2011 Annual Amendment Application No. 2011-09
SEPA Code Changes

STAFF REPORT

Application #:	2011-09
Applicant:	City of Tacoma, Community & Economic Development Dept.
Contact:	Shirley Schultz (591-5121) and Ian Munce (573-2478)
Type of Amendment:	Comprehensive Plan Text Amendments Regulatory Code Text Changes
Current Land Use Intensity:	City-Wide
Current Area Zoning:	N/A
Size of Area:	N/A
Location:	N/A
Neighborhood Council area:	All
Proposed Amendment:	The proposed amendment would update and simplify existing regulatory procedures used to administer the State Environmental Policy Act (SEPA), ensure consistency with other codes, including the Critical Areas Protection Ordinance, and with current statutes and the State administrative code. The amendment also includes changes to the *Comprehensive Plan* to clarify the City's "substantive authority" under SEPA to condition, modify, or deny a permit based on environmental impacts.

General Description of the Proposed Amendment:

The Environmental Code (*Tacoma Municipal Code* Chapter 13.12) contains the City's procedures for implementing the State Environmental Policy Act (SEPA). SEPA requires local jurisdictions to adopt procedures to integrate environmental review with project and non-project review and approval. Many of the City's procedures simply follow the procedures set out in State law or the Washington Administrative Code and are adopted by reference.

The proposed amendments to the City's Environmental Code would update and simplify the existing procedures and ensure consistency with other codes, including the Critical Areas Protection Ordinance. The proposed amendments include reorganization and reformatting to simplify and assist in the use and administration of the code requirements by staff and the public. In addition, the proposed amendments will clarify the application of SEPA requirements when a project is otherwise exempt from review for a Critical Areas permit. New sections are proposed to address recent State legislation regarding infill development and environmental review in conjunction with planning activities.

The amendments also include changes to the *Comprehensive Plan* to clarify the City's "substantive authority" under SEPA to condition, modify, or deny permits based on environmental impacts. The proposed Plan amendments are intended to clarify the City's authority to require studies and review of

environmental impacts related to contaminated soils (specifically, to projects taking place within ASARCO plume areas that are identified as having a high probability of contamination), air quality, and the use of *Comprehensive Plan* policies as support for use of the City's authority under SEPA to require mitigation or modification of projects.

The proposed *Comprehensive Plan* changes are included as Exhibit "A" to this staff report; the proposed changes to the *Tacoma Municipal Code* (TMC) are included as Exhibit "B".

Additional Information:

The Regulatory Code provides thresholds for exemptions from the permitting requirements under the Critical Areas section of the code (*TMC* Chapter 13.11). These exemptions are not aligned with the Environmental Code so that in some instances SEPA review is required when no other permit review is required. That was not the intent in adopting exemptions and the Environmental Code needs to be revised to remove this extra step for applicants.

Public Outreach:

The proposed changes are generally technical in nature and primarily include "housekeeping" items and incorporation of existing State law and authority into City documents. The opportunity for public input will be through the Planning Commission public hearing process.

Applicable Provisions of the Growth Management Act (and other state laws):

The Washington Administrative Code (WAC) requires that local jurisdictions adopt environmental review policies, certain appeal procedures, public notice procedures, and to authorize non-project environmental review. Both the WAC for SEPA and the Growth Management Act (GMA) allow cities the "substantive authority" to use their adopted policies as their environmental policies for the purposes of project review and approval.

The GMA requires that City regulations are consistent with its *Comprehensive Plan* and its elements. In addition, GMA sets forth primary goals for planning. Among them are economic development, efficient permitting processes, environmental protection, and opportunities for public participation.

The proposed amendments to the *Comprehensive Plan* are intended to clarify and strengthen the relationship between Comprehensive Plan goals and policies and the implementing SEPA regulations. The new section regarding SEPA Planned Action is intended to emphasize early public participation during environmental review of future projects.

In addition, in 2010, the state legislature adopted ESHB 2538, which allows jurisdictions to adopt subarea elements to its *Comprehensive Plan* and development regulations. The subarea must be located in either: (1) a mixed-use or urban center designated in a land use or transportation plan adopted by a regional transportation planning organization; or (2) within one-half mile of a major transit stop that is zoned to have an average minimum density of 15 dwelling units or more per acre. A city that elects to include subarea elements must prepare a non-project Environmental Impact Statement (EIS) specifically for the subarea. Until July 1, 2018, project-specific development proposals located within the designated area may not be appealed on SEPA grounds as long as the project's impacts are within the scope of the EIS and the development application is vested within a timeframe established by the city, but not to exceed 10-years from the adoption of the final EIS.

Because Tacoma has several areas that are eligible to take advantage of this legislation, which promotes higher density development in areas well-served by transit by promoting environmental review on an area-wide basis, the proposed Environmental Code amendments will establish procedures for implementing the new legislative requirements.

Applicable Provisions of the *Comprehensive Plan*:

The *Comprehensive Plan* contains discussions of environmental quality in several elements and subsections. Among them are statements for aquifer protection, promotion of sustainable design techniques, sound practices for industrial development, and protection of public health in capital facilities projects.

The Transportation Element of the *Comprehensive Plan* has an extensive discussion of environmental review under its "Environmental Stewardship" subsection. This portion of the plan sets forth policies for noise and air pollution, stormwater management, critical areas protection, nonmotorized transportation, and sustainable transportation choices.

The City's Environmental Policy Element is "intended [to]… be a comprehensive, single source of the City's environmental policies." The element sets forth policies and goals for critical areas, recreation and open space, air quality, water quality, scenic areas, waste, and environmental remediation.

All of the *Comprehensive Plan* language attests to the importance of consideration of the environment as the City accommodates development. However, there is little to no mention of the SEPA process within the *Comprehensive Plan*. While it is set forth in both State law and the *Tacoma Municipal Code (TMC)*, there is no discussion of the City's authority to use the *Comprehensive Plan's* policies during environmental review. The *TMC*, in fact, adopts all policies and goals of the *Comprehensive Plan* and the Shoreline Master Program as "environmental policies" for the purposes of SEPA review. All project review must take into consideration a proposal's consistency with the adopted planning documents.

Therefore, the proposed additions to the *Comprehensive Plan* as shown in Exhibit "A" will supplement existing policies as follows:

- A paragraph is proposed for the Plan's Introduction chapter to establish the relationship between the *Comprehensive Plan* and Zoning regulations – with SEPA being discussed as a section within the Land Use Regulatory code.
- Additional text is proposed in the Introduction section about the State Environmental Policy Act, showing that the Plan must also be consistent with SEPA regulations. This revised section also demonstrates that in addition to the Plan, the City has adopted environmental review procedures in *TMC* 13.12 and they are used in conjunction with the Plan to ensure a proposal's consistency with the Plan.
- Revision to the Introduction chapter also adds a statement that all policies contained within the Plan are adopted as environmental policies for the purposes of SEPA review. The proposed amendment also notes that all policies are given equal weight in considering substantive authority under SEPA to assess a project's impacts and consistency with the Plan. The language proposed here is very similar to the Washington Administrative Code and the Department of Ecology guidance documents regarding substantive authority. It does not represent a change in the City's authority; it merely articulates it in a clearer and more direct manner.

- Several additions are proposed for the Environmental Policy Element. One proposed policy (E-P-3) is, again, to reiterate the City's substantive authority in the prevention and mitigation of environmental impacts.
- Another proposed policy (E-AQ-2) is to clarify an applicant's responsibility to describe air quality impacts of a proposal and to provide, where possible, additional studies or assessments related to air quality impacts. These responses are already required by SEPA, but given the recent designation of Tacoma and a large portion of Pierce County as "non-attainment" areas for airborne particulate matter, language in the Comprehensive Plan should be strengthened.
- A third addition is proposed under the environmental remediation section to establish a clearer relationship between the City's environmental review and clean-up efforts which might be required by other authorities. For instance, the City does not have contaminated soil clean-up requirements, but the State does and works with the City (through SEPA) to require soil remediation where necessary. Proposed policy E-ER-5 reiterates that coordination.

Applicable Provisions of the Land Use Regulatory Code:

SEPA regulations are set forth in *TMC* Chapter 13.12. Several amendments are proposed to this section of the code in order to enable SEPA review in certain planning processes (e.g., for "Planned Actions"), to correct outdated references, to clarify appeals, and to clarify the projects which are exempt from SEPA. Because of the significant amount of reorganization, the proposed code amendments attached as Exhibit "B" are not presented in the typical strike-through/underline format. Sections where wording has been changed are highlighted in yellow with the previous reference in {brackets}, and new language is underlined.

Overall, the chapter has been reorganized for ease of use. Instead of adoption of the Washington Administrative Code (WAC) in one large section at the beginning of the chapter, the chapter is now divided into Parts. Each Part has a purpose statement, and adopts the relevant sections of the WAC by reference. The intent is that if a reader is working within a particular subsection of the chapter, it is easier to find the corresponding section in the WAC. In addition, the "purpose" statement describes in general terms when the subsection is applicable.

TMC 13.12 applies to all environmental review conducted by the City; currently, much of the language is in reference to Building and Land Use (BLUS) and its procedures, when in fact the environmental regulations would apply the same way to SEPA review conducted by other departments and divisions of the City, including Tacoma Public Utilities. Many of the minor language changes are intended to broaden these references in *TMC* Chapter 13.12.

