



**Planning Commission
Special Meeting
March 4, 2025 - 6:30 PM
City Hall Council Chambers
AMENDED**

AGENDA

PUBLIC PARTICIPATION

- A. The Special Planning Commission Meeting scheduled for March 4, 2025, at 6:30 p.m. will be held in person and virtually.

Join from PC, Mac, iPad, or Android:

<https://us06web.zoom.us/j/86363002405>

Phone one-tap:

+12532158782,,86363002405# US (Tacoma)

+12532050468,,86363002405# US

Join via audio:

+1 253 215 8782 US (Tacoma)

+1 253 205 0468 US

888 475 4499 US Toll Free

877 853 5257 US Toll Free

Webinar ID: 863 6300 2405

International numbers available: <https://us06web.zoom.us/j/86363002405>

Microsoft Teams

Need help? <https://aka.ms/JoinTeamsMeeting?omkt=en-US>

Meeting ID: 275 975 258 713

Passcode: Dk65Xu3w

CALL TO ORDER

ROLL CALL

PLEDGE OF ALLEGIANCE

AUDIENCE PARTICIPATION

This is the place on the agenda where the public is invited to speak to the Board on any issue.

- A. Comment from the audience on any proposal for action by the Commission. If the comment is related to an action subsequently listed here as a public hearing, the comment should be provided at the time of the public hearing.

The public can participate in-person or submit written comments in advance. Participants can submit written comments via mail, fax, or email. All written comments must be received prior to 5:00 p.m. on the day before the scheduled meeting and must be 350 words or less.

Please mail written comments to:
City of Auburn
Attn: Tammy Gallier, Administrative Specialist
25 W Main St
Auburn, WA 98001

Please fax written comments to:
Attn: Tammy Gallier, Administrative Specialist
Fax number: 253-804-3114

Email written comments to: tgallier@auburnwa.gov

If an individual requires accommodation to allow for remote oral comment because of a difficulty attending a meeting of the governing body, the City requests notice of the need for accommodation by 5:00 p.m. on the day before the scheduled meeting. Participants can request accommodation to be able to provide a remote oral comment by contacting the Community Development Department in person, by phone (253) 931-3090 or by email (tgallier@auburnwa.gov).

APPROVAL OF MINUTES

- A. February 19, 2025 Draft Minutes from the Special Planning Commission Meeting

PUBLIC HEARING

- A. **ZOA24-0003 SEPA Code Update (Reed)**
Planning Commission to conduct a Public Hearing on the text amendment to Title 16.06, Sections 16.06.020, 16.06.055 and 16.06.130 and add Sections 16.06.085 and 16.06.095 of the Auburn City Code to comply with Washington State's new increased thresholds of SEPA exemptions.

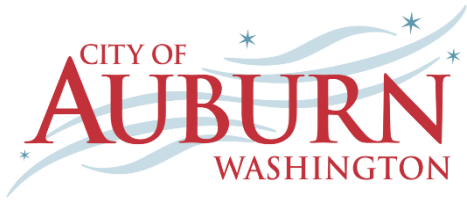
ACTION

- A. **ZOA24-0003 SEPA Code Update**
Planning Commission to take action regarding the City Council's review and adoption of the ZOA24-0003 SEPA Code Update.

ADJOURNMENT

The City of Auburn Planning Commission is a seven member advisory body that provides recommendations to the Auburn City Council on the preparation of and amendments to land use plans and related codes such as zoning. Planning Commissioners are appointed by the Mayor and confirmed by the City Council.

Actions taken by the Planning Commission, other than approvals or amendments to the Planning Commission Rules of Procedure, are not final decisions; they are in the form of recommendations to the City Council which must ultimately make the final decision.



AGENDA BILL APPROVAL FORM

Agenda Subject:

February 19, 2025 Draft Minutes from the Special Planning Commission Meeting

Meeting Date:

March 4, 2025

Department:

Community Development

Attachments:

2-19-25 Planning Commission Meeting Minutes

Budget Impact:

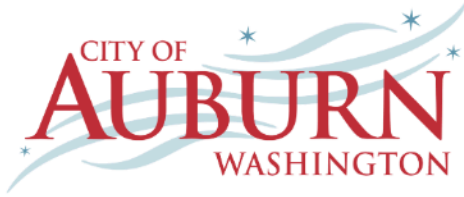
Administrative Recommendation:

Background for Motion:

Background Summary:

Councilmember:

Staff: Jason Krum



**Planning Commission
Special Meeting
February 19, 2025 - 7:00 PM
City Hall Council Chambers**

MINUTES

CALL TO ORDER

Chair Judi Roland called the meeting to order at 7:00 p.m. in the Council Chambers of Auburn City Hall, 25 West Main Street.

PUBLIC PARTICIPATION

The City of Auburn Planning Commission Meeting was held in person and virtually.

ROLL CALL

Commissioners present: Chair Judi Roland, Vice Chair Kent Sprague, Julie Berry, William Stewart, Aaron Vanderpol, and Lynn Walters.

Staff members present: Planning Services Manager Alexandria Teague, Senior Staff Attorney Taryn Jones, Senior Planner Dinah Reed, and Deputy City Clerk Rebecca Wood-Pollock.

PLEDGE OF ALLEGIANCE

Chair Roland led those in attendance in the Pledge of Allegiance.

AUDIENCE PARTICIPATION

Futurewise provided comments regarding the ZOA24-0005 Supportive Housing Types Text Amendment.

APPROVAL OF MINUTES

- A. January 7, 2025 Draft Minutes from the Regular Planning Commission Meeting
Vice Chair Sprague moved and Commissioner Vanderpol seconded to approve the January 7, 2025 meeting minutes.

MOTION CARRIES UNANIMOUSLY. 6-0

OTHER BUSINESS

- A. **ZOA24-0005 Supportive Housing Types Text Amendment (Teague)**
Staff is proposing to amend Sections 18.46A.070, 18.52.020, 18.31.130, 18.23.030, and 18.07.020 of the Auburn City Code to comply with new state

requirements generally related to supportive housing types.

Manager Teague presented the Commission with an overview of the ZOA24-0005 Supportive Housing Types Text Amendment, including permanent supportive housing, transitional housing, indoor emergency housing and shelters, supplemental standards, homeless encampments hosted by religious organizations, middle housing and critical areas, communal housing occupancy limits, and minimum residential parking requirements.

The Commission discussed costs to tenants of supportive housing, visuals, locations, transitional housing, Auburn City Code, implementation, homeless encampments, time limits, spacing requirements, and communal housing.

B. ZOA24-0003 SEPA Code Update (Reed)

Staff is proposing to update the SEPA code (Chapter 16.06 ACC) to reflect the categorical exemption threshold increases as stated in WAC 197-11-800(d), to use the optional process consistent with WAC 197-11-335, and planned action project review consistent with WAC 197-11-172.

Planner Reed presented the Commission with an overview of the ZOA24-0003 SEPA Code Update, including its background and purpose, a summary of the code changes, categorical exemptions, substantive authority, planned actions, and optional determination of nonsignificance process.

Commission discussed SEPA amendments and the timeline for the process.

Chair Roland confirmed that the next meeting will be held on Tuesday, March 4, 2025.

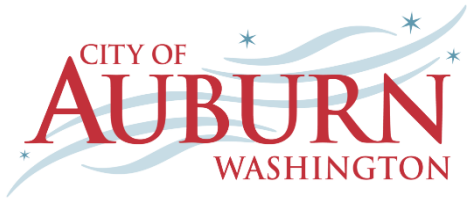
ADJOURNMENT

There being no further business to come before the Planning Commission, the meeting was adjourned at 8:06 p.m.

APPROVED this _____ day of _____, 2025.

JUDI ROLAND, CHAIR

Rebecca Wood-Pollock, Deputy City Clerk



AGENDA BILL APPROVAL FORM

Agenda Subject:

ZOA24-0003 SEPA Code Update (Reed)

Planning Commission to conduct a Public Hearing on the text amendment to Title 16.06, Sections 16.06.020, 16.06.055 and 16.06.130 and add Sections 16.06.085 and 16.06.095 of the Auburn City Code to comply with Washington State's new increased thresholds of SEPA exemptions.

