the city receives an application for a license or, in the case of governmental proposals a department initiates a proposal, the responsible official shall determine whether the license and/or the proposal is exempt. The 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 chapter shall apply to the proposal. The city shall not require completion of an environmental checklist for an exempt proposal.

B. In determining whether or not a proposal is exempt the responsible official shall make certain the proposal is properly defined and shall identify the governmental license required. If a proposal includes exempt and nonexempt actions, the responsible official shall determine the lead agency even if the license application that triggers the consideration is exempt.

C. If a proposal includes both exempt and nonexempt actions, the city may authorize exempt actions prior to compliance with the procedural requirements of this chapter, except that:

1. The city shall not give authorization for:

- a. Any nonexempt action;
 - b. Any action that would have an adverse environmental impact; or
 - c. Any action that would limit the choice of reasonable alternatives.
2. The city may withhold approval of any permit, application or proposal, the basis of which is an exempt action that would lead to modification of the physical environment, when such modification would serve no purpose if the nonexempt actions were not approved.
 3. The city may withhold approval of any permit, application or proposal, the basis of which is an exempt action that would lead to substantial financial expenditures by a private applicant when the expenditures would serve no purpose if the nonexempt actions were not approved.

20.15A.110 Determination – Review at conceptual stage.

A. If the city's only action on a proposal is a decision on a building permit or other licenses that requires detailed project plans and specifications, the applicant may request in writing that the city conduct environmental review prior to submission of the detailed plans and specifications.

B. In addition to the environmental documents an applicant shall submit the following information for early environmental review:

1. A copy of any permit or license application;
2. Other information as the responsible official may determine.

20.15A.120 Environmental checklist.

A. Except as provided in subsection (E) of this section, a completed environmental checklist, 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 by this chapter; except, a checklist is not needed if the city and applicant agree an EIS is required, SEPA compliance has been completed, or SEPA compliance has been initiated by another

agency. The city shall use the environmental checklist to determine the lead agency, and if the city is the lead agency, for making the threshold determination. .

B. For private proposals, the applicant is required to complete the environmental checklist. The city may provide assistance as necessary. For city proposals the department initiating the proposal shall complete the environmental checklist for that proposal.

C. The city may decide to complete all or part of the environmental checklist for a private proposal, if any of the following occurs:

1. The city has technical information on a question or questions that is unavailable to the private applicant; or
2. The applicant has provided inaccurate information on previous proposals or on proposals currently under consideration; or
3. On the request of the applicant.

D. The applicant shall pay to the city the actual costs of providing information under paragraphs C(2) and C(3) of this section.

E. For projects submitted as planned actions under ECDC 20.04.003.B, the city shall use its existing environmental checklist form or may modify the environmental checklist form as provided in WAC 197-11-315. The modified environmental checklist form may be prepared and adopted along with or as part of a planned action ordinance; or developed after the ordinance is adopted. In either case, a proposed modified environmental checklist form must be sent to the Department of Ecology to allow at least a thirty-day review.

20.15A.130 Threshold determinations – Mitigated DNS.

A. The responsible official may issue a determination of nonsignificance (DNS) based on conditions attached to the proposal by the responsible official or on changes to, or clarifications of, the proposal made by the applicant.

B. An applicant may request in writing early notice of whether a DS is likely. The request must:

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

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

C. The responsible official's response to the request for early notice shall:

1. Be written;

2. State whether the city currently considers issuance of a DS likely and, if so, indicate the general or specific areas of concern that are leading the city to consider a DS; and

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

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

E. When an applicant submits a changed or clarified proposal, along with a revised environmental checklist, the city shall base its threshold determination on the changed or clarified proposal:

1. If the city indicated specific mitigation measures in its response to the request for early notice, and the applicant changed or clarified the proposal to include those specific mitigation measures, the city shall issue and circulate a determination of nonsignificance if the city determines that no additional information or mitigation measures are required.

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

3. The applicant's proposed mitigation measures, clarifications, changes or conditions must be in writing and must be specific. For example, proposals to "control noise" or "prevent stormwater runoff" are inadequate, whereas proposals to "muffle

machinery to X decibel” or “construct 200-foot stormwater retention pond at Y location” are adequate.

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

F. A mitigated DNS is issued under either WAC 197-11-340(2), requiring a fourteen-day comment period and public notice, or WAC 197-11-355, which may require no additional comment period beyond the comment period on the notice of application..