Further, the following specific changes are proposed:

- Code sections regarding "lead agency" and "SEPA responsible official" have been relocated to the beginning of the chapter. This is a more logical location for what tends to be the very first step in SEPA review – determining who is responsible.
- The language regarding determination of exempt actions has been consolidated and clarified to state that the responsible official may determine what a primary action is and then determine if associated actions are therefore also exempt.
- Language regarding mitigation has been clarified to state that conditions placed during SEPA review must be carried forward into land use or development permits.
- New sections have been added in the "Environmental Impact Statement" section to address state

enabling legislation for Planned Action EIS's and for Optional Plan element EIS's. They are located in this section because they are types of EIS's with specific requirements.

- A section has been added to clarify the timing and appeals process for non-land use actions (appeals that are not heard by the Hearing Examiner) and to establish the timelines for appeals of planning actions.
- Two new definitions are proposed to clarify that the "applicant," for the purposes of SEPA, is the party requesting a SEPA determination. Likewise, an "application" is the completed checklist and any other required information in pursuit of a SEPA determination.
- "Major Transit Stop" is added as a definition, since it is referenced in the Optional Plan element EIS process.
- "City" is clarified to refer to any department or division that is acting in a lead agency capacity.

Amendment Criteria:

Applications for amendments to the Comprehensive Plan and Land Use Regulatory Code are subject to review based on the adoption and amendment procedures and the review criteria contained in TMC 13.02.045.G. Proposed amendments are required to meet at least one of the ten review criteria to be considered by the Planning Commission. The following section provides a review of each of these criteria with respect to this proposal. Each of the criteria is provided, followed by staff analysis of the criterion as it relates to this proposal.

1. **There exists an obvious technical error in the pertinent *Comprehensive Plan* or regulatory code provisions.**

   Staff Analysis: There is no obvious technical error in the *Comprehensive Plan* provisions; however, there is very little reference in the Plan to the City's responsibilities and authority under environmental review. The proposed amendment attempts to correct that.

   There are technical problems with the SEPA code language. Included in these are the outdated references to sections of the State administrative code, use of definitions that no longer are applicable, inconsistencies in appeal periods, and inclusion of projects under SEPA that should be exempted.

2. **Circumstances related to the proposed amendment have significantly changed, or a lack of change in circumstances has occurred since the area or issue was last considered by the Planning Commission.**

   Staff Analysis: The State laws have changed since the SEPA code was last considered by the Planning Commission, resulting in outdated references and inconsistent appeal times. In addition, new legislation has been adopted which the City may wish to utilize.

3. **The needs of the City have changed, which support an amendment.**

   Staff Analysis: City planning efforts have been directed toward sub-area planning and intensification of development within designated mixed-use districts. Adoption of the new sections regarding SEPA Planned Actions and Optional Plan elements will enable the City to further pursue additional tools to facilitate area-wide environmental review during planning activities rather than at the individual project level.

4. **The amendment is compatible with existing or planned land uses and the surrounding development pattern.**

   Staff Analysis: This is an amendment that will apply city-wide and this criterion is not applicable.

5. **Growth and development, as envisioned in the Plan, is occurring faster, slower, or is failing to materialize.**

   Staff Analysis: While this criterion is not technically applicable, it is hoped that the use of Planned Action and/or the Optional Plan element SEPA procedures will create additional incentives for development in desired areas.

6. **The capacity to provide adequate services is diminished or increased.**

   Staff Analysis: This criterion is not applicable.

7. **Plan objectives are not being met as specified, and/or the assumptions upon which the plan is based are found to be invalid.**

   Staff Analysis: This criterion is not applicable. The proposed additions to the *Comprehensive Plan* are intended to clarify and strengthen existing authority.

8. **Transportation and and/or other capital improvements are not being made as expected.**

   Staff Analysis: This criterion is not applicable.

9. **For proposed amendments to land use intensity or zoning classification, substantial similarities of conditions and characteristics can be demonstrated on abutting properties that warrant a change in land use intensity or zoning classification.**

   Staff Analysis: This criterion is not applicable. The amendments will apply city-wide.

10. **A question of consistency exists between the *Comprehensive Plan* and its elements and RCW 36.70A, the County-wide Planning Policies for Pierce County, Multi-County Planning Policies, or development regulations.**

    Staff Analysis: This criterion does not apply.

Economic Impact Assessment:

The economic impacts of the proposed changes are difficult to assess. The proposed change to clarify exempt activities under the Critical Area regulations and the SEPA review requirements may reduce the time and review required of applicants. It is hoped that by adopting procedures that will enable SEPA review at the planning stage rather than at the project level will create additional incentives for growth within desired areas. However, it is likely that the economic effects of the proposed changes will be largely neutral.

Staff Recommendation:

Staff recommends that the proposed amendments be released for public review as part of the 2011 amendment package.

Exhibits:

A. Proposed additions to the *Comprehensive Plan*
B. Proposed changes to *Tacoma Municipal Code*, Chapters 13.12 and 13.11

Proposed Text Changes to the Comprehensive Plan

The following changes (additions and ~~deletions~~) are being proposed to the **Introduction** chapter and the **Environmental Policy Element** of the Comprehensive Plan:

A. Introduction (one change proposed):

1. Add a new section. This proposed addition is also included as a part of Amendment #2011-06 and is repeated here.

What is the State Environmental Policy Act?

The State Environmental Policy Act (SEPA) was adopted in 1971 as a basic environmental charter. It gives cities and other agencies the tools that allow them to both consider and mitigate for environmental impacts of proposals. Provisions are included to involve the public, tribes, and other interested governmental agencies in review of proposed actions before a decision on a proposal is made. Using SEPA requirements, applicants are required to answer questions about how their proposal will affect elements of the environment: earth, air, water, plants and animals, energy and natural resources, environmental health, land use, transportation, and public services and utilities.

SEPA requires that the City adopt environmental review procedures and appeal provisions, which are contained in the *Tacoma Municipal Code*. It also directs the City to adopt environmental policies. All of the policies set forth in the *Comprehensive Plan* and its elements as well as the policies contained in the *Shoreline Master Program* are the City's policies to be used in the review of projects and non-project proposals. These policies may, and in some cases must, be used to modify proposals to mitigate identified impacts.

In addition, all policies contained in the Comprehensive Plan carry equal weight in the consideration of "substantive authority." "Substantive Authority" is the regulatory authority granted to the City to condition or deny a proposal to mitigate environmental impacts identified during the SEPA review. In order to use this authority, the City must have adopted SEPA regulations and required conditions or mitigation must be set forth in adopted SEPA policy. Since the Tacoma Municipal Code adopts all policies in this Plan, as well as all policies within the *Tacoma Shoreline Master Program* as the City's environmental policies all Plan policies may, and in some cases must, be utilized to effect changes in project proposals when they have a probable significant adverse impact on one or more elements of the environment.

B. Environmental Policy Element (6 changes proposed):

1. Add a new policy, E-P-3, to the "Pollution" policy category in Section II – General Goal and Policies, as follows:

E-P-3 Prevention and Mitigation
Prioritize prevention and avoidance of pollution when possible. Use SEPA Substantive Authority, where warranted, in conjunction with adopted policies to provide mitigation for unavoidable impacts to environmental quality.

2. Add a new policy, E-AQ-2, to the "Air Quality" policy category in Section II – General Goal and Policies, as follows:

   E-AQ-2 Air Quality Studies
   All developments subject to SEPA environmental review procedures should address air quality impacts resulting from the development and its operation. In order to adequately assess impacts, any development proposal that requires state or federal air permits or reporting shall provide a quantitative study as part of their environmental analysis.

3. Add a statement to the "Environmental Remediation" policy category in Section II – General Goal and Policies, as follows (and relocate the existing statement to Section III – Critical Areas):

   Prevention of contamination and clean-up of identified contaminated sites will improve the quality of Tacoma's environment. ~~The City has designated certain lands as environmentally sensitive or critical areas. These areas include aquifer recharge areas, fish and wildlife habitat conservation areas, flood hazard areas, geologically hazardous areas, natural resource areas, stream corridors, and wetlands. Because of the growing pressures and the increased understanding of the value of critical areas, the City has drafted standards to manage development for their protection and preservation. Critical areas warrant protection because they maintain and protect surface and ground water quality, provide erosion and storm water control, and serve as an essential habitat for fish and wildlife.~~

4. Modify Policy E-ER-2 in the "Environmental Remediation" policy category in Section II – General Goal and Policies, as follows:

   E-ER-2 Contaminated Sites
   Encourage the identification and characterization of all contaminated sites which adversely affect the City's shoreline areas, surface waters, ~~and~~ groundwater, and soils.

5. Add a new policy, E-ER-7, to the "Environmental Remediation" policy category in Section II – General Goal and Policies, as follows:

   E-ER-7 Intergovernmental Partnerships
   Coordinate and cooperate with State and Federal programs (e.g., Department of Ecology, Environmental Protection Agency) in encouraging and monitoring the remediation of contaminated sites.