Meeting Date:

March 4, 2025

Department:

Community Development

Attachments:

ZOA23-0003 SEPA Code Update
Text Amendment Staff Report,
Exhibit 1 SEPA Code Text
Amendment (strikeout-underline
version), Exhibit 2 SEPA Code
Text Amendment (clean version)

Budget Impact:

Administrative Recommendation:

Background for Motion:

Background Summary:

See attached Staff Report

Councilmember:

Staff: Jason Krum



**PLANNING COMMISSION
STAFF REPORT**

TO: Judi Roland, Chair, Planning Commission
Kent Sprague, Vice-Chair, Planning Commission
Planning Commission Members

FROM: Dinah Reed, Senior Planner
Department of Community Development

DATE: February 19, 2025

RE: City File No. ZOA24-0003 – SEPA Code Update Text Amendment

PROPOSAL: Amend Title 16.06, Sections 16.06.020, 16.06.055 and 16.06.130 and add Sections 16.06.085 and 16.06.095 of the Auburn City Code to comply with Washington State’s new thresholds of SEPA exemptions.

FINDINGS OF FACT:

Background Summary and Proposal:

1. The Washington State Legislature has recognized the need to reduce when SEPA is utilized, and in response developed SEPA categorical exemptions to remove projects below a specified number of units from being required to go under SEPA review. WAC 197-11-800 gives local jurisdictions the option to adopt new thresholds for SEPA exemptions for minor new construction.
2. In accordance with ACC 14.03.060 Legislative nonproject decisions made by the city council under its authority to establish policies and regulations are not classified as a “type” of project permit decision. Legislative nonproject decisions include, but are not limited to, amendments to the text and map of the comprehensive plan or development regulations.
3. Per ACC 18.68.030(B) A “Zoning Text Amendment” is an application to change the text of ACC Title 18. This type of application or initiation shall be processed as a legislative nonproject decision, consistent with ACC 14.03.060. Public notice shall be provided consistent with ACC Title 14.
4. RCW 42.21C.135 Gives authority of local governmental units to adopt rules, guidelines and model ordinances by reference.
5. During project review, requirements for environmental analysis, protection, and mitigation are still met by other regulations as follows:
 - a) All developments, including middle housing, are currently subject to the Critical Areas Ordinance and contained in Chapter 16.10 ACC.
 - b) All developments are subject to ACC Title 10 Vehicles and Traffic, and ACC Title 12 Streets, Sidewalks and Public Works.
 - c) All developments are subject to the Department of Ecology’s Minimum Requirements for Stormwater Management as defined in the Stormwater Management Manual for Western Washington.
 - d) All developments are subject to Chapter 15.68 ACC Floodplain Development Management.
 - e) All developments are subject to ACC Title 13 Water, Sewers and Public Utilities.
6. The City will retain the authority to require a SEPA review in cases when the responsible official

determines that a proposal has reasonable likelihood of causing more than a moderate adverse impact on environmental quality.

7. The loss of notice or comment opportunities for future permitting of large residential proposals is offset by ACC 18.02.130 Neighborhood review meetings. These meetings shall be required for residential subdivisions comprising 40 or more lots or units, multifamily residential projects comprising 40 or more units, and/or mixed-use development projects comprising 40 or more units.
8. Projects are reviewed using WISAARD mapping, a tool used by the Department of Archeological and Historic Preservation (DAHP), to assist for adequate protections for cultural and historic resources, and if there is a likelihood of cultural and historic significance, the City requires the applicant to notify DAHP and the Muckleshoot Indian Tribe. Additionally, an Inadvertent Discovery Plan would be required.
9. The text amendment was introduced and discussed with the Planning Commission previously at the February 19, 2025 special meeting. Staff provided one memorandum and presentation.

Procedural Steps:

1. Pursuant to Revised Code of Washington (RCW) 36.70A, the text amendment was transmitted to the Washington State Department of Commerce on February 5, 2025. Staff requested an Expedited Review. The 30-day expedited notice period ends March 7, 2025. The 60-day notice period ends on April 6, 2025.
2. In accordance with the Department of Ecology's requirements for adopting flexible thresholds, Washington State Dept. of Transportation (WSDOT) was noticed for consultation on impacts to state-owned transportation facilities, on January 3, 2025 and February 12, 2025 but no comments or responses were received by WSDOT.
3. A Notice of Public Hearing (NOH) was issued on February 21, 2025. Pursuant to Chapter 18.68 ACC, the following methods of noticing for the Planning Commission public hearing were conducted:
 - a. The NOH was published in the Seattle Times on February 21, 2025.
 - b. The NOH was posted in three general public locations (City Hall, City Annex, and the City's Public Land Use Notice webpage).

STAFF RECOMMENDATION: Planning Commission to conduct a public hearing and recommend the City Council to review and adopt the text amendment to Title 16.06, Sections 16.06.020, 16.06.055 and 16.06.130 and add Sections 16.06.085 and 16.06.095 of the Auburn City Code to comply with Washington State's new increased thresholds of SEPA exemptions.

ATTACHMENTS:

- Exhibit 1 – SEPA Code Text Amendment (strikeout-underline version)
- Exhibit 2 – SEPA Code Text Amendment (clean version)

Chapter 16.06

ENVIRONMENTAL REVIEW PROCEDURES

Sections:

- 16.06.010 Authority.
- 16.06.020 Adoption by reference.
- 16.06.030 Additional definitions.
- 16.06.040 Responsible official designated.
- 16.06.050 Timing of environmental review.
- 16.06.055 Categorical exemptions.
- 16.06.060 Determination of categorical exemption.
- 16.06.065 Environmentally sensitive areas.
- 16.06.070 Environmental checklist required.
- 16.06.080 Environmental impact statement.
- 16.06.090 Public notice.
- 16.06.095 Optional Determination of Non-Significance Process
- 16.06.100 Internal circulation of environmental documents.
- 16.06.110 Timing of decision on nonexempt action.
- 16.06.120 Authority to condition or deny proposals.
- 16.06.130 Substantive authority.
- 16.06.200 City responsibilities as consulted agency.
- 16.06.210 Use of non-SEPA documents.
- 16.06.220 Environmental appeals.
- 16.06.230 Time limitation on appeals.
- 16.06.240 Fee to accompany notice of appeal.
- 16.06.250 Notice of hearing.
- 16.06.260 Hearing.
- 16.06.270 Testimony – Recording.
- 16.06.300 Substantial weight – Burden of proof.
- 16.06.310 Decision of the hearing examiner.
- 16.06.320 Dismissal of appeal.
- 16.06.330 City council review – Limitations for appeals.
- 16.06.340 Violation – Penalty.

Prior legislation: Ords. 4009, 4054, 4351, 4504, 4792.

16.06.010 Authority.

The ordinance codified in this chapter is adopted under the authority of the State Environmental Policy Act (SEPA), RCW 43.21C.120, and the SEPA Rules, WAC 197-11-904, including any amendments thereto. (Ord. 4840 § 1, 1996.)

16.06.020 Adoption by reference.

The following sections of Chapter 197-11 WAC, including any amendments thereto, are adopted by reference as if fully set forth herein:

WAC	
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.
197-11-164	Planned actions – Definition and criteria.
197-11-172	Planned Actions – Project Review
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.
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.
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.

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.
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.
197-11-722	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.
197-11-748	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.
197-11-800	Categorical exemptions.
197-11-880	Emergencies.
197-11-890	Petitioning DOE to change exemptions.

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.
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.

(Ord. 6382 § 1, 2011; Ord. 4840 § 1, 1996.)

16.06.030 Additional definitions.

In addition to those definitions contained within WAC 197-11-700 through 197-11-799, the following words and terms shall have the following meanings, unless the context indicates otherwise:

“Advisory body” means any body established by ordinance of the city council, whose responsibilities include the review of development proposals for the purpose of making recommendations to the city council.

“Aquifer recharge areas” means areas which recharge aquifers that are a source of drinking water vulnerable to contamination that would affect the portability of the water. These areas include: sole source aquifer recharge areas and wellhead protection areas designated pursuant to the Federal Safe Drinking Water Act; areas established for special protection pursuant to a ground water management program as described by Chapters 90.44, 90.48 and 90.54 RCW and Chapters 173-100 and 173-200 WAC; and any other area meeting the definition of “areas with a critical recharging effect on aquifers used for potable water” as described in Chapter 365-190 WAC and the Auburn comprehensive plan.

“Department” means any division, subdivision or organizational unit of the city established by ordinance, rules, or order.