G. Mitigation measures incorporated in the mitigated DNS shall be deemed conditions of approval of the licensing or permit decision and may be enforced in the same manner as any term or condition of the permit or enforced in any matter specifically prescribed by the city. Failure to comply with the designated mitigation measures shall be grounds for suspension and/or revocation of any license or permit issued.

H. If the city’s tentative decision on a permit or approval does not include mitigation measures that were incorporated in a mitigated DNS for the proposal, the city should evaluate the threshold determination to assure consistency with WAC 197-11-340(3) (a) relating to the withdrawal of a DNS.

I. The city’s written response under subsection C of this section shall not be construed as a determination of significance. In addition, preliminary discussion of clarification or changes to a proposal, as opposed to a written request for early notice, shall not bind the city to consider the clarifications or changes in its threshold determination.

**20.15A.140 Environmental impact statement (EIS) –
Adoption by reference.**

This section contains the rules for preparing environmental impact statements. The city adopts the following sections of Chapter 197-11 WAC, as now existing or hereinafter amended, by reference as supplemented by this chapter:

- 197-11-400 Purpose of EIS.
- 197-11-402 General requirements.
- 197-11-405 EIS types.
- 197-11-406 EIS timing.

197-11-408	Scoping.
197-11-410	Expanded scoping.
197-11-420	EIS preparation.
197-11-425	Style and size.
197-11-430	Format.
197-11-435	Cover letter or memo.
197-11-440	EIS contents.
197-11-442	Contents of EIS on nonproject proposals.
197-11-443	EIS contents when prior nonproject EIS.
197-11-444	Elements of the environment.
197-11-448	Relationship of EIS to other considerations.
197-11-450	Cost-benefit analysis.
197-11-455	Issuance of DEIS.
197-11-460	Issuance of FEIS.

20.15A.150 Preparation of EIS – Additional considerations..

A. Preparation of draft and final EISs and SEISs shall be under the direction of the responsible official. Before the city issues an EIS, the responsible official shall be satisfied that it complies with this chapter and Chapter 197-11 WAC.

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

C. The city may require an applicant to provide additional information which the city does not possess, including information which must be obtained by specific investigations. This provision is not intended to expand or limit an applicant's other obligations under WAC 197-11-100, or other provisions of regulation, statute, or ordinance. An applicant shall not be required to produce information under this provision which is not specifically required by this chapter nor is the applicant relieved of the duty to supply any other information required by statute, regulation or ordinance.

20.15A.160 Commenting – 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 city adopts the following sections of Chapter 197-11 WAC, as now existing or hereinafter amended, by reference as supplemented in this chapter:

- 197-11-500 Purpose of this part.
- 197-11-502 Inviting comment.
- 197-11-504 Availability and cost of environmental documents.
- 197-11-508 SEPA register.
- 197-11-510 Public notice.
- 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.

20.15A.170 Public notice.

Public notice for SEPA reviews shall be carried out as described in ECDC 20.03.004.

20.15A.180 Designation of official to perform consulted agency responsibilities.

A. The responsible official shall be responsible for preparation of written comments for the city in response to a consultation request prior to a threshold determination, participation in scoping and reviewing of a draft EIS.

B. The responsible official shall be responsible for the city's compliance with WAC 197-11-550 whenever the city is a consulted agency and is authorized to develop operating procedures that will ensure that responses to consultation requests are prepared in a timely fashion and include data from all appropriate departments of the city.

20.15A.190 Using existing environmental documents – 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 City's own environmental compliance. The city adopts the following sections of Chapter 197-11 WAC, as now existing or hereinafter amended, by reference:

- 197-11-168 Ordinances or resolutions designating planned actions – Procedures for adoption.
- 197-11-172 Planned actions – Project review.
- 197-11-600 When to use existing environmental documents.
- 197-11-610 Use of NEPA documents.
- 197-11-620 Supplemental environmental impact statements.
- 197-11-625 Addenda – Procedures.
- 197-11-630 Adoption – Procedures.
- 197-11-635 Incorporation by reference – Procedures.
- 197-11-640 Combining documents.

20.15A.195 Planned Actions

Definition and criteria for planned actions within the City are included in ECDC 20.04.003.B.

20.15A.200 SEPA decisions – 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 city adopts the following sections of Chapter 197-11 WAC, as now existing or hereinafter amended, by reference:

- 197-11-650 Purpose of this part.
- 197-11-655 Implementation.
- 197-11-660 Substantive authority and mitigation.
- 197-11-680 Appeals.
- 197-11-700 Definitions.