6. Add a statement to Section III – Critical Areas, as follows (relocated from the "Environmental Remediation" policy category in Section II – General Goal and Policies):

   The City has designated certain lands as environmentally sensitive or critical areas. These areas include aquifer recharge areas, fish and wildlife habitat conservation areas, flood hazard areas, geologically hazardous areas, natural resource areas, stream corridors, and wetlands. Because of the growing pressures and the increased understanding of the value of critical areas, the City has drafted standards to manage development for their protection and preservation. Critical areas warrant protection because they maintain and protect surface and ground water quality, provide erosion and storm water control, and serve as an essential habitat for fish and wildlife.

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PROPOSED LAND USE REGULATORY CODE CHANGES

*Note – Because of the significant amount of reorganization associated with these amendments, the proposed code language below is not presented in the typical strike-through/underline format. Sections where wording has been changed are highlighted in yellow with the previous reference in {brackets}, and new language is underlined.

Chapter 13.12
ENVIRONMENTAL CODE

Part One: Purpose and Authority

13.12.100 Purpose of this part and adoption by reference. The purpose of this section is to set forth the purpose of this Chapter, the authority under which the City has adopted this Chapter, and to adopt the following section of the *Washington Administrative Code* by reference.

197-11-030 Policy.

13.12.120 Authority.

The following regulations concerning environmental policies and procedures are hereby established and adopted pursuant to Washington State law, Chapter 109, Laws of 1971, Extraordinary Session (Chapter 43.21C RCW) as amended, entitled the “State Environmental Policy Act of 1971,” (SEPA), and Washington State Administrative Code regulations, Chapter 197-11, entitled “SEPA Rules.”

13.12.130 Purpose, applicability, and intent.

(1) The purpose of this chapter is to provide City regulations implementing the State Environmental Policy Act of 1971 (SEPA).

(2) This chapter is applicable to all City departments/divisions, commissions, boards, committees, and City Council.

(3) The intent of this chapter is to govern compliance by all City departments/divisions, commissions, boards, committees, and City Council with the procedural requirements of the State Environmental Policy Act of 1971.

(4) This chapter is not intended to govern compliance by the City with respect to the National Environmental Policy Act of 1969 (NEPA). In those situations in which the City is required by Federal law or regulations to perform some element of compliance with NEPA, such compliance will be governed by the applicable Federal statute and regulations and not by this chapter.

13.12.140 Environmental policy.

The environmental policies of the City of Tacoma are the policies set forth in the following documents and statute: the "comprehensive plan," including all of its elements, the "Master Program for Shoreline Development," and Chapter 43.21C RCW.

13.12.150 Severability.

If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of this chapter or the application of the provision to other persons or circumstances shall not be affected.

Part Two - General Requirements

13.12.200 Purpose of this part and adoption by reference. The purpose of this part is to set forth general requirements that apply to all environmental determinations and all environmental review responsibilities on the part of the City. The following sections apply to environmental review in general, and to specific regulations for cities planning under the Growth Management Act. They also describe the procedures when environmental review is applied in conjunction with other state environmental laws. It also incorporates the following sections of the *Washington Administrative Code* by reference:

197-11-050	Lead agency.
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.
197-11-158	GMA project review. Reliance on existing plans, laws, and regulations.
197-11-164	Planned actions. Definition and criteria.
197-11-168	Ordinance or resolution designating planned actions. Procedures for adoption.
197-11-172	Planned actions. Project review.
197-11-210	SEPA/GMA integration.
197-11-220	SEPA/GMA definitions.

197-11-228	Overall SEPA/GMA integration procedures.
197-11-230	Timing of an integrated SEPA/GMA process.
197-11-232	SEPA/GMA integration procedures for preliminary planning, environmental analysis, and expanded scoping.
197-11-235	Documents.
197-11-238	Monitoring.
197-11-250	SEPA/Model Toxics Control Act integration.
197-11-253	SEPA lead agency for MCTA actions.
197-11-256	Preliminary evaluation.
197-11-259	Determination of non-significance for MCTA remedial action.
197-11-262	Determination of significance and EIS for MCTA remedial actions.
197-11-265	Early scoping for MCTA remedial actions.
197-11-268	MCTA interim actions.

13.12.210 Lead agency – Responsibilities.

The City, when acting in the capacity of the lead agency, shall be the only agency responsible for complying with the threshold determination procedures of SEPA; and the responsible official of the City, as designated pursuant to Section 13.12.xxx of this chapter, shall be responsible for the supervision, or actual preparation, of any draft EIS pursuant to this chapter, including the circulation of such statements and the conduct of any public hearings required by this chapter. The responsible official of the City shall also prepare or supervise preparation of any required final EIS pursuant to WAC 197-11 and this chapter. {13.12.923}

13.12.220 Designation of responsible official.

(1) In instances in which the City is the lead agency, the responsible official as designated by subsections (2), (3), (4) and (5) of this section shall carry out such duties and functions assigned the City as a lead agency.

(2) The responsible official for General Government shall be the department director for projects initiated by that department or processed by that department. However, a department director may designate an environmental officer to carry out the duties and responsibilities mandated by this chapter, except that all threshold determinations shall only be made with the express consent and approval of the director.

(3) The responsible official for the Department of Public Utilities shall be the Director of Utilities or his or her designee for projects initiated or processed by the Department of Public Utilities.

(4) For proposals initiated jointly by several departments within General Government, designation of the responsible official shall be by common agreement among the directors of the involved departments. In the event such department directors are unable to agree on who shall be the responsible official for such matter, determination of the responsible official shall be made by the City Manager.

(5) For proposals initiated jointly by General Government and Public Utilities, designation of the responsible official shall be by common agreement between the City Manager and the Director of Utilities.

(6) City staff carrying out the SEPA procedures shall be different from the staff making the proposal. That is, the responsible official shall not be the staff person responsible for filling out and signing the environmental checklist.

(7) The director of the department with appropriate expertise shall be responsible for preparation of written comments responding to a consultation request from another lead agency prior to a threshold determination, participation in scoping, and reviewing a DEIS.

(8) The director shall be responsible for the City's compliance with WAC 197-11-550 whenever such department 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.

13.12.230 Designation and responsibility of the City's SEPA public information center (SEPA PIC).

(1) The SEPA PIC shall maintain a DNS register.

(2) The SEPA PIC shall maintain an EIS register including for each proposal the location, a brief description of the nature of the proposal, the date first listed on the register, and a contact person or office from which further information may be obtained.

(3) The documents are required to be maintained at the information center for seven years, and shall be available for public inspection, and copies thereof shall be provided upon request. The City may charge for copies in the manner provided by Chapter 42.17 RCW (Public Disclosure and Public Records Law) and for the cost of mailing.

(4) The SEPA PIC shall be the contact listed on the Department of Ecology's list of SEPA authorities. It shall receive and route consultation requests, information requests, checklists, threshold determinations, and all other SEPA materials to appropriate departments or divisions of the City.

(5) The SEPA PIC shall maintain a listing of recommended Federal, State, regional, local and private agencies/organizations and their addresses for use by responsible officials of the City in making scoping requests and circulating draft EISs.

(6) The SEPA PIC shall review all threshold determinations and final environmental impact statements submitted to the Information Center by departments of General Government and Tacoma Public Utilities and approve such determinations of nonsignificance as to form at the time of filing.

(7) The SEPA PIC shall maintain a general mailing list for the threshold determination distribution.

(8) The following location constitutes the SEPA public information center:

Building and Land Use Services
Tacoma Municipal Building
747 Market Street
Tacoma, Washington 98402

13.12.240 Timing of the SEPA process.

(1) The SEPA process shall be integrated with City activities to ensure that planning and decisions reflect environmental values, avoid delays later in the process, and seek to resolve potential problems.

(2) The responsible official shall prepare the threshold determination and environmental impact statement (EIS), if required, at the earliest possible point in the planning and decision

making process, once the principal features of a proposal and its environmental impacts can be reasonably identified.

(a) A proposal exists when:

1. The responsible official is presented with an application; or
2. The responsible official has a goal and is actively preparing to make a decision on one or more alternative means of accomplishing that goal; and
3. The proposal is not otherwise exempt; and
4. The environmental effects can be meaningfully evaluated.

The fact that proposals may require future City approvals or environmental review shall not preclude current consideration, as long as proposed future activities are specific enough to allow some evaluation of their probable environmental impacts.

(b) The environmental process shall commence when the responsible official receives an environmental document and request for a determination.

(c) Appropriate consideration of environmental information shall be completed before the responsible official commits to a particular course of action.

(3) At the latest, the responsible official shall begin environmental review, if required, when the application for both SEPA and the underlying action is determined to be complete. The responsible official may initiate review earlier and may have informal conferences with applicants. A final threshold determination or Final Environmental Impact Statement (FEIS) shall precede or accompany the staff report, if any, in a public hearing on an application.

(4) When the environmental effects can be meaningfully evaluated on a proposal, the responsible official shall begin the preparation of EIS on private proposals at the conceptual stage rather than the final detailed design stage.

(a) If the responsible official's only action is a decision on a building permit or other license that requires detailed project plans and specifications, the responsible official shall provide applicants with the opportunity for environmental review under SEPA prior to requiring applicants to submit such detailed project plans and specifications.