“Development” means the rezoning of property, the subdivision of land, the construction of buildings, or any physical alteration of the land which is subject to city approval and to the requirements of SEPA.

“Fish and wildlife habitat conservation areas” means lands which are important for the maintenance of fish and wildlife species in suitable habitats within the natural geographic distribution of the species. These areas include: areas with which endangered, threatened and sensitive species have a primary association; habitats and species of local importance; waters of the state; waters planted with game fish; and any other area meeting the definition of “fish and wildlife habitat conservation areas” as described in Chapter 365-190 WAC and the Auburn comprehensive plan.

“Frequently flooded areas” means lands in the floodplain subject to a one percent or greater chance of flooding in any given year. These areas include: streams, rivers, lakes, wetlands and any other area meeting the definition of “frequently flooded areas” as described in Chapter 365-190 WAC and the Auburn comprehensive plan.

“Geologically hazardous areas” means areas that because of their susceptibility to erosion, sliding, earthquake or other geological events, are not suited to siting commercial, residential or industrial development consistent with public health or safety concerns. These areas include:

1. Erosion hazard areas: areas identified by the USDA Soil Conservation Service as having a severe rill and inter-rill erosion hazard;
2. Landslide hazard areas: areas potentially subject to landslides based on a combination of geologic, topographic and hydrologic factors;
3. Seismic hazard areas: areas subject to severe risk or damage as a result of earthquake induced ground shaking, slope failure, settlement, soil liquefaction or surface faulting;
4. Other geologic hazard areas: areas subject to volcanic activity and areas underlain by, adjacent to, or affected by mine workings; and
5. Any other area meeting the definition of “geologically hazardous areas” as described in Chapter 365-190 WAC and the Auburn comprehensive plan.

“Hearing examiner” means the city hearing examiner as established by Chapter 2.46 ACC.

“Ordinance” means an ordinance, resolution, or other procedure used by the city to adopt regulatory requirements.

“Project permit” or “project permit application” means any land use or environmental permit or license required from the city for a project action, including but not limited to building permits, subdivisions, planned unit developments, conditional uses, shoreline development permits, site plan review, permits or approvals required by critical area ordinances, site specific rezones authorized by the comprehensive plan or a special planning area plan or other subarea plan, but excluding the adoption or amendment of a comprehensive plan, or a special area plan, subarea plan, or development regulations except as otherwise specifically included in this chapter.

“Regulations” includes regulations referenced in this chapter as well as development regulations as defined in RCW 36.70A.030 of the Growth Management Act.

“Wetlands” means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds and landscape amenities. However, wetlands do include those artificial wetlands intentionally created from nonwetland areas created to mitigate conversion of wetlands, if permitted and required by the county or city. Artificial wetlands created from nonwetland areas for purposes of

wildlife enhancement, education, aesthetic or similar reasons, when not part of a compensatory (required) mitigation project, are not included within the wetland definition.

“SEPA” means Chapter 43.21C RCW.

“SEPA rules” means Chapter 197-11 WAC adopted by the Department of Ecology. (Ord. 4840 § 1, 1996.)

16.06.040 Responsible official designated.

The director of the Auburn department of planning and development, or designee, shall be the SEPA responsible official for the city and shall carry out the duties and functions of the city when it is acting as the lead agency or as a consulted agency under SEPA and the SEPA rules. (Ord. 6287 § 2, 2010; Ord. 4840 § 1, 1996.)

16.06.050 Timing of environmental review.

When a project permit application is filed with the city of Auburn the city shall analyze the permit’s environmental impacts in one project review process as provided in the Auburn City Code, hereinafter referred to as “ACC,” Title 14. The environmental review shall be integrated with and be processed concurrently with the attendant project permit application. (Ord. 4840 § 1, 1996.)

16.06.055 Categorical exemptions.

A. The city of Auburn adopts by reference WAC 197-11-300 and 197-11-800. In addition, thereto, Auburn establishes the following exempt levels for minor new construction under WAC 197-11-800(1) based on local conditions:

1. For construction or location of single-unit residential dwelling units in WAC 197-11-800(1)(d): 30 dwelling units or less or 100 single-unit residential dwelling units where each is less than 1,500 square feet.
2. For construction or location of Multifamily residential units (Middle Housing, Apartments and Townhomes) in WAC 197-11-800(1)(d): 200 units or less.
3. For office, school, commercial, recreational, service or storage buildings in WAC 197-11-800(1)(d): buildings of 30,000 square feet or less and with associated parking facilities designed for 90 or less automobiles.

4. For parking lots not associated with a structure in WAC 197-11-800(1)(d): 90 or fewer automobile parking spaces.

5. For fill or excavations in WAC 197-11-800(1)(d): 1,000 cubic yards or less.

B. Whenever the city establishes new exempt levels under this section, it shall send them to the Department of Ecology, Headquarters Office, Olympia, Washington under WAC 197-11-800(1)(c). (Ord. 5908 § 1, 2005; Ord. 5727 § 1, 2003.)

16.06.060 Determination of categorical exemption.

A. The city department which receives an application for a proposal, or initiates a proposal which is potentially subject to the environmental review requirements of SEPA, shall request the responsible official or the responsible official's designee to make the following determinations:

1. Whether the proposal is an "action" as defined by WAC 197-11-704; and
2. If the proposal is an "action," whether it is categorically exempt from the requirements of SEPA; and
3. If the proposal is a nonexempt action, whether appropriate environmental review of the project has been conducted or commenced.

B. The responsible official or the responsible official's designee shall be responsible for making the final decision required by this section.

C. The city recognizes that the list of categorical exemptions included in the SEPA rules cannot be relied upon as the final determination of when a proposed project, regardless of its environmental impact, must comply with SEPA and this chapter. Where the responsible official determines that a proposal has a reasonable likelihood of causing more than a moderate adverse impact on environmental quality, whether that impact is direct, indirect or cumulative, environmental review under SEPA shall be conducted.

D. It is recognized that a particular development or land use, although otherwise consistent with city regulations and policies, may create adverse impacts upon facilities, services, natural systems or the surrounding area when aggregated with the impacts of prior or reasonably anticipated future developments. The city shall evaluate such cumulative environmental impacts and make its environmental determinations and substantive decisions accordingly. (Ord. 4840 § 1, 1996.)

16.06.065 Environmentally sensitive areas.

A. The following areas of the environment are designated as environmentally sensitive areas pursuant to RCW 36.70A.060 and WAC 197-11-908:

1. Aquifer recharge areas;
2. Fish and wildlife habitat conservation areas;
3. Frequently flooded areas;
4. Geologically hazardous areas; and
5. Wetlands.

B. Within each of these environmentally sensitive areas, the responsible official shall implement city codes, ordinances, resolutions, plans and policies to conserve these areas and to preclude land uses and development which cause significant adverse impacts to these areas.

C. The city's "critical area maps" provides the general location of environmentally sensitive areas within the city and is adopted by this reference as if fully set forth in this chapter. Site specific studies will be needed to identify the precise location and to assess the characteristics of the environmentally sensitive area. Whenever there is evidence of an environmentally sensitive area located within or in proximity to a nonexempt action, the responsible official may require site specific studies to determine the location and characteristics of the environmentally sensitive area, and potential mitigating measures. (Ord. 4840 § 1, 1996.)

16.06.070 Environmental checklist required.

A. Whenever a department determines that a proposal is a nonexempt action for which appropriate environmental review has not been conducted or commenced, the department shall prepare or shall require the action proponent to prepare and submit an environmental checklist. Upon completion or receipt of a completed environmental checklist, the department shall immediately transmit the following to the responsible official or the responsible official's designee:

1. The original, signed copy of the environmental checklist; and
2. A copy of any completed application form in the department's possession relating to the proposal; and
3. A copy of any project description, conceptual plan or plot plan which may have been prepared or submitted; and
4. Any additional information in the department's possession touching upon the environmental impacts of the proposed action.

B. The environmental review process shall begin when an environmental checklist application is received by the responsible official. Incomplete applications shall be returned to the applicant for completion as directed by the responsible official as provided in ACC Title 14. Checklist applications include the completed environmental checklist form together with any site plans, studies or other information needed to adequately review the application.

C. A department initiating a nonexempt city action may request that the responsible official or the responsible official's designee assist the department in preparing the necessary environmental checklist.