20.15A.210 SEPA decisions – Nonexempt proposals.

For nonexempt proposals, the DNS or draft EIS for the proposal shall accompany the city staff’s recommendation to any appropriate advisory body such as the planning board. If a final EIS is or becomes available, it shall be substituted for the draft.

20.15A.220 SEPA decisions – Substantive authority.

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

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

2. Such conditions are in writing; and
 3. The mitigation measures included in such conditions are reasonable and capable of being accomplished; and
 4. The city has considered whether other local, state or federal mitigation measures applied to the proposal are sufficient to mitigate the identified impacts; and
 5. Such conditions are based on one or more policies in subsection C of this section or ECDC 20.15A.230 and cited in the permit, approval, license or other decision document.
- B. The city may deny a permit or approval for a proposal on the basis of SEPA so long as:
1. A finding is made that approving the proposal would result in probable significant adverse environmental impacts that are identified in a final EIS or final supplemental EIS prepared pursuant to this chapter; and
 2. A finding is made that there are no reasonable mitigation measures sufficient to mitigate the identified impact; and
 3. The denial is based on one or more policies identified in subsection C of this section or in ECDC 20.15A.230 and identified in writing in the decision document.
- C. The City designates and adopts by reference the following policies as the basis for the City's exercise of authority pursuant to this section:
1. The City shall use all practicable means, consistent with other essential considerations of state policy, to improve and coordinate plans, functions, programs, and resources to the end that the state and its citizens may:
 - a. Fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;
 - b. Assure for all people of Washington safe, healthful, productive, and aesthetically and culturally pleasing surroundings;

- c. Attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;
- d. Preserve important historic, cultural, and natural aspects of our national heritage;
- e. Maintain, wherever possible, an environment which supports diversity and variety of individual choice;
- f. Achieve a balance between population and resource use which will permit high standards of living and wide sharing of life's amenities; and
- g. Enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.

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

20.15A.230 SEPA – Policies.

- A. The policies and goals set forth in this chapter are supplementary to those in the existing authorization of the city.
- B. The city adopts by reference the policies in the following city codes, ordinances, resolutions and plans, as now existing or hereinafter amended, as a possible basis for the exercise of substantive authority in the conditioning or denying of proposals.

Chapter 43.21C RCW, State Environmental Policy Act;
 Six-Year Transportation Improvement Program;
 Chapter 5.05 ECC, Animal Control;
 ECC Title 6, Health and Sanitation;
 ECC Title 8, Traffic;
 ECC Title 9, Streets and Sidewalks;
 ECDC Title 15, Land Use Plans and Policies;
 ECDC Title 16, Zone Districts, and Title 17, General Zoning Regulations;
 ECDC Title 18, Public Works Requirements;
 ECDC Title 19, Building Codes;
 ECDC Title 20, Review Criteria and Procedures;
 ECDC Title 21, Definitions;
 ECDC Title 22, Design Standards

20.15A.240 Appeals.

A. Any interested person may appeal a threshold determination, adequacy of a final EIS and the conditions or denials of a requested action made by a non-elected city official pursuant to the procedures set forth in this section. No other SEPA appeal shall be allowed.

B. All appeals filed pursuant to this section must be filed in writing with the director of community services within 14 calendar days of the date of the decision; provided that when a 14 day DNS comment period is required pursuant to this chapter, appeals may be filed no later than the 21 calendars from the date of decision.

C. On receipt of a timely written notice of appeal, the director of community services shall advise the hearing examiner of the pendency of the appeal and request that a date for considering the appeal be established. The decision of the hearing examiner shall be final and shall not be appealable to the city council.

D. Appeals shall be governed by the procedures specified in Chapter 20.06 ECDC.

E. All relevant evidence shall be received during the hearing of the appeal. The procedural determination by the city's responsible official shall carry substantial weight in any appeal proceeding.

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

1. Findings and conclusions;
2. Testimony under oath; and
3. A taped or written transcript.

G. The city may require the applicant to provide an electronic transcript.

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

20.15A.250 Notice/statute of limitations.

A. The city, applicant for, or proponent of an action may publish a notice of action pursuant to RCW 43.21C.080 for any action.

B. The form of the notice shall be substantially in the form provided in WAC 197-11-990. The notice shall be published by the city clerk, applicant or proponent pursuant to RCW 43.21C.080.

20.15A.260 Definitions – Adoption by reference.