(b) The responsible official may specify the amount of detail needed from applicants for such early environmental review, consistent with WAC 197-11-100 and 197-11-335.

(c) This subsection does not preclude the responsible official or applicants from preliminary discussions or exploration of ideas and options prior to commencing formal environmental review.

(5) An overall decision to proceed with a course of action may involve a series of actions or decisions by one or more agencies. If several agencies have jurisdiction over a proposal, they should coordinate their SEPA processes wherever possible. The responsible official shall comply with lead agency determination requirements in WAC 197-11 and this chapter.

(6) To meet the requirement to ensure that environmental values and amenities are given appropriate consideration along with economic and technical considerations, environmental documents and analyses shall be circulated and reviewed with other planning documents to the fullest extent possible.

(7) For their own public proposals, lead agencies may extend the time limits prescribed in these rules.

Part Three - Categorical Exemptions

13.12.300 Purpose of this part and adoption by reference. This section sets forth the proposed actions which are exempt from SEPA threshold determination and EIS requirements. Certain exemptions apply only to certain state agencies. In addition, the City has the authority to adopt certain flexible thresholds for proposals. This section describes those thresholds. It also incorporates the following sections of the *Washington Administrative Code* by reference:

197-11-800 Categorical exemptions.
197-11-810 Exemptions and none-exemptions applicable to specific state agencies.
197-11-820 Department of licensing.
197-11-825 Department of labor and industries.
197-11-830 Department of natural resources.
197-11-835 Department of fisheries.
197-11-840 Department of game.
197-11-845 Department of social and health services.
197-11-850 Department of agriculture.
197-11-855 Department of ecology.
197-11-860 Department of transportation.
197-11-865 Utilities and transportation commission.
197-11-870 Department of commerce and economic development.
197-11-875 Other agencies.
197-11-890 Petitioning DOE to change exemptions.

13.12.310 Flexible thresholds for categorical exemptions.

The City of Tacoma establishes the following exempt levels for minor new construction as allowed under WAC 197-11-800(1)(c), and RCW 43.21C.410 except when the action is undertaken wholly or partly on lands covered by water and the action requires a development permit under Chapter 13.11 of this title.

(1) The construction or location of any residential structure of four or less dwelling units;

(2) The construction of a barn, loafing shed, farm equipment storage building, produce storage or packing structure, or similar agricultural structure, covering 10,000 square feet or less, and to be used only by the property owner or his or her agent in the conduct of farming the property. This exemption shall not apply to feed lots;

(3) The construction of an office, school, commercial, recreational, service, or storage building with 12,000 square feet or less of gross floor area, and with associated parking facilities designed for no more than 20 automobiles;

(4) The demolition of an office, school, commercial, recreational, service, or storage building with 12,000 square feet or less of gross floor area;

(5) The construction of a parking lot designed for no more than 20 automobiles;

(6) Any landfill or excavation of 500 cubic yards or less throughout the total lifetime of the fill or excavation; and any fill or excavation classified as a class I, II, or III forest practice under RCW 76.09.050 or regulations thereunder.

(7) The construction of an individual battery charging station or an individual battery exchange station, that is otherwise categorically exempt shall continue to be categorically exempt even if part of a larger proposal that includes other battery charging stations, other battery exchange stations, or other related utility networks.

13.12.320 Emergencies.

Actions which must be undertaken immediately, or within a time too short to allow full compliance with this chapter, to avoid an imminent threat to public health and safety, to prevent an imminent danger to public or private property, or to prevent an imminent threat of serious environmental degradation, shall be exempt from the procedural requirements of this chapter. The responsible official shall determine on a case-by-case basis emergency actions which satisfy the general requirements of this section.

Part Four - Categorical Exemptions And Threshold Determination

13.12.400 Purpose of this part and adoption by reference. This part provides the rules for administering categorical exemptions, deciding on probable significant impacts on the environment, determining if mitigation is available, and integrating SEPA into the project review process. It also incorporates the following sections of the *Washington Administrative Code* by reference:

197-11-300	Purpose of this part.
197-11-310	Threshold determination required.
197-11-330	Threshold determination process.
197-11-335	Additional information.
197-11-360	Determination of significance (DS)/initiation of scoping.
197-11-390	Effect of threshold determination.

13.12.410 Categorical exemptions.

(1) Those activities excluded from the definition of "action" in WAC 197-11-704, or categorically exempted by WAC 197-11-800, are exempt from the threshold determination. No exemption is allowed for the sole reason that actions are considered to be of a "ministerial" nature or of an environmentally regulatory or beneficial nature.

(2) The applicability of the exemptions shall be determined by the responsible official.

(3) The responsible official who is determining whether or not a proposal is exempt shall ascertain the total scope of the proposal and the governmental licenses, permits, or approvals required:

(a) If a proposal includes a series of actions, physically or functionally related to each other, some of which are exempt and some of which are not, the responsible official shall determine the primary action.

(b) If a proposal includes a series of actions, physically or functionally related to each other, some of which are exempt and some of which are not, the proposal is exempt if the action determined to be the primary action by the responsible official is exempt.

(c) If the proposal includes a series of exempt actions which are physically or functionally related to each other, but which together may have a significant environmental impact, the proposal is not exempt. {13.12.305(2)-(6)}

(4) Pursuant to RCW 36.70B.140(2) Local Project Review, categorically exempt proposals shall be exempt from the procedural requirements for complete application and public notice under SEPA. {13.12.305(7)}

13.12.420 Environmental checklist.

Any action or proposal which is not determined to be exempt shall require environmental review under SEPA, which shall commence with the filing of a SEPA checklist. However, a checklist is not needed if the responsible official has decided to prepare an EIS, or the responsible official and applicant agree an EIS is required; see section 13.12.400 for the requirements for an EIS.

(1) The Environmental checklist form shall be the same as that on file with the SEPA Public Information Center, titled "Environmental Checklist," which is incorporated by reference in this chapter.

(2) The checklist shall be filed no later than the time an application is filed for a permit, license, certificate, or other approval. {13.12.315(1)}

(3) For private proposals, the responsible official shall require the applicant to complete the environmental checklist, providing assistance as necessary. For public proposals, the department initiating the proposal shall complete the environmental checklist for that proposal.

(4) The items in the environmental checklist are not weighted. The mention of one or many adverse environmental impacts does not necessarily mean that the impacts are significant or that the impacts cannot be mitigated. Conversely, a probable significant adverse impact on the environment identified in the checklist may result in the need for an EIS.

13.12.430 Determination of non-significance (DNS).

(1) If the responsible official determines there will be no probable significant adverse environmental impacts from a proposal, the responsible official shall prepare and issue a determination of non-significance (DNS). If the City adopts another environmental document in support of a threshold determination as set forth in Part Six of this chapter, the City shall issue a notice of adoption and/or combine the documents.

(2) A DNS issued under the provisions of this section shall not become effective until the expiration of the appeal period. The filing of an appeal shall stay the effect of the DNS and no major action in regard to a proposal may be taken during the pendency of an appeal and until all action regarding the appeal is final. A decision to reverse the determination of the responsible official and uphold the appeal shall further stay any decision, proceedings, or actions in regard to the proposal.

(3) When a DNS is issued for any of the proposals listed below, the requirements in this subsection shall be met. The requirements of this subsection do not apply to a DNS issued when the optional DNS process (Section 13.12.xxx) is used.

(a) The City shall not act upon a proposal for 14 days after the date of issuance of a DNS if the proposal involves:

(i) Another agency with jurisdiction;

(ii) Non-exempt demolition of any structure or facility;

(iii) Issuance of clearing or grading permits not otherwise exempted; or

(iv) A DNS when the applicant has changed the project in response to early review by the responsible official in order to avoid or withdraw a Determination of Significance; or

(v) A mitigated DNS.

(b) The responsible official shall send the DNS and environmental checklist to agencies with jurisdiction, the Department of Ecology, and affected tribes, and each local agency or

political subdivision whose public services would be changed as a result of implementation of the proposal, and shall give notice as set forth in this chapter.

(c) Any person, affected tribe, or agency may submit comments to the City within 14 days of the date of issuance of the DNS, or as may be extended by the planning and/or public hearing process for non-project actions.

(d) The date of issuance for the DNS is the date the DNS is sent to the Department of Ecology and agencies with jurisdiction and is made publicly available.

(e) An agency with jurisdiction may assume lead agency status only within this comment period.

(f) The responsible official shall reconsider the DNS based on timely comments and may retain or modify the DNS or, if the responsible official determines that significant adverse impacts are likely, withdraw the DNS. When a DNS is modified, the responsible official shall send the modified DNS to agencies with jurisdiction.

(4)(a) The responsible official shall withdraw a DNS if:

(i) There are substantial changes to a proposal so that the proposal is likely to have significant adverse environmental impacts;

(ii) There is significant new information regarding a proposal's probable significant adverse environmental impacts (this section shall not apply when a nonexempt license has been issued on a project); or

(iii) The DNS was procured by misrepresentation or lack of material disclosure; if the DNS resulted from such actions by an applicant, any subsequent environmental checklist on the proposal shall be prepared directly by the responsible official or his or her consultants at the expense of the applicant.