D. The provisions of this section shall not apply when the responsible official and the proponent of a nonexempt action agree in writing that the proposal is likely to have significant adverse environmental impacts, and further agree that an environmental impact statement (EIS) will be prepared.

E. The responsible official may determine that the city will complete all or a part of an environmental checklist for a private proposal with its own staff, or may contract with one or more consultants to prepare or assist in preparation of a checklist, and may charge and collect fees from the applicant to cover costs incurred by the city in preparation of the checklist, if either of the following circumstances exist:

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

F. If fees are to be collected, the applicant shall be advised of the estimated costs, and shall be required to secure payment of such costs prior to the actual preparation of all or part of the environmental checklist. (Ord. 4840 § 1, 1996.)

16.06.080 Environmental impact statement.

A. Whenever the responsible official has issued a determination of significance for a nonexempt action, it shall be the responsibility of the individual, corporation, agency or city department initiating or proposing the action to prepare a draft EIS and a final EIS under the supervision of the responsible official. The proposing individual, corporation, agency or department may contract with one or more consultants to prepare or assist in the preparation of an EIS, subject to the approval of the responsible official. Consultants shall be selected based on their expertise and knowledge related to the scoped environmental elements to be analyzed in the EIS documents. Regardless of who is involved in the preparation of an EIS, it is the EIS of the city and the responsible official shall be satisfied that it complies with this chapter, with SEPA and with the SEPA rules before it is issued.

B. The responsible official may determine that the city will complete all or a part of an EIS for a private proposal with its own staff, or may contract with one or more consultants to prepare or assist in preparation of

an EIS, and may charge and collect fees from the applicant to cover costs incurred by the city in preparation of the EIS, if one or more of the following circumstances exist:

1. The city has technical information on a question or questions that is unavailable to the applicant;
2. The applicant has provided inaccurate or incomplete information on previous proposals or on proposals currently under consideration;
3. The responsible official and the applicant agree that the city will be responsible for completing the EIS.

C. If fees are to be collected, the applicant shall be advised of estimated costs and shall be required to secure payment of such costs prior to the actual preparation of the EIS.

D. Prior to the preparation of an EIS the applicant and the city shall enter into a written agreement that shall at a minimum contain who is to prepare the EIS, its estimated cost, and estimated time frame to complete the EIS process. (Ord. 4840 § 1, 1996.)

16.06.085 Planned Actions

A. The city of Auburn adopted by reference WAC 197-11-172.

16.06.090 Public notice.

A. Whenever public notice is required under the SEPA rules, the responsible official shall cause notice to be given in the following manner:

1. By posting the subject property in accordance with the applicable provisions of Chapter 1.27 ACC (site-specific proposals only).

B. Additional public notice may be provided for proposals having or potentially having unusually widespread, unique or significant adverse impacts, or for other proposals, at the discretion of the responsible official.

C. Where notice is required for a proposed action which has been proposed or initiated by a party other than the city or a city department, the cost of newspaper publication of such notice or notices shall be borne by the city with fees paid by the proponent or applicant. (Ord. 5811 § 4, 2003; Ord. 4840 § 1, 1996.)

16.06.095 Optional Determination of Non-Significance Process

A. Projects that are defined as Type II, Type III, and Type IV Decisions per ACC 14.03.020 and ACC 14.03.030 respectively, in which a threshold determination under SEPA is required, may be processed under the Optional DNS process. This includes:

1. Providing Notice of Application (NOA) in accordance with ACC 14.07
2. Ensuring consistency with WAC 197-11-355 Optional DNS Process requirements

B. If the city as lead agency and has a reasonable basis for determining, significant adverse environmental impacts are unlikely, it may use a single integrated comment period to obtain comments on the Notice of Application and the threshold determination for the proposal. If this process is used, a second comment period will typically not be required at the time the DNS is issued.

C. If the lead agency uses the optional DNS process specified in subsection B of this section, the lead agency shall:

1. State on the first page of the Notice of Application that it expects to issue a DNS for the proposal, and that:
 - (a) The optional DNS process is being used;
 - (b) This may be the only opportunity to comment on the environmental impacts of the proposal;
 - (c) The proposal may include mitigation measures under applicable codes, and the project review process may incorporate or require mitigation measures regardless of whether an EIS is prepared; and
 - (d) A copy of the subsequent threshold determination for the specific proposal may be obtained upon request (in addition, the lead agency may choose to maintain a general mailing list for threshold determination distribution);
2. List in the Notice of Application the conditions being considered to mitigate environmental impacts, if a mitigated DNS is expected;
3. Comply with the requirements for a Notice of Application and public notice in ACC 14.07; and public notice in RCW 36.70B.110; and
4. Send the Notice of Application and environmental checklist to:

(a) Agencies with jurisdiction, the Department of Ecology, affected tribes, and each local agency or political subdivision whose public services would be changed as a result of implementation of the proposal; and

(b) Anyone requesting a copy of the environmental checklist for the specific proposal (in addition, the lead agency may choose to maintain a general mailing list for checklist distribution).

D. If the lead agency indicates on the Notice of Application that a DNS is likely, an agency with jurisdiction may assume lead agency status during the comment period on the notice of application (WAC 197-11-948.)

E. The responsible official shall consider timely comments on the Notice of Application and either:

1. Issue a DNS or mitigated DNS with no comment period using the procedures in subsection F of this section;
2. Issue a DNS or mitigated DNS with a comment period using the procedures in subsection F of this section, if the lead agency determines a comment period is necessary;
3. Issue a DS; or
4. Require additional information or studies prior to making a threshold determination.

F. If a DNS or mitigated DNS is issued under subsection (E)(1) of this section, the lead agency shall send a copy of the DNS or mitigated DNS to the WA State Department of Ecology, agencies with jurisdiction, those who commented, and anyone requesting a copy. A copy of the environmental checklist need not be recirculated.

16.06.100 Internal circulation of environmental documents.

Relevant environmental documents shall accompany proposals through existing city project review processes. The responsible official shall ensure that environmental documents are provided to decision makers in the following manner:

A. Where a nonelected city official is to make a final decision on a nonexempt action, the responsible official shall provide that deciding official with a copy of a determination of nonsignificance (DNS) or a final EIS upon issuance of the DNS or FEIS.

B. Where the planning commission or hearing examiner is to make a recommendation on a nonexempt action, the responsible official shall transmit to the advisory body a copy of one of the following:

1. Environmental checklist;
2. Determination of nonsignificance (DNS);
3. Draft environmental impact statement (DEIS);
4. Final environmental impact statement (FEIS).

Transmittal of the appropriate environmental document shall either precede or accompany transmittal of a staff report or staff recommendation on the proposal.

C. A final staff recommendation to the hearing examiner or city council on a nonexempt major action should normally be preceded by, or accompanied by, either a final DNS or an FEIS. (Ord. 6186 § 1, 2008; Ord. 4840 § 1, 1996.)

16.06.110 Timing of decision on nonexempt action.

A. For nonexempt actions, the procedural requirements of SEPA, the SEPA rules and this chapter shall be completed prior to the city's issuance of a license, permit or other approval, prior to the city committing to a particular course of action, or prior to the city making a decision that would either have adverse environmental impacts or limit the choice of reasonable alternatives.

B. A final decision on a nonexempt action for which a DNS has been issued or EIS has been required shall not be made until after expiration of the environmental appeal period if not appealed or, if appealed, shall not be made until the decision on the appeal becomes final. (Ord. 4840 § 1, 1996.)

16.06.120 Authority to condition or deny proposals.

A. The policies and goals set forth in and referenced by this chapter are supplementary to those in the existing authorization of the city.