This part contains uniform usage and definitions of terms under SEPA. The city adopts the following sections of Chapter 197-11 WAC, as now existing or hereinafter amended, by reference, as supplemented in this chapter:

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.

20.15A.270 Compliance with SEPA – Adoption by reference.

This part contains rules for agency compliance with SEPA, including rules for charging fees under the SEPA process, designating categorical exemptions that do not apply within critical areas, listing agencies with environmental expertise, selecting lead agency, and applying these rules to current agency activities. The city adopts the following sections of Chapter 197-11 WAC, as now existing or hereinafter amended, by reference, as supplemented in this chapter:

197-11-900	Purpose of this part.
197-11-902	Agency SEPA policies.
197-11-916	Application to ongoing actions.
197-11-920	Agencies with environmental expertise.
197-11-922	Lead agency rules.
197-11-924	Determining the lead agency.
197-11-926	Lead agency for governmental proposals.
197-11-928	Lead agency for public and private proposals.

- 197-11-930 Lead agency for private projects with one agency with jurisdiction.
- 197-11-932 Lead agency for private projects requiring licenses from more than one agency, when one of the agencies is a 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.
- 197-11-940 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.

20.15A.280 Environmentally sensitive areas.

Repealed by Ord. 3345.

20.15A.290 Fees.

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

1. **Threshold Determination.** For every environmental checklist the city reviews as lead agency, the city shall collect a fee set by Chapter 15.00 ECDC from the proponent of the proposal prior to undertaking the threshold determination. This fee may be waived as provided therein. The time periods provided by this chapter from making a threshold determination shall not begin to run until fee has been paid or waived in writing by the responsible official. When the city assists the applicant or completes the environmental checklist at the applicant's request under ECDC 20.15A.120 (C), an additional fee equal to the estimated actual cost of providing the assistance shall be collected.

2. **Environmental Impact Statement.**

a. When the city 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 city, the city may charge and collect a reasonable fee from any applicant to cover costs incurred, including overhead, by the city in preparing the EIS. The

responsible official shall advise the applicant of the projected costs for the EIS prior to actual preparation.

b. The responsible official may determine that the city 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 city and may bill such costs and expenses directly to the applicant. Such consultants shall be selected by mutual agreement of the city and applicant after a call for proposals.

c. The applicant shall pay the projected amount to the city prior to commencing work. The city will refund the excess, if any, at the completion of the EIS. If the city's cost exceeds the projected costs, the applicant shall immediately pay the excess. If a proposal is modified so that an EIS is no longer required, the responsible official shall refund any fees collected under subsections (B)(1) or (2) of this section which remain after incurred costs, including overhead, are paid.

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

4. The city shall not collect a fee for performing its duties as a consulted agency.

5. The city may charge any person for copies of any document prepared under this chapter, and for mailing the document, in a manner provided by Chapter 42.17 RCW. [Ord. 2829 § 1, 1991].

20.15A.300 Forms – Adoption by reference.

The city adopts the following forms and sections of Chapter 197-11 WAC, as now existing or hereinafter amended, by reference:

- 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.

12.15A.310 Severability.

If any provision of this chapter 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.

Section 2. The Edmonds Community Development Code 20.03.004 relating to SEPA noticing requirements is hereby amended to add a new section to read as follows:

20.03.004 State Environmental Policy Act (SEPA) notice.

* * *

A. Whenever possible, the city shall integrate the public notice required under this subsection with existing notice procedures for the City's nonexempt permits(s) or approvals(s) required for the proposal.

B. Whenever the City issues a Determination of Nonsignificance (DNS) under WAC 197-11-340(2) or a Determination of Significance (DS) under WAC 197-11-360(3) the City shall give public notice as follows:

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

2. If an environmental document is issued concurrently with the notice of application, the public notice requirements for the notice of application in RCW 36.70B.110(4) will suffice to meet the SEPA public notice requirements in WAC 197-11-510(1).

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

a. Posting the property, for site specific proposals;

b. Mailed to real property owners as shown by the records of the county assessor within 300 feet of the boundary of the property, for site specific proposals; and

c. Publishing notice in the City's official newspaper (or if one has not been designated, in a newspaper of general circulation within the City).

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

C. If a DNS is issued using the optional DNS process, the public notice requirements for a notice of application in RCW 36.70B.110(4) as supplemented by the requirements in WAC 197-11-355 will suffice to meet the SEPA public notice requirements in WAC 19711-510(1)(b).