(b) If the responsible official withdraws a DNS, a new threshold determination shall be made and other agencies with jurisdiction shall be notified of the withdrawal and new threshold determination.

13.12.440 Mitigated DNS.

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

(2) If an applicant requests early notice of whether a Mitigated Determination of Nonsignificance (MDNS) or a Determination of Significance (DS) is likely, the request must:

(a) Be written;

(b) Follow submission of a completed environmental checklist for a nonexempt proposal for which the department is lead agency; and

(c) Precede the department's actual threshold determination for the proposal.

(d) The responsible official shall respond to the request in writing and shall state whether the responsible official is considering issuance of an MDNS or a DS and, if so, indicate the general or specific area(s) of concern that are leading to consideration of an MDNS or DS;

(e) The response must also state that the applicant may change or clarify the proposal to mitigate the impacts indicated in the letter, revising the environmental checklist as necessary to reflect the changes or clarifications. {13.12.350.2 and 3}

(3) As much as possible, the responsible official should assist the applicant with identification of impacts to the extent necessary to formulate mitigation measures.

(4) If the applicant submits a changed or clarified proposal, along with a revised environmental checklist, the responsible official will make a threshold determination based on the changed or clarified proposal:

(a) If the responsible official indicated specific mitigation measures in a response to the request for early notice that would allow him or her to issue a DNS, and the applicant changed or clarified the proposal to include those specific mitigation measures, the responsible official shall issue a determination of nonsignificance.

(b) If the responsible official indicated general or specific areas of concern, but did not indicate specific mitigation measures that would allow a DNS to be issued, the responsible official shall make the threshold determination, issuing a DNS or DS as appropriate.

(c) The applicant's proposed mitigation measures (clarifications, changes, or conditions) must be in writing and must be specific.

(d) Mitigation measures which justify issuance of a DNS shall be incorporated in the DNS by inclusion in the determination, or by reference to staff reports, studies or other documents.

(5) Mitigation measures incorporated in the DNS or MDNS shall be deemed conditions of approval of the associated building, work order, land use, or other development permit or license, unless revised or changed by the decision maker, and shall be placed as conditions directly upon the permit decision. The conditions shall be incorporated into the permit and shall be enforced in the same manner as any term or condition of the permit. {13.12.350(7) }

(6) If the tentative decision for an approval of a permit does not include mitigation measures that were incorporated in the SEPA determination for the proposal, the threshold determination should be evaluated to assure consistency with Section 13.12.xxx of this chapter (withdrawal of DNS).

(7) The responsible official's written response under subsection (2) of this section shall not be construed as a determination of significance. In addition, preliminary discussions of clarifications or changes to a proposal, as opposed to a written request for early notice, shall not bind the responsible official to a mitigated DNS.

13.12.450 Optional DNS process.

(1) The responsible official may use the optional DNS process if they have determined that significant adverse environmental impacts are unlikely, and a single integrated comment period is desired to obtain comments for the application and the likely threshold determination for the proposal. If this process is used, a second comment period will typically not be required when the DNS is issued.

(2) If the optional DNS process is used, the following shall apply:

(b) The notice shall state on the first page that the City expects to issue a DNS for the proposal, and that:

(i) The optional DNS process is being used;

(ii) This may be the only opportunity to comment on the environmental impacts of the proposal;

(iii) 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

(iv) A copy of the subsequent threshold determination for the specific proposal may be obtained upon request.

(c) The notice shall list the conditions being considered to mitigate environmental impacts, if a mitigated DNS is expected.

(d) The City shall comply with the requirements for a notice of application and public notice in RCW 36.70B.110; and

(e) The City shall send the notice and environmental checklist to:

(i) 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

(ii) Anyone requesting a copy of the environmental checklist for the specific proposal.

(3) If the City 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.

(4) The responsible official shall consider timely comments on the notice and either:

(a) Issue a DNS or mitigated DNS with no comment period using the procedures in subsection (5) of this section;

(b) Issue a DNS, or mitigated DNS with a comment period using the procedures in subsection (5) of this section, if the City determines a comment period is necessary;

(c) Issue a DS, or

(d) Require additional information or studies prior to making a threshold determination.

(5) If a DNS or mitigated DNS is issued under subsection (4)(a) of this section, the City shall send a copy of the DNS or mitigated DNS to the Department of Ecology, agencies with jurisdiction, those who commented, and anyone requesting a copy. A copy of the environmental checklist need not be re-circulated.

Part Five - Environmental Impact Statement (EIS)

13.12.500 Purpose of this part and adoption by reference. The purpose of this part is to describe the process, content, and format of an EIS, and to set forth the procedures for two specific kinds of non-project EIS reviews. It also incorporates the following sections of the *Washington Administrative Code* by reference:

197-11-400	Purpose of EIS.
197-11-402	General requirements.
197-11-405	EIS types.
197-11-406	EIS timing.
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 nonprofit proposals.
197-11-443	EIS contents when prior non-project 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.

13.12.510 Scoping.

(1) The responsible official shall narrow the scope of every EIS to the probable significant adverse impacts and reasonable alternatives, including mitigation measures. For example, if there are only two or three significant impacts or reasonable alternatives, the EIS shall be focused on those.

(2) To ensure that every EIS is concise and addresses the significant environmental issues, the responsible official shall:

(a) Invite agencies with jurisdiction, if any, affected tribes, and the public to comment on the DS (WAC 197-11-360). The responsible official shall require comments in writing. Agencies with jurisdiction, affected tribes, and the public shall be allowed 21 days from the date of issuance of the DS in which to comment, unless expanded scoping is used. The date of issuance for a DS is the date it is sent to the Department of Ecology and other agencies with jurisdiction, and is publicly available;

(b) Identify reasonable alternatives and probable significant adverse environmental impacts;

(c) Eliminate from detailed study those impacts that are not significant;

(d) Work with other agencies to identify and integrate environmental studies required for other government approvals with the EIS, where feasible.

(3) Meetings or scoping documents, including notices that the scope has been revised, may be used but are not required. The responsible official shall integrate the scoping process with the existing planning and decision making process in order to avoid duplication and delay.

(4) The responsible official shall revise the scope of an EIS if substantial changes are made later in the proposal, or if significant new circumstances or information arise that bear on the proposal and its significant impacts.

(5) DEISs shall be prepared according to the scope decided upon by the responsible official in the scoping process.

(6) EIS preparation may begin during scoping.

13.12.520 Expanded scoping (optional).

The responsible official may expand the scoping process to include any or all of the provisions found in WAC 197-11-410, which may be applied on a proposal-by-proposal basis.

13.12.530 EIS preparation.

For draft, final, and supplemental EISs:

(1) Preparation of the EIS is the responsibility of the City, by or under the direction of its responsible official, as specified by Section 13.12.xxx of this chapter. Regardless of who participates in the preparation of the EIS, it is the EIS of the responsible official. The responsible official, prior to distributing an EIS, shall be satisfied that it complies with these rules and the procedures of the City of Tacoma.

(2) The responsible official may have an EIS prepared by City staff, an applicant or its agents, or by an outside consultant retained by either an applicant or the responsible official. The responsible official shall assure that the EIS is prepared in a professional manner and with

appropriate interdisciplinary methodology. The responsible official shall direct the areas of research and examination to be undertaken as a result of the scoping process, as well as the organization of the resulting document.

(3) If a person other than the responsible official is preparing the EIS, the responsible official or designee shall:

(a) Coordinate any scoping procedures so that the individual preparing the EIS receives all substantive information submitted by any agency or person;

(b) Assist in obtaining any information on file with another agency that is needed by the person preparing the EIS;

(c) Allow any party preparing an EIS access to all public records of the City that relate to the subject of the EIS, under Chapter 42.17 RCW (Public Disclosure and Public Records Law);

(d) Review and examine pertinent sections of the EIS to assure the completeness, accuracy, and objectivity of the EIS.

(4) Any outside person, firm, or corporation assisting in the preparation of an EIS shall have expertise and experience in preparing environmental impact statements and shall be approved by the responsible official prior to participation in the EIS development process.

(5) Field investigation or research by the applicant, reasonably related to determining the environmental impacts associated with the proposal, may be required, with the cost of such field investigation or research to be borne by the applicant.

13.12.540 Issuance of final environmental impact statement (FEIS).

(1) A FEIS shall be issued by the responsible official and sent to the Department of Ecology (two copies), to all agencies with jurisdiction, to all agencies who commented on the DEIS, and to anyone requesting a copy of the FEIS. (Fees may be charged for the FEIS, see WAC 197-11-504.)

(2) The responsible official shall send the FEIS, or a notice that the FEIS is available, to anyone who commented on the DEIS or scoping notice and to those who received but did not comment on the DEIS. If the responsible official receives petitions from a specific group or organization, a notice or EIS may be sent to the group and not to each petitioner. Failure to notify any individual under this subsection shall not affect the legal validity of the City's SEPA compliance.

(3) The responsible official shall make additional copies available for review in his or her office and in the SEPA Public Information Center.

(4) The date of issue is the date the FEIS, or notice of availability, is sent to the persons and agencies specified in the preceding subsections and the FEIS is publicly available. Copies sent to the Department of Ecology shall satisfy the statutory requirement of availability to the governor.