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

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1. Such conditions are necessary to mitigate probable significant adverse environmental impacts identified in 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 applicable to the proposal are sufficient to mitigate the identified impacts; and
 5. Such conditions are based on one or more policies, plans, rules or regulations designated in ACC 16.06.130 as a basis for the exercise of substantive SEPA authority under RCW 43.21C.060, and cited in writing in the license, permit, ordinance or other decision document.
- C. 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 capable of being accomplished that are sufficient to make the identified impact nonsignificant; and
 3. The denial is based on one or more policies, plans, rules or regulations designated in ACC 16.06.130 as a basis for the exercise of substantive SEPA authority under RCW 43.21C.060, and cited in writing in the license, permit, ordinance or other decision document.
- D. If the lead agency determines, after the initial review of a project, that a proposed action could not comply with adopted plans, policies, rules or regulations, and where the city has authority other than SEPA to deny the proposal, the project can be denied outright without making a threshold determination, and shall be cited in writing. Proposed actions which are subsequently modified, amended or deemed to be consistent with adopted plans, policies, rules or regulations shall not receive final approval until the proposed action is in full compliance with SEPA, the SEPA rules and this chapter.
- E. Where the responsible official has issued a mitigated DNS, the decision maker shall not approve the associated proposal until:
1. The proponent has modified the proposal, either through modification of plans and other application materials or through a separate written instrument attached to the application, such that the mitigating measures of the mitigated DNS become part of the proposal; or
 2. The decision maker has incorporated the mitigating measures of the mitigated DNS into the license, permit, ordinance or other approval, through conditions attached pursuant to this chapter; or

3. A combination of subdivisions 1 and 2 of this subsection.

F. Where mitigating measures are agreed to under subsection (E)(1) of this section, or imposed under subsection (E)(2) of this section, and where the proponent fails to implement such mitigating measures, the city shall have the authority to revoke any permit, license or other approval granted on the basis of such mitigating measures. (Ord. 4840 § 1, 1996.)

16.06.130 Substantive authority.

The city adopts by reference the following policies, plans, rules and regulations, as may be amended, as a basis for the exercise of substantive authority to approve, condition or deny proposed actions under RCW 43.21C.060 of SEPA:

- A. Auburn comprehensive plan and related reports and studies outlined in; all Appendices and Supplementary Reports
- B. Shoreline management master program;
- C. Auburn City Code;
- D. Auburn downtown plan;
- E. Auburn capital facilities plan;
- F. Auburn Transportation Program;
- G. Auburn Municipal Airport master plan;

16.06.200 City responsibilities as consulted agency.

In carrying out the city's duties as a consulted agency, the responsible official shall request information from any department potentially affected by or having expertise on a proposal. Information timely received by the responsible official in response to such request shall be transmitted to the lead agency. The responsible official may transmit such information by forwarding copies of any department responses or by consolidating all department responses into a single city response. (Ord. 4840 § 1, 1996.)

16.06.210 Use of non-SEPA documents.

A. If determined by the responsible official, existing plans, regulations, rules, or other laws that provide a functionally equivalent analysis of the specific adverse impacts of a proposed project that has already occurred and is available or will occur before action is taken on a proposed project may be used to forego the environmental analysis required under this title. If non-SEPA documents are used the responsible official shall make appropriate findings and conclusions to support the use of such documents.

B. If determined by the responsible official, existing plans, regulations, rules, or other laws that adequately mitigate the projects specific adverse environmental impacts may be used, in lieu of SEPA mitigating conditions, as long as the project approval is explicitly conditioned on compliance with the requirements or mitigation measures so that the specific adverse environmental impacts are adequately mitigated. If non-SEPA documents are used, the responsible official shall make appropriate findings and conclusions to support the use of such mitigation and to ensure compliance with the requirements of the non-SEPA documents. (Ord. 4840 § 1, 1996.)

16.06.220 Environmental appeals.

Any person aggrieved of a final threshold determination of significance, final determination of nonsignificance, or inadequacy of a final EIS may file an appeal with the city hearing examiner. Appeal of intermediate steps under SEPA (e.g., lead agency determination, scoping, draft EIS adequacy) shall not be allowed. (Ord. 4840 § 1, 1996.)

16.06.230 Time limitation on appeals.

A written notice of appeal identifying the grounds for appeal must be filed with the city clerk, on forms provided by the city clerk, within 14 days of the date of mailing the final threshold determination of significance, final determination of nonsignificance or final EIS. The city shall extend the appeal period for an additional seven days for final mitigated determinations of nonsignificance and final EISs. (Ord. 4840 § 1, 1996.)

16.06.240 Fee to accompany notice of appeal.

An appeal fee as provided for in the city's adopted fee schedule shall accompany the written notice of appeal and be filed within the appeal period with the city clerk. No notice of appeal shall be accepted unless accompanied by full payment of the appeal fee. This fee shall be utilized to cover publication costs, mailing, and other costs directly associated with the appeal. (Ord. 6077 § 1, 2007; Ord. 4840 § 1, 1996.)

16.06.250 Notice of hearing.

A notice of appeal timely filed shall be transmitted by the city clerk to the hearing examiner and the SEPA responsible official. The hearing examiner shall determine the date, time, and place of a hearing to consider the appeal of final EISs, and shall notify the parties thereof. Other appeal hearings shall be scheduled in accordance with ACC 2.46.130. (Ord. 4840 § 1, 1996.)

16.06.260 Hearing.

A hearing upon an appeal shall be conducted by the hearing examiner and, where applicable, the appeal hearing shall be consolidated with any other hearing required on the related proposed action as required in ACC Title 14. (Ord. 4840 § 1, 1996.)

16.06.270 Testimony – Recording.

All testimony taken at any hearing shall be taken under oath. The hearing shall be recorded electronically. (Ord. 4840 § 1, 1996.)

16.06.300 Substantial weight – Burden of proof.

A threshold determination by the responsible official is entitled to substantial weight. The burden shall be on the appellant to establish that the determination is in error. (Ord. 4840 § 1, 1996.)

16.06.310 Decision of the hearing examiner.

A. Upon the basis of all of the information received in a hearing, and all information relied upon by the responsible official, the hearing examiner shall prepare a written decision, including findings of fact and conclusions.

B. The hearing examiner may sustain, sustain with conditions, reverse, or remand to the responsible official the threshold determination. (Ord. 4840 § 1, 1996.)

16.06.320 Dismissal of appeal.

The hearing examiner may summarily dismiss an appeal without hearing, when such appeal is determined by the hearing examiner to be without merit on its face, frivolous, or brought merely to impede a proposal or secure a delay. (Ord. 4840 § 1, 1996.)

16.06.330 City council review – Limitations for appeals.

A. The decision of the hearing examiner on a threshold determination appeal may be appealed to the superior court in the county in which the subject property is located, which appeal shall be in accordance with the provisions of RCW 43.21C.060 and 43.21C.075. Any such appeal allowed by RCW 43.21C.060 and 43.21C.075 must be brought within the time limits specified in Chapter 2.46 ACC.

B. Such city council review shall be conducted on the record compiled by the hearing examiner, consistent with other applicable law. (Ord. 6442 § 11, 2012; Ord. 6186 § 2, 2008; Ord. 4840 § 1, 1996.)

16.06.340 Violation – Penalty.

Any violation of this chapter or of the standards, regulations or procedures adopted pursuant to this chapter shall be enforced pursuant to the provisions of Chapter 1.25 ACC. (Ord. 4840 § 1, 1996.)

Chapter 16.06

ENVIRONMENTAL REVIEW PROCEDURES

Sections:

- 16.06.010 Authority.
- 16.06.020 Adoption by reference.
- 16.06.030 Additional definitions.
- 16.06.040 Responsible official designated.
- 16.06.050 Timing of environmental review.
- 16.06.055 Categorical exemptions.
- 16.06.060 Determination of categorical exemption.
- 16.06.065 Environmentally sensitive areas.
- 16.06.070 Environmental checklist required.
- 16.06.080 Environmental impact statement.
- 16.06.090 Public notice.
- 16.06.095 Optional Determination of Non-Significance Process
- 16.06.100 Internal circulation of environmental documents.
- 16.06.110 Timing of decision on nonexempt action.
- 16.06.120 Authority to condition or deny proposals.
- 16.06.130 Substantive authority.
- 16.06.200 City responsibilities as consulted agency.
- 16.06.210 Use of non-SEPA documents.
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- 16.06.230 Time limitation on appeals.
- 16.06.240 Fee to accompany notice of appeal.
- 16.06.250 Notice of hearing.
- 16.06.260 Hearing.
- 16.06.270 Testimony – Recording.
- 16.06.300 Substantial weight – Burden of proof.
- 16.06.310 Decision of the hearing examiner.
- 16.06.320 Dismissal of appeal.
- 16.06.330 City council review – Limitations for appeals.
- 16.06.340 Violation – Penalty.

Prior legislation: Ords. 4009, 4054, 4351, 4504, 4792.

16.06.010 Authority.

The ordinance codified in this chapter is adopted under the authority of the State Environmental Policy Act (SEPA), RCW 43.21C.120, and the SEPA Rules, WAC 197-11-904, including any amendments thereto. (Ord. 4840 § 1, 1996.)