D. Whenever the City issues a Draft Environmental Impact Statement (DEIS) under WAC 197-11-455(5) or a Supplemental Environmental Impact Statement (SEIS) under WAC 197-11-620, notice of the availability of those documents shall be given by:

1. Indicating the availability of the DEIS in any public notice required for a nonexempt license;

2. Posting the property, for site specific proposals;

3. Mailed to real property owners as shown by the records of the county assessor within 300 feet of the boundary of the property, for site specific proposals; and

4. Publishing notice in the City's official newspaper (or if one has not been designated, in a newspaper of general circulation within the City).

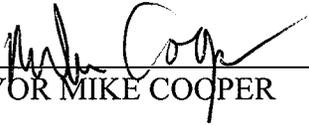
E. Public notice for projects that qualify as planned actions shall be tied to underlying permit, the notice shall state that the project has qualified as a planned action. If notice is not otherwise required for the underlying permit, no special notice is required.

F. The City may require an applicant to complete the public notice requirements for the applicant's proposal at his or her expense.

Section 3. Effective Date. This ordinance, being an exercise of a power specifically delegated to the City legislative body, is not subject to referendum, and shall take effect

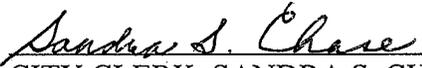
five (5) days after passage and publication of an approved summary thereof consisting of the title.

APPROVED:



MAYOR MIKE COOPER

ATTEST/AUTHENTICATED:



CITY CLERK, SANDRA S. CHASE

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY:

BY 

W. SCOTT SNYDER

FILED WITH THE CITY CLERK:	11/12/2010
PASSED BY THE CITY COUNCIL:	11/16/2010
PUBLISHED:	11/21/2010
EFFECTIVE DATE:	11/26/2010
ORDINANCE NO. <u>3818</u>	

SUMMARY OF ORDINANCE NO. 3818

of the City of Edmonds, Washington

On the 16th day of November, 2010, the City Council of the City of Edmonds, passed Ordinance No. 3818. A summary of the content of said ordinance, consisting of the title, provides as follows:

AN ORDINANCE OF THE CITY OF EDMONDS, WASHINGTON, AMENDING THE PROVISIONS OF THE EDMONDS COMMUNITY DEVELOPMENT CODE BY REPEALING AND REENACTING CHAPTER 20.15A RELATING TO ENVIRONMENTAL REVIEW (SEPA), AMENDING CHAPTER 20.03 PUBLIC NOTICE REQUIREMENTS, TO ADD A NEW SECTION RELATING TO SEPA NOTICING REQUIREMENTS, AND FIXING A TIME WHEN THE SAME SHALL BECOME EFFECTIVE.

The full text of this Ordinance will be mailed upon request.

DATED this 17th day of November, 2010.



CITY CLERK, SANDRA S. CHASE

Affidavit of Publication

STATE OF WASHINGTON,
COUNTY OF SNOHOMISH

} S.S.



SUMMARY OF ORDINANCE NO. 3818
of the City of Edmonds, Washington

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The full text of this Ordinance will be mailed upon request.
DATED this 17th day of November, 2010.

CITY CLERK, SANDRA S. CHASE

Published: November 21, 2010.

The undersigned, being first duly sworn on oath deposes and says that she is Principal Clerk of THE HERALD, a daily newspaper printed and published in the City of Everett, County of Snohomish, and State of Washington; that said newspaper is a newspaper of general circulation in said County and State; that said newspaper has been approved as a legal newspaper by order of the Superior Court of Snohomish County and that the notice

Summary of Ordinance NO. 3818

Amending the Provisions of the Edmonds Community Development

Code

a printed copy of which is hereunto attached, was published in said newspaper proper and not in supplement form, in the regular and entire edition of said paper on the following days and times, namely:

November 21, 2010

and that said newspaper was regularly distributed to its subscribers during all of said period.

Jody Skoll

Principal Clerk

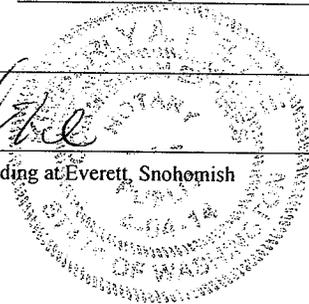
Subscribed and sworn to before me this

22nd

day of November, 2010

[Signature]

Notary Public in and for the State of Washington, residing at Everett, Snohomish County.



RECEIVED

DEC 02 2010

EDMONDS CITY CLERK