(5) The City shall not act on a proposal for which an EIS has been required prior to 15 days after issuance of the FEIS. Further, filing of an appeal of the adequacy of a FEIS pursuant to Section 13.12.xxx of this chapter shall stay the effect of such FEIS and no major action in regard to a proposal may be taken during the pendency of an appeal and until the appeal is finally disposed of by the Hearing Examiner. A decision that the FEIS is inadequate and upholding the appeal shall further stay any decision, proceedings, or actions in regard to the proposal.

(6) The responsible official shall issue the FEIS within 60 days of the end of the comment period for the DEIS, unless the proposal is unusually large in scope, the environmental impact associated with the proposal is unusually complex, or extensive modifications are required to respond to public comments.

(7) The form and content of the FEIS shall be as specified in WAC 197-11-400-460.

13.12.550 SEPA Planned Action EIS

(1) The Responsible Official may authorize preparation of a Planned Action for a specific type of development, other than for an essential public facility or facilities as defined in RCW 36.70A.200, or for a specific geographical area that is less extensive than the jurisdictional boundaries of the City. The Planned Action must have the significant impacts adequately addressed in an environmental impact statement prepared in conjunction with a comprehensive plan, a comprehensive plan amendment, a subarea plan or for the phased project.

(2) Ordinance. A Planned Action must be designated by ordinance of the City Council. The adopting ordinance must describe the planned action projects and may establish a time period for completion of the planned action projects. .

(3) Project actions must be included in the designated ordinance and impacts addressed in an EIS prepared in conjunction with a comprehensive plan, amendment thereto, a subarea plan or a phased project.

(4) Planned action project review. Projects developed within a planned action area shall be exempted from further environmental review. However, the project proponent shall describe the environmental mitigation to be provided by subsequent or implementing projects, and must include a checklist (not a SEPA Checklist, but as set forth in the planned action EIS) that is to be filed with the project application and used to verify that:

(a) the project meets the description in, and will implement, any such mitigation and

(b) the probable significant adverse environmental impacts of the project have been adequately addressed in the EIS.

(5) The adopting ordinance will state that if notice is otherwise required for the underlying permit the notice shall state that the project has qualified as a planned action and that if notice is not otherwise required for the underlying permit no special notice is required. The adopting ordinance may limit a planned action to a time period identified in the ordinance.

13.12.560 Optional Plan Elements and Development Regulations

(1) The City may adopt optional comprehensive plan elements and optional development regulations that apply within designated centers or for subareas within one-half mile of a major transit stop zoned for higher density housing consistent with RCW 43.21C.240.

(2) Designation of areas: The centers must be designated by the Puget Sound Regional Council as a Regional Growth Center or a Manufacturing-Industrial Center .or be an area within one-half mile of a major transit stop that is zoned to have an average minimum density of fifteen dwelling units or more per gross acre.

(3) The City shall prepare a non-project (as defined in WAC 197-11-774) environmental impact statement.

(a) The EIS must assess and disclose probable adverse impacts of the optional comprehensive plan element and development regulations and of future development consistent with the plan and regulations.

(b) The EIS may have appended to it an analysis of the extent to which the proposed plan may result in the displacement or fragmentation of existing businesses, existing residents, including people living with poverty, families with children, and intergenerational households, or cultural groups; the results of the analysis must be discussed at a community meeting that is separate from the EIS/plan public hearings.

(4) Community Meeting.

(a) At least one community meeting must be held on the proposed optional plan and development regulations before the scoping notice is issued. Notice of scoping and notice of the community meeting must be mailed to all taxpayers of record within the sub-area to be studied, and within four hundred feet of the boundaries of the subarea, to affected Tribes and to agencies with jurisdiction over the future development within the subarea. See Part Five for notice requirements.

(b) Notice must also be mailed to all small businesses as defined in RCW 19.85.020 and to all community preservation and development authorities established under chapter 43.167 RCW. The process for community involvement must have the goal of fair treatment and meaningful involvement of all people with respect to the development and implementation of the subarea plan.

(c) The notice of the community meeting must include general illustrations and descriptions of buildings generally representative of the maximum building envelope that will be allowed under the proposed plan and indicate that future appeals of proposed developments that are consistent with the plan will be limited. Notice of the community meeting must include signs located on major travel routes in the sub-area posted within 7 days of the mailing of the meeting notice. If the building envelope increases during the process, another notice complying with the requirements of this section must be issued before the next public involvement opportunity.

(5) Appeal. Any person that has standing to appeal the adoption of the sub-area plan or the implementing regulations under RCW .70A.280 has standing to bring an appeal of the non-project EIS as set forth in this chapter.

(6) Transfer of Development Rights. As an integral part of preparing a sub-area plan/non-project EIS the City shall consider establishing a transfer of development rights program in consultation with Pierce County, a program that that conserves county-designated agricultural and forest land of long-term commercial significance. If the city decides not to establish a transfer of development rights program, the city must state in the record the reasons for not adopting the program. The city's decision not to establish a transfer of development rights program is not subject to appeal. Nothing in this sub-section may be used as a basis to challenge the sub-area plan.

(7) Fees for Environmental Review. The City may recover its reasonable expenses of preparation of a non-project EIS prepared under this section through access to financial assistance under RCW 36.70A.490 or funding from private sources. In addition, the City is authorized to recover a portion of its reasonable expenses of preparation of such a non-project EIS by the assessment of reasonable and proportionate fees upon subsequent development that is consistent with the plan and development regulations adopted under this section as long as the development makes use of and benefits from the non-project EIS prepared by the City. Any assessment fees collected from subsequent development may be used to reimburse funding received from private sources. In order to collect such fees, the city must enact an ordinance that sets forth objective standards for determining how the fees to be imposed upon each development will be proportionate to the impacts of each development and to the benefits accruing to each development from the non-project EIS. Any disagreement about the reasonableness or amount of the fees imposed upon a

development may not be the basis for delay in issuance of a project permit for that development. The fee assessed by the city may be paid with the written stipulation "paid under protest" and if the city provides for an administrative appeal of its decision on the project for which the fees are imposed, any dispute about the amount of the fees must be resolved in the same administrative appeal process.

(8) Additional Environmental Review. If a proposed development is inconsistent with the subarea plan policies and development regulations, the City shall require additional environmental review in accordance with this chapter.

(9) Effective Dates.

(a) Until July 1, 2018, a proposed development that is consistent with the sub-area plan policies and development regulations adopted under this section and that is environmentally reviewed under this section may not be challenged in administrative or judicial appeals for noncompliance with this chapter as long as a complete application for such a development that vests the application or would later lead to vested status under city or state law is submitted to the City within a time frame established by the City, but not to exceed ten years from the date of issuance of the final EIS.

(b) After July 1, 2018, the immunity from appeals under this section of any application that vests or will vest under this subsection or the ability to vest under this subsection is still valid, provided that the final subarea EIS is issued by July 1, 2018. After July 1, 2018, a city may continue to collect reimbursement fees under this section for the proportionate share of a subarea EIS issued prior to July 1, 2018.

Part Six - Commenting

13.12.600 Purpose of this part and adoption by reference. The purpose of this part of the Chapter is to provide the regulations for public notice and public availability of environmental documents, for circulation of environmental decisions to agencies and members of the public, public hearings and meetings, and response to comments received during the process. This section should be read in conjunction with the applicable administrative provisions in *TMC* 13.05 as they apply to land use permitting decisions. It also incorporates the following sections of the *Washington Administrative Code* by reference:

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.
197-11-535	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.

13.12.610 Public notice.

(1) When notice is required, the responsible official must use reasonable methods to inform the public and other agencies that an environmental document is being prepared or is available and that public hearing(s), if any, will be held.

(2) Notice Requirements, DNS

(a) When a land use decision is required for a proposal, notice of the SEPA pre-threshold determination or the availability of the final environmental impact statement shall be provided in conjunction with notification of the proposed land use action. The notice shall inform recipients where the SEPA records are located and that a final environmental determination shall be made following a comment period.

(b) Notice of the SEPA pre-threshold environmental determination for projects which do not require a land use decision shall be published in a newspaper of general circulation within the area in which the project is located, and shall include information as stated above.

(c) Notice of the SEPA pre-threshold environmental determination for non-project actions shall be provided in conjunction with notification of the earliest hearing (e.g., Planning Commission). Such notice shall be published in a newspaper of general circulation within the area in which the project is located, and shall include information as stated above.

(d) If an appeal is filed, notification of hearing such appeal shall be mailed to parties of record and to all parties who have indicated in writing an interest in the proposed land use action.

(3) Notice Requirements, EIS

(a) Notice of determination of significance, scoping, and availability of draft and final EISs shall be published in a newspaper of general circulation within the area in which the project is located.

(b) The determination of significance and scoping notice shall be mailed by first class mail to the applicant; property owner (if different from applicant); Neighborhood Councils, and qualified neighborhood or community organizations in the vicinity where the proposal is located; the Puyallup Tribal Nation for substantial actions defined in the "Agreement Between the Puyallup Tribe of Indians, Local Governments in Pierce County, the State of Washington, the United States of America, and Certain Property Owners," dated August 27, 1988; and to taxpayers as indicated by the records of the Pierce County Assessor, within 400 feet of the proposed action. Those parties who comment on the project shall receive notice of the draft and final EISs.