16.06.020 Adoption by reference.

The following sections of Chapter 197-11 WAC, including any amendments thereto, are adopted by reference as if fully set forth herein:

WAC	
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.
197-11-164	Planned actions – Definition and criteria.
197-11-172	Planned Actions – Project Review
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.
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.
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.

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.
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.
197-11-722	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.
197-11-748	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.
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197-11-800	Categorical exemptions.
197-11-880	Emergencies.
197-11-890	Petitioning DOE to change exemptions.

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.
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.

(Ord. 6382 § 1, 2011; Ord. 4840 § 1, 1996.)

16.06.030 Additional definitions.

In addition to those definitions contained within WAC 197-11-700 through 197-11-799, the following words and terms shall have the following meanings, unless the context indicates otherwise:

“Advisory body” means any body established by ordinance of the city council, whose responsibilities include the review of development proposals for the purpose of making recommendations to the city council.

“Aquifer recharge areas” means areas which recharge aquifers that are a source of drinking water vulnerable to contamination that would affect the portability of the water. These areas include: sole source aquifer recharge areas and wellhead protection areas designated pursuant to the Federal Safe Drinking Water Act; areas established for special protection pursuant to a ground water management program as described by Chapters 90.44, 90.48 and 90.54 RCW and Chapters 173-100 and 173-200 WAC; and any other area meeting the definition of “areas with a critical recharging effect on aquifers used for potable water” as described in Chapter 365-190 WAC and the Auburn comprehensive plan.

“Department” means any division, subdivision or organizational unit of the city established by ordinance, rules, or order.

“Development” means the rezoning of property, the subdivision of land, the construction of buildings, or any physical alteration of the land which is subject to city approval and to the requirements of SEPA.

“Fish and wildlife habitat conservation areas” means lands which are important for the maintenance of fish and wildlife species in suitable habitats within the natural geographic distribution of the species. These areas include: areas with which endangered, threatened and sensitive species have a primary association; habitats and species of local importance; waters of the state; waters planted with game fish; and any other area meeting the definition of “fish and wildlife habitat conservation areas” as described in Chapter 365-190 WAC and the Auburn comprehensive plan.

“Frequently flooded areas” means lands in the floodplain subject to a one percent or greater chance of flooding in any given year. These areas include: streams, rivers, lakes, wetlands and any other area meeting the definition of “frequently flooded areas” as described in Chapter 365-190 WAC and the Auburn comprehensive plan.

“Geologically hazardous areas” means areas that because of their susceptibility to erosion, sliding, earthquake or other geological events, are not suited to siting commercial, residential or industrial development consistent with public health or safety concerns. These areas include:

1. Erosion hazard areas: areas identified by the USDA Soil Conservation Service as having a severe rill and inter-rill erosion hazard;
2. Landslide hazard areas: areas potentially subject to landslides based on a combination of geologic, topographic and hydrologic factors;
3. Seismic hazard areas: areas subject to severe risk or damage as a result of earthquake induced ground shaking, slope failure, settlement, soil liquefaction or surface faulting;
4. Other geologic hazard areas: areas subject to volcanic activity and areas underlain by, adjacent to, or affected by mine workings; and
5. Any other area meeting the definition of “geologically hazardous areas” as described in Chapter 365-190 WAC and the Auburn comprehensive plan.

“Hearing examiner” means the city hearing examiner as established by Chapter 2.46 ACC.

“Ordinance” means an ordinance, resolution, or other procedure used by the city to adopt regulatory requirements.

“Project permit” or “project permit application” means any land use or environmental permit or license required from the city for a project action, including but not limited to building permits, subdivisions, planned unit developments, conditional uses, shoreline development permits, site plan review, permits or approvals required by critical area ordinances, site specific rezones authorized by the comprehensive plan or a special planning area plan or other subarea plan, but excluding the adoption or amendment of a comprehensive plan, or a special area plan, subarea plan, or development regulations except as otherwise specifically included in this chapter.

“Regulations” includes regulations referenced in this chapter as well as development regulations as defined in RCW 36.70A.030 of the Growth Management Act.

“Wetlands” means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds and landscape amenities. However, wetlands do include those artificial wetlands intentionally created from nonwetland areas created to mitigate conversion of wetlands, if permitted and required by the county or city. Artificial wetlands created from nonwetland areas for purposes of

wildlife enhancement, education, aesthetic or similar reasons, when not part of a compensatory (required) mitigation project, are not included within the wetland definition.

“SEPA” means Chapter 43.21C RCW.

“SEPA rules” means Chapter 197-11 WAC adopted by the Department of Ecology. (Ord. 4840 § 1, 1996.)

16.06.040 Responsible official designated.

The director of the Auburn department of planning and development, or designee, shall be the SEPA responsible official for the city and shall carry out the duties and functions of the city when it is acting as the lead agency or as a consulted agency under SEPA and the SEPA rules. (Ord. 6287 § 2, 2010; Ord. 4840 § 1, 1996.)

16.06.050 Timing of environmental review.

When a project permit application is filed with the city of Auburn the city shall analyze the permit’s environmental impacts in one project review process as provided in the Auburn City Code, hereinafter referred to as “ACC,” Title 14. The environmental review shall be integrated with and be processed concurrently with the attendant project permit application. (Ord. 4840 § 1, 1996.)

16.06.055 Categorical exemptions.

A. The city of Auburn adopts by reference WAC 197-11-300 and 197-11-800. In addition, thereto, Auburn establishes the following exempt levels for minor new construction under WAC 197-11-800(1) based on local conditions:

1. For construction or location of single-unit residential dwelling units in WAC 197-11-800(1)(d): 30 dwelling units or less or 100 single-unit residential dwelling units where each is less than 1,500 square feet.
2. For construction or location of Multifamily residential units (Middle Housing, Apartments and Townhomes) in WAC 197-11-800(1)(d): 200 units or less.
3. For office, school, commercial, recreational, service or storage buildings in WAC 197-11-800(1)(d): buildings of 30,000 square feet or less and with associated parking facilities designed for 90 or less automobiles.

4. For parking lots not associated with a structure in WAC 197-11-800(1)(d): 90 or fewer automobile parking spaces.

5. For fill or excavations in WAC 197-11-800(1)(d): 1,000 cubic yards or less.

B. Whenever the city establishes new exempt levels under this section, it shall send them to the Department of Ecology, Headquarters Office, Olympia, Washington under WAC 197-11-800(1)(c). (Ord. 5908 § 1, 2005; Ord. 5727 § 1, 2003.)

16.06.060 Determination of categorical exemption.

A. The city department which receives an application for a proposal, or initiates a proposal which is potentially subject to the environmental review requirements of SEPA, shall request the responsible official or the responsible official's designee to make the following determinations:

1. Whether the proposal is an "action" as defined by WAC 197-11-704; and
2. If the proposal is an "action," whether it is categorically exempt from the requirements of SEPA; and
3. If the proposal is a nonexempt action, whether appropriate environmental review of the project has been conducted or commenced.

B. The responsible official or the responsible official's designee shall be responsible for making the final decision required by this section.

C. The city recognizes that the list of categorical exemptions included in the SEPA rules cannot be relied upon as the final determination of when a proposed project, regardless of its environmental impact, must comply with SEPA and this chapter. Where the responsible official determines that a proposal has a reasonable likelihood of causing more than a moderate adverse impact on environmental quality, whether that impact is direct, indirect or cumulative, environmental review under SEPA shall be conducted.

D. It is recognized that a particular development or land use, although otherwise consistent with city regulations and policies, may create adverse impacts upon facilities, services, natural systems or the surrounding area when aggregated with the impacts of prior or reasonably anticipated future developments. The city shall evaluate such cumulative environmental impacts and make its environmental determinations and substantive decisions accordingly. (Ord. 4840 § 1, 1996.)

16.06.065 Environmentally sensitive areas.

A. The following areas of the environment are designated as environmentally sensitive areas pursuant to RCW 36.70A.060 and WAC 197-11-908:

1. Aquifer recharge areas;
2. Fish and wildlife habitat conservation areas;
3. Frequently flooded areas;
4. Geologically hazardous areas; and
5. Wetlands.

B. Within each of these environmentally sensitive areas, the responsible official shall implement city codes, ordinances, resolutions, plans and policies to conserve these areas and to preclude land uses and development which cause significant adverse impacts to these areas.