(c) A public information sign shall be erected on the site by the applicant, in a location determined by the staff responsible for carrying out the SEPA responsibilities, within seven calendar days of the date of issuance of the determination of significance. The sign shall contain, at a minimum, the following information: type of application, name of applicant, description and location of proposal, and where additional information can be obtained. The sign shall remain on the site until a final decision on the project is made.

(4) Documents which are required to be sent to the Department of Ecology will be published in the SEPA register, which will also constitute a form of public notice. However, publication in the SEPA register shall not, in itself, meet the notice requirements.

13.12.620 Responding to SEPA Requests for Comment from Other Lead Agencies

A. The director of the department with appropriate expertise shall be responsible for preparation of written comments responding to a consultation request from another lead agency prior to a threshold determination, participation in scoping, and reviewing a DEIS.

B. The director shall be responsible for the City's compliance with WAC 197-11-550 whenever such department 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.

Part Seven - Using Existing Environmental Documents

13.12.700 Purpose of this part and adoption by reference. This part of the Chapter sets forth the rules for using existing environmental documents. It describes the process, noticing procedures, and appeal provisions when existing environmental review is used to fulfill all or part of the City's SEPA responsibilities. It also incorporates the following sections of the *Washington Administrative Code* by reference:

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

Part Eight - SEPA and Agency Decisions

13.12.800 Purpose of this part and adoption by reference. This section of the Chapter is intended to ensure that complete, quality information is used in the SEPA process, that SEPA is incorporated with other laws and decisions, and provide a clear, concise, description of the City's substantive authority under SEPA. The section includes appeal provisions for SEPA determinations. It also incorporates the following sections of the *Washington Administrative Code* by reference:

197-11-650 Purpose of this part.
197-11-655 Implementation.

13.12.810 Substantive authority and mitigation.

(1) Any action by the City of Tacoma on public or private proposals that is not exempt may be conditioned or denied under SEPA to mitigate the environmental impact subject to the following limitations:

(a) Mitigation measures or denials shall be based on the policies, plans, rules, or regulations formally designated by the City as a basis for the exercise of substantive authority and in effect when a complete SEPA checklist is submitted.

(b) Mitigation measures shall be related to specific, adverse environmental impacts clearly identified in an environmental document on the proposal and shall be stated in writing by the responsible official. The responsible official shall cite the City's SEPA policy that is the basis of any condition or denial under this chapter. The responsible official shall make available to the public, in his or her office, a document that states the decision. The document shall state the mitigation measures, if any, that will be implemented as part of the decision, including any monitoring of environmental impacts. Such a document may be the permit itself, or may be combined with other City documents, or may reference relevant portions of environmental documents.

(c) Mitigation measures shall be reasonable and capable of being accomplished.

(d) Responsibility for implementing mitigation measures may be imposed upon an applicant only to the extent attributable to the identified adverse impacts of its proposal. Voluntary additional mitigation may occur.

(e) Before requiring mitigation measures, the responsible official shall consider whether local, State, or Federal requirements and enforcement would mitigate an identified significant impact.

(f) To deny a proposal under SEPA, the decision maker must cause an EIS to be prepared and subsequently find that:

(i) The proposal would be likely to result in significant adverse environmental impacts identified in a final or supplemental environmental impact statement prepared under this chapter; and

(ii) Reasonable mitigation measures are insufficient to mitigate the identified impact.

(g) If, during project review, the responsible official determines that the requirements for environmental analysis, protection, and mitigation in the City's development regulations, or comprehensive plan, or in other applicable local, state, federal laws, or rules, provide adequate analysis of, and mitigation for the specific adverse environmental impacts of the project action, the responsible official shall not impose additional mitigation under this chapter.

(2) The decision maker should judge whether possible mitigation measures are likely to protect or enhance environmental quality. The EIS should briefly indicate the intended environmental benefits of mitigation measures for significant impacts. An EIS is not required to analyze in detail the environmental impacts of mitigation measures, unless the mitigation measures:

(a) Represent substantial changes in the proposal so that the proposal is likely to have significant adverse environmental impacts, or involve significant new information indicating, or on, a proposal's probable significant adverse environmental impacts; and

(b) Will not be analyzed in a subsequent environmental document prior to their implementation.

(3) The City has prepared the comprehensive plan, which contains agency SEPA policies and has further set them forth in this chapter for the information of the public and of other agencies. This document includes by reference the regulations, plans, or codes formally designated under this section and RCW 43.21C.060 as possible bases for conditioning or denying proposals. This document is available to the public in the SEPA PIC and shall be available to applicants prior to preparing a draft EIS.

13.12.820 Appeals of SEPA threshold determination and adequacy of final environmental impact statement.

A. All appeals under this chapter shall be conducted in accordance with RCW 43.21C.075 concerning appeals of Environmental Determinations. Except in the following cases, appeals on Environmental Determinations shall be heard at the same time as appeals on the underlying governmental action:

(a) An appeal of a determination of significance;

(b) An appeal of a procedural determination made by an agency when the agency is a project proponent, or is funding a project, and chooses to conduct its review under

this chapter, including any appeals of its procedural determinations, prior to submitting an application for a project permit;

(c) An appeal of a procedural determination made by an agency on a nonproject action; or

(d) An appeal to the local legislative authority under RCW 43.21C.060 or other applicable state statutes.

B. Appeal to the Hearing Examiner.

(1) Initiating an Appeal

(a) Threshold determination or adequacy of a final environmental impact statement for a proposed land use action shall be appealable to the Hearing Examiner. All other appeals under this chapter shall be made as set forth in 13.12.820.B, below.

(b) Appeal Procedure/Fee. A notice of appeal, together with a filing fee as set forth in Section 2.09 of the Tacoma Municipal Code, shall be filed with Building and Land Use Services. Building and Land Use Services shall process the appeal in accordance with Chapter 13.05 of this title.

(c) Time Requirement. An appeal shall be filed within 14 calendar days after issuance of the determination by the responsible official. If the last day for filing an appeal falls on a weekend day or holiday, the last day for filing shall be the next working day.

(d) Content of the Appeal. Appeals shall contain:

(i) The name and mailing address of the appellant and the name and address of his/her representative, if any;

(ii) The appellant's legal residence or principal place of business;

(iii) A copy of the decision which is appealed;

(iv) The grounds upon which the appellant relies;

(v) A concise statement of the factual and legal reasons for the appeal;

(vi) The specific nature and intent of the relief sought;

(vii) A statement that the appellant has read the appeal and believes the contents to be true, followed by his/her signature and the signature of his/her representative, if any. If the appealing party is unavailable to sign the appeal, it may be signed by his/her representative.

(e) Dismissal of Appeal. The Hearing Examiner may summarily dismiss an appeal without hearing when such appeal is determined by the Examiner to be without merit on its face, frivolous, or brought merely to secure a delay, or that the appellant lacks legal standing to appeal.

(f) Effect of Appeal. The filing of an appeal of a threshold determination or adequacy of a final environmental impact statement (FEIS) shall stay the effect of such determination or adequacy of the FEIS and no major action in regard to a proposal may be taken during the pendency of an appeal and until the appeal is finally disposed of by the Hearing Examiner. A decision to reverse the determination of the responsible official and uphold the appeal shall further stay any decision, proceedings, or actions in regard to the proposal.

(2) Withdrawal of Appeal. An appeal may be withdrawn, only by the appellant, by written request filed with Building and Land Use Services. Building and Land Use Services shall

inform the Hearing Examiner and responsible official of the withdrawal request. If the withdrawal is requested before the response of the responsible official, or before serving notice of the appeal, such request shall be permitted and the appeal shall be dismissed without prejudice by the Hearing Examiner, and the filing fee shall be refunded.

(3) Response of responsible official. The responsible official shall respond in writing to the appellant's objections. Such response shall be transmitted to Building and Land Use Services. Building and Land Use Services shall forward all pertinent information to the Hearing Examiner, appellant, and responsible official no later than seven days prior to hearing. The official's response shall contain, when applicable, a description of the property and the nature of the proposed action. Response shall be made to each specific and explicit objection set forth in the appeal, but no response need be made to vague or ambiguous allegations. The response shall be limited to facts available when the threshold determination was made. In the case of a response to an appeal of the adequacy of a final environmental impact statement, the response shall be limited to facts available when the final environmental impact statement is issued. No additional environmental studies or other information shall be allowed.

(4) Hearing.

(a) The hearing of an appeal of a determination of nonsignificance or adequacy of an environmental impact statement on a proposed land use action which requires a hearing shall be held concurrently with the hearing on the application request.

(b) The hearing of an appeal of a determination of nonsignificance or adequacy of the final environmental impact statement for a proposal which requires an administrative land use decision shall be expeditiously scheduled upon receipt of a valid appeal. If the SEPA determination and land use decision are appealed, the SEPA appeal and the land use hearing shall be held concurrently.

(c) The hearing of an appeal by a project sponsor of a determination of significance issued by the responsible official shall be expeditiously scheduled upon receipt of a valid appeal.

(d) The public hearing shall be conducted in accordance with the provisions of Chapter 1.23 of the Tacoma Municipal Code.