C. The city’s “critical area maps” provides the general location of environmentally sensitive areas within the city and is adopted by this reference as if fully set forth in this chapter. Site specific studies will be needed to identify the precise location and to assess the characteristics of the environmentally sensitive area. Whenever there is evidence of an environmentally sensitive area located within or in proximity to a nonexempt action, the responsible official may require site specific studies to determine the location and characteristics of the environmentally sensitive area, and potential mitigating measures. (Ord. 4840 § 1, 1996.)

16.06.070 Environmental checklist required.

A. Whenever a department determines that a proposal is a nonexempt action for which appropriate environmental review has not been conducted or commenced, the department shall prepare or shall require the action proponent to prepare and submit an environmental checklist. Upon completion or receipt of a completed environmental checklist, the department shall immediately transmit the following to the responsible official or the responsible official’s designee:

1. The original, signed copy of the environmental checklist; and
2. A copy of any completed application form in the department’s possession relating to the proposal; and
3. A copy of any project description, conceptual plan or plot plan which may have been prepared or submitted; and
4. Any additional information in the department’s possession touching upon the environmental impacts of the proposed action.

B. The environmental review process shall begin when an environmental checklist application is received by the responsible official. Incomplete applications shall be returned to the applicant for completion as directed by the responsible official as provided in ACC Title 14. Checklist applications include the completed environmental checklist form together with any site plans, studies or other information needed to adequately review the application.

C. A department initiating a nonexempt city action may request that the responsible official or the responsible official's designee assist the department in preparing the necessary environmental checklist.

D. The provisions of this section shall not apply when the responsible official and the proponent of a nonexempt action agree in writing that the proposal is likely to have significant adverse environmental impacts, and further agree that an environmental impact statement (EIS) will be prepared.

E. The responsible official may determine that the city will complete all or a part of an environmental checklist for a private proposal with its own staff, or may contract with one or more consultants to prepare or assist in preparation of a checklist, and may charge and collect fees from the applicant to cover costs incurred by the city in preparation of the checklist, if either of the following circumstances exist:

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

F. If fees are to be collected, the applicant shall be advised of the estimated costs, and shall be required to secure payment of such costs prior to the actual preparation of all or part of the environmental checklist. (Ord. 4840 § 1, 1996.)

16.06.080 Environmental impact statement.

A. Whenever the responsible official has issued a determination of significance for a nonexempt action, it shall be the responsibility of the individual, corporation, agency or city department initiating or proposing the action to prepare a draft EIS and a final EIS under the supervision of the responsible official. The proposing individual, corporation, agency or department may contract with one or more consultants to prepare or assist in the preparation of an EIS, subject to the approval of the responsible official. Consultants shall be selected based on their expertise and knowledge related to the scoped environmental elements to be analyzed in the EIS documents. Regardless of who is involved in the preparation of an EIS, it is the EIS of the city and the responsible official shall be satisfied that it complies with this chapter, with SEPA and with the SEPA rules before it is issued.

B. The responsible official may determine that the city will complete all or a part of an EIS for a private proposal with its own staff, or may contract with one or more consultants to prepare or assist in preparation of

an EIS, and may charge and collect fees from the applicant to cover costs incurred by the city in preparation of the EIS, if one or more of the following circumstances exist:

1. The city has technical information on a question or questions that is unavailable to the applicant;
2. The applicant has provided inaccurate or incomplete information on previous proposals or on proposals currently under consideration;
3. The responsible official and the applicant agree that the city will be responsible for completing the EIS.

C. If fees are to be collected, the applicant shall be advised of estimated costs and shall be required to secure payment of such costs prior to the actual preparation of the EIS.

D. Prior to the preparation of an EIS the applicant and the city shall enter into a written agreement that shall at a minimum contain who is to prepare the EIS, its estimated cost, and estimated time frame to complete the EIS process. (Ord. 4840 § 1, 1996.)

16.06.085 Planned Actions

A. The city of Auburn adopted by reference WAC 197-11-172.

16.06.090 Public notice.

A. Whenever public notice is required under the SEPA rules, the responsible official shall cause notice to be given in the following manner:

1. By posting the subject property in accordance with the applicable provisions of Chapter 1.27 ACC (site-specific proposals only).

B. Additional public notice may be provided for proposals having or potentially having unusually widespread, unique or significant adverse impacts, or for other proposals, at the discretion of the responsible official.

C. Where notice is required for a proposed action which has been proposed or initiated by a party other than the city or a city department, the cost of newspaper publication of such notice or notices shall be borne by the city with fees paid by the proponent or applicant. (Ord. 5811 § 4, 2003; Ord. 4840 § 1, 1996.)

16.06.095 Optional Determination of Non-Significance Process

A. Projects that are defined as Type II, Type III, and Type IV Decisions per ACC 14.03.020 and ACC 14.03.030 respectively, in which a threshold determination under SEPA is required, may be processed under the Optional DNS process. This includes:

1. Providing Notice of Application (NOA) in accordance with ACC 14.07
2. Ensuring consistency with WAC 197-11-355 Optional DNS Process requirements

B. If the city as lead agency and has a reasonable basis for determining, significant adverse environmental impacts are unlikely, it may use a single integrated comment period to obtain comments on the Notice of Application and the threshold determination for the proposal. If this process is used, a second comment period will typically not be required at the time the DNS is issued.

C. If the lead agency uses the optional DNS process specified in subsection B of this section, the lead agency shall:

1. State on the first page of the Notice of Application that it expects to issue a DNS for the proposal, and that:
 - (a) The optional DNS process is being used;
 - (b) This may be the only opportunity to comment on the environmental impacts of the proposal;
 - (c) The proposal may include mitigation measures under applicable codes, and the project review process may incorporate or require mitigation measures regardless of whether an EIS is prepared; and
 - (d) A copy of the subsequent threshold determination for the specific proposal may be obtained upon request (in addition, the lead agency may choose to maintain a general mailing list for threshold determination distribution);
2. List in the Notice of Application the conditions being considered to mitigate environmental impacts, if a mitigated DNS is expected;
3. Comply with the requirements for a Notice of Application and public notice in ACC 14.07; and public notice in RCW 36.70B.110; and
4. Send the Notice of Application and environmental checklist to:

(a) Agencies with jurisdiction, the Department of Ecology, affected tribes, and each local agency or political subdivision whose public services would be changed as a result of implementation of the proposal; and

(b) Anyone requesting a copy of the environmental checklist for the specific proposal (in addition, the lead agency may choose to maintain a general mailing list for checklist distribution).

D. If the lead agency indicates on the Notice of Application that a DNS is likely, an agency with jurisdiction may assume lead agency status during the comment period on the notice of application (WAC 197-11-948.)

E. The responsible official shall consider timely comments on the Notice of Application and either:

1. Issue a DNS or mitigated DNS with no comment period using the procedures in subsection F of this section;
2. Issue a DNS or mitigated DNS with a comment period using the procedures in subsection F of this section, if the lead agency determines a comment period is necessary;
3. Issue a DS; or
4. Require additional information or studies prior to making a threshold determination.

F. If a DNS or mitigated DNS is issued under subsection (E)(1) of this section, the lead agency shall send a copy of the DNS or mitigated DNS to the WA State Department of Ecology, agencies with jurisdiction, those who commented, and anyone requesting a copy. A copy of the environmental checklist need not be recirculated.

16.06.100 Internal circulation of environmental documents.

Relevant environmental documents shall accompany proposals through existing city project review processes. The responsible official shall ensure that environmental documents are provided to decision makers in the following manner:

A. Where a nonelected city official is to make a final decision on a nonexempt action, the responsible official shall provide that deciding official with a copy of a determination of nonsignificance (DNS) or a final EIS upon issuance of the DNS or FEIS.

B. Where the planning commission or hearing examiner is to make a recommendation on a nonexempt action, the responsible official shall transmit to the advisory body a copy of one of the following:

1. Environmental checklist;
2. Determination of nonsignificance (DNS);
3. Draft environmental impact statement (DEIS);
4. Final environmental impact statement (FEIS).

Transmittal of the appropriate environmental document shall either precede or accompany transmittal of a staff report or staff recommendation on the proposal.

C. A final staff recommendation to the hearing examiner or city council on a nonexempt major action should normally be preceded by, or accompanied by, either a final DNS or an FEIS. (Ord. 6186 § 1, 2008; Ord. 4840 § 1, 1996.)

16.06.110 Timing of decision on nonexempt action.

A. For nonexempt actions, the procedural requirements of SEPA, the SEPA rules and this chapter shall be completed prior to the city's issuance of a license, permit or other approval, prior to the city committing to a particular course of action, or prior to the city making a decision that would either have adverse environmental impacts or limit the choice of reasonable alternatives.

B. A final decision on a nonexempt action for which a DNS has been issued or EIS has been required shall not be made until after expiration of the environmental appeal period if not appealed or, if appealed, shall not be made until the decision on the appeal becomes final. (Ord. 4840 § 1, 1996.)

16.06.120 Authority to condition or deny proposals.

A. The policies and goals set forth in and referenced by this chapter are supplementary to those in the existing authorization of the city.

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

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1. Such conditions are necessary to mitigate probable significant adverse environmental impacts identified in 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 applicable to the proposal are sufficient to mitigate the identified impacts; and
 5. Such conditions are based on one or more policies, plans, rules or regulations designated in ACC 16.06.130 as a basis for the exercise of substantive SEPA authority under RCW 43.21C.060, and cited in writing in the license, permit, ordinance or other decision document.
- C. 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 capable of being accomplished that are sufficient to make the identified impact nonsignificant; and
 3. The denial is based on one or more policies, plans, rules or regulations designated in ACC 16.06.130 as a basis for the exercise of substantive SEPA authority under RCW 43.21C.060, and cited in writing in the license, permit, ordinance or other decision document.
- D. If the lead agency determines, after the initial review of a project, that a proposed action could not comply with adopted plans, policies, rules or regulations, and where the city has authority other than SEPA to deny the proposal, the project can be denied outright without making a threshold determination, and shall be cited in writing. Proposed actions which are subsequently modified, amended or deemed to be consistent with adopted plans, policies, rules or regulations shall not receive final approval until the proposed action is in full compliance with SEPA, the SEPA rules and this chapter.
- E. Where the responsible official has issued a mitigated DNS, the decision maker shall not approve the associated proposal until:
1. The proponent has modified the proposal, either through modification of plans and other application materials or through a separate written instrument attached to the application, such that the mitigating measures of the mitigated DNS become part of the proposal; or
 2. The decision maker has incorporated the mitigating measures of the mitigated DNS into the license, permit, ordinance or other approval, through conditions attached pursuant to this chapter; or

3. A combination of subdivisions 1 and 2 of this subsection.

F. Where mitigating measures are agreed to under subsection (E)(1) of this section, or imposed under subsection (E)(2) of this section, and where the proponent fails to implement such mitigating measures, the city shall have the authority to revoke any permit, license or other approval granted on the basis of such mitigating measures. (Ord. 4840 § 1, 1996.)

16.06.130 Substantive authority.

The city adopts by reference the following policies, plans, rules and regulations, as may be amended, as a basis for the exercise of substantive authority to approve, condition or deny proposed actions under RCW 43.21C.060 of SEPA:

- A. Auburn comprehensive plan and related reports and studies outlined in; all Appendices and Supplementary Reports
- B. Shoreline management master program;
- C. Auburn City Code;
- D. Auburn downtown plan;
- E. Auburn capital facilities plan;
- F. Auburn Transportation Program;
- G. Auburn Municipal Airport master plan;

16.06.200 City responsibilities as consulted agency.

In carrying out the city's duties as a consulted agency, the responsible official shall request information from any department potentially affected by or having expertise on a proposal. Information timely received by the responsible official in response to such request shall be transmitted to the lead agency. The responsible official may transmit such information by forwarding copies of any department responses or by consolidating all department responses into a single city response. (Ord. 4840 § 1, 1996.)

16.06.210 Use of non-SEPA documents.

A. If determined by the responsible official, existing plans, regulations, rules, or other laws that provide a functionally equivalent analysis of the specific adverse impacts of a proposed project that has already occurred and is available or will occur before action is taken on a proposed project may be used to forego the environmental analysis required under this title. If non-SEPA documents are used the responsible official shall make appropriate findings and conclusions to support the use of such documents.

B. If determined by the responsible official, existing plans, regulations, rules, or other laws that adequately mitigate the projects specific adverse environmental impacts may be used, in lieu of SEPA mitigating conditions, as long as the project approval is explicitly conditioned on compliance with the requirements or mitigation measures so that the specific adverse environmental impacts are adequately mitigated. If non-SEPA documents are used, the responsible official shall make appropriate findings and conclusions to support the use of such mitigation and to ensure compliance with the requirements of the non-SEPA documents. (Ord. 4840 § 1, 1996.)

16.06.220 Environmental appeals.

Any person aggrieved of a final threshold determination of significance, final determination of nonsignificance, or inadequacy of a final EIS may file an appeal with the city hearing examiner. Appeal of intermediate steps under SEPA (e.g., lead agency determination, scoping, draft EIS adequacy) shall not be allowed. (Ord. 4840 § 1, 1996.)

16.06.230 Time limitation on appeals.

A written notice of appeal identifying the grounds for appeal must be filed with the city clerk, on forms provided by the city clerk, within 14 days of the date of mailing the final threshold determination of significance, final determination of nonsignificance or final EIS. The city shall extend the appeal period for an additional seven days for final mitigated determinations of nonsignificance and final EISs. (Ord. 4840 § 1, 1996.)

16.06.240 Fee to accompany notice of appeal.

An appeal fee as provided for in the city's adopted fee schedule shall accompany the written notice of appeal and be filed within the appeal period with the city clerk. No notice of appeal shall be accepted unless accompanied by full payment of the appeal fee. This fee shall be utilized to cover publication costs, mailing, and other costs directly associated with the appeal. (Ord. 6077 § 1, 2007; Ord. 4840 § 1, 1996.)

16.06.250 Notice of hearing.

A notice of appeal timely filed shall be transmitted by the city clerk to the hearing examiner and the SEPA responsible official. The hearing examiner shall determine the date, time, and place of a hearing to consider the appeal of final EISs, and shall notify the parties thereof. Other appeal hearings shall be scheduled in accordance with ACC 2.46.130. (Ord. 4840 § 1, 1996.)

16.06.260 Hearing.

A hearing upon an appeal shall be conducted by the hearing examiner and, where applicable, the appeal hearing shall be consolidated with any other hearing required on the related proposed action as required in ACC Title 14. (Ord. 4840 § 1, 1996.)

16.06.270 Testimony – Recording.

All testimony taken at any hearing shall be taken under oath. The hearing shall be recorded electronically. (Ord. 4840 § 1, 1996.)

16.06.300 Substantial weight – Burden of proof.

A threshold determination by the responsible official is entitled to substantial weight. The burden shall be on the appellant to establish that the determination is in error. (Ord. 4840 § 1, 1996.)

16.06.310 Decision of the hearing examiner.

A. Upon the basis of all of the information received in a hearing, and all information relied upon by the responsible official, the hearing examiner shall prepare a written decision, including findings of fact and conclusions.

B. The hearing examiner may sustain, sustain with conditions, reverse, or remand to the responsible official the threshold determination. (Ord. 4840 § 1, 1996.)

16.06.320 Dismissal of appeal.

The hearing examiner may summarily dismiss an appeal without hearing, when such appeal is determined by the hearing examiner to be without merit on its face, frivolous, or brought merely to impede a proposal or secure a delay. (Ord. 4840 § 1, 1996.)

16.06.330 City council review – Limitations for appeals.

A. The decision of the hearing examiner on a threshold determination appeal may be appealed to the superior court in the county in which the subject property is located, which appeal shall be in accordance with the provisions of RCW 43.21C.060 and 43.21C.075. Any such appeal allowed by RCW 43.21C.060 and 43.21C.075 must be brought within the time limits specified in Chapter 2.46 ACC.

B. Such city council review shall be conducted on the record compiled by the hearing examiner, consistent with other applicable law. (Ord. 6442 § 11, 2012; Ord. 6186 § 2, 2008; Ord. 4840 § 1, 1996.)

16.06.340 Violation – Penalty.

Any violation of this chapter or of the standards, regulations or procedures adopted pursuant to this chapter shall be enforced pursuant to the provisions of Chapter 1.25 ACC. (Ord. 4840 § 1, 1996.)