(e) The Hearing Examiner may affirm the decision of the responsible official or the adequacy of the environmental impact statement, or remand the case for further information; or the Examiner may reverse the decision if the administrative findings, inferences, conclusions, or decisions are:

(i) In violation of constitutional provisions as applied; or

(ii) The decision is outside the statutory authority or jurisdiction of the City; or

(iii) The responsible official has engaged in unlawful procedure or decision-making process, or has failed to follow a prescribed procedure; or

(iv) In regard to challenges to the appropriateness of the issuance of a DNS clearly erroneous in view of the public policy of SEPA; or

(v) In regard to challenges to the adequacy of an EIS shown to be inadequate employing the "rule of reason."

(f) Evidence – Burden of Proof. In each particular proceeding, the appellant shall have the burden of proof, and the determination of the responsible official shall be presumed prima facie correct and shall be afforded substantial weight. Appeals shall be limited to the records of the responsible official.

(g) Continuation of Hearing.

(i) Cause. A hearing may be continued by the Hearing Examiner with the concurrence of the applicant for the purpose of obtaining specific pertinent information relating to the project which was unavailable at the time of the original hearing.

(ii) Notification. The Hearing Examiner shall announce the time and place of a continued hearing at the time of the initial hearing or by written notice to all parties of record.

(5) The Examiner's decision for an appeal shall be made in accordance with Chapter 1.23 of the Tacoma Municipal Code.

C. Appeals of non-land use actions.

(1) Appeals for environmental determinations which are not related to land use actions (i.e., permits issued pursuant to TMC 13.05), including building permits, shall be made to Superior Court.

(a) The SEPA appeal period commences upon issuance of the underlying permit, not with the issuance of the SEPA determination.

(b) Appeals shall be made to Superior Court within 21 days of the action.

(2) Appeals of non-project actions (e.g., decisions made in the course of planning under the Growth Management Act/GMA or the Shoreline Management Act/SMA) shall be appealable to the Growth Management Hearings Board.

(a) Appeals of GMA actions shall be made within 60 days of the City's publication of the adopting ordinance;

(b) Appeals of SMA actions shall be made within 60 days of the City's publication of the Department of Ecology's approval of the adopted document.

(3) Appeals of other actions shall be processed in accordance with the appeal provisions of the underlying action.

C. Notice of Action

Pursuant to RCW 43.21C.080, notice of any action taken by a governmental agency may be publicized by the applicant for, or proponent of, such action in the form as provided by Building and Land Use Services and WAC 197-11-990.

The publication establishes a time period wherein any action to set aside, enjoin, review, or otherwise challenge any such governmental action on grounds of noncompliance with the provisions of SEPA must be commenced, or be barred. Any subsequent action of the City for which the regulations of the City permit use of the same detailed statement to be utilized and as long as there is not substantial change in the project between the time of the action and any such subsequent action, shall not be set aside, enjoined, reviewed, or thereafter challenged on grounds of noncompliance with RCW 43.21C.030(2)(c).

Part Nine - Definitions

13.12.900 Purpose of this part and adoption by reference. The terms in this Chapter are primarily adopted from those set forth in WAC 197-11-700 to -700. Except for the definitions below, this terminology is uniform throughout the state as applied to SEPA. These definitions are specific to this Chapter and are meant to clarify the specific terms used in SEPA review in the City. It also incorporates the following sections of the *Washington Administrative Code* by reference:

197-11-040	Definitions.
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 non-significance (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	Non-project.
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.

13.12.910 Additional definitions.

In addition to those definitions contained within WAC 197-11-700 to 197-11-799, the following terms shall have the following meanings, and shall be applicable only to this chapter:

(1) "Applicant" means the party responsible for completing the environmental checklist and requesting the environmental determination, regardless of the nature of the proposal (i.e., project or non-project action).

(2) "Application" means the request for an environmental determination, done in the form of the submission of an environmental checklist.

(3) "Battery charging station" means an electrical component assembly or cluster of component assemblies designed specifically to charge batteries within electric vehicles, which meets or exceeds any standards, codes, and regulations set forth by Chapter 19.28 RCW and consistent with rules adopted under RCW 19.27.540.

(4) "Battery exchange station" means a fully automated facility that will enable an electric vehicle with a swappable battery to enter a drive lane and exchange the depleted battery with a fully charged battery through a fully automated process, which meets or exceeds any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under RCW 19.27.540

(5) "The City" means the City of Tacoma, or any department or division thereof acting in a SEPA lead agency capacity. This includes, but is not limited to, Tacoma Public Utilities and the Departments of Public Works and Community & Economic Development.

(6) "Department" means any division, subdivision, or organizational unit of the City established by ordinance.

(7) "Major Transit Stop" means (a) a stop on a high capacity transportation service funded or expanded under the provisions of chapter 81.104 RCW; (b) commuter rail stops; (c) stops on rail or fixed guide-way systems, including transit-ways; (d) stops on bus rapid transit routes or routes that run on high occupancy vehicle lanes; or, (e) stops for a bus or other transit mode providing fixed route service at intervals of at least thirty minutes during the peak hours of operation.

(8) "SEPA Rules" means WAC Chapter 197-11 adopted and as may be amended by the Department of Ecology.

(9) "Responsible Official" for City Government means the Department Director for projects initiated or processed by that department, and for the Department of Public Utilities means the Superintendent or Division Head of the respective division for projects initiated or processed by that division. Responsible official duties may be delegated to appropriate staff persons, but the respective Director or Superintendent shall approve and is responsible for the determination of Environmental Significance and the adequacy of an Environmental Impact Statement. See additional information in Section 13.12.xxx.

(10) "EPA Public Information Center" means the section within the Community & Economic Development Department that performs the functions and duties as described in Section 13.12.905 of this chapter.

Part Ten - Agency Compliance

13.12.920 Purpose of this part and adoption by reference. This section responds to the state's requirement that the City adopt its own SEPA rules and procedures to carry out its environmental responsibilities. It sets forth the responsibilities of staff and officials within the City in fulfilling SEPA duties, identifies agencies with expertise, provides for public availability of SEPA documents, and provides rules for determination of lead agency. It also incorporates the following sections of the *Washington Administrative Code* by reference:

197-11-900	Purpose of this part.
197-11-902	Agency SEPA policies.
197-11-904	Agency SEPA procedures.
197-11-906	Content and consistency of agency procedures.
197-11-912	Procedures on consulted agencies.
197-11-914	SEPA fees and costs.
197-11-916	Application to ongoing actions.
197-11-917	Relationship to Chapter 197-10 WAC.
197-11-918	Lack of agency procedures.
197-11-920	Agencies with environmental expertise.
197-11-922	Lead agency rules.
197-11-924	Determination of lead agency – Procedures.
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 for 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.
197-11-955 Effective date.

13.12.930 Critical areas.

(1) The City may, at its option, designate areas within its jurisdiction which are environmentally sensitive areas pursuant to WAC 197-11-908.

(2) The South Tacoma Groundwater Protection District, as described in Chapter 13.09 of this title, is hereby designated a critical area, subject to the requirements set forth in Chapter 13.09 of this title.

(3) Fish and wildlife habitat conservation areas, erosion hazard areas, landslide hazard areas, steep slopes, wetlands and streams, as described in Chapter 13.11 of this title, are hereby designated critical areas, subject to the requirements set forth in Chapter 13.11 of this title.

(4) The scope of environmental review of actions within these areas shall be limited to:

(a) Documenting whether the proposal is consistent with the requirements of the critical areas ordinance; and

(b) Evaluating potentially significant impacts on the critical area resources not adequately addressed by GMA planning documents and development regulations, if any, including any additional mitigation measures needed to protect the critical areas in order to achieve consistency with SEPA and other applicable environmental review laws.

Part Eleven - Forms

13.12.940 Purpose of this part and adoption by reference. This section adopts the following forms, unchanged except as to formatting, and sets forth the official forms for use with SEPA.

197-11-960 Environmental checklist.
197-11-965 Adoption notice.
197-11-970 Determination of non-significance (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.

Chapter 13.11

CRITICAL AREAS PRESERVATION

* * *

13.11.170 Critical Area Designation and SEPA.

A. Pursuant to WAC 197-11-908 and Section 13.12.908 of the TMC, aquifer recharge areas, fish and wildlife habitat conservation areas (FWHCAs), flood hazard areas, geologically hazard areas, wetlands, and streams are hereby designated as critical areas. These areas are mapped on Tacoma's Generalized Critical Areas Maps available in the ~~Tacoma~~ Community and Economic Development Department or as defined by this chapter. The following SEPA categorical exemptions shall not apply within these areas, unless the changes or alterations are confined to the interior of an existing structure or unless the project does not require a permit under this chapter: Section 13.12.801 of the TMC and the following subsections of WAC 197-11-800(1)(b); (2)(d) excluding landscaping, (e), (f), and (g); (3); 24(a), (b), (c), and (d).

B. The scope of environmental review of actions within critical areas shall be limited to: (a) documenting whether the proposal is consistent with the requirements of this chapter; and (b) evaluating potentially significant impacts on the critical area resources not adequately addressed by development regulations, if any, including any additional mitigation measures needed to protect the critical areas in order to achieve consistency with SEPA and other applicable environmental review laws.

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