

8-8-84  
3674J

## CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 3404

AN ORDINANCE regarding the Environmental Procedures Code; adopting the State Environmental Policy Act Rules, as applicable to the City; amending Section 2 of Ordinance No. 2340, Sections 4, 5, 6, 8, 9 and 11 of Ordinance No. 2539, Sections 2, 3, 4, 5, 6, and 10 of Ordinance No. 3305 and Bellevue City Code Sections 22.02.010, .015, .025, .045, .050, .065, .070, .075, .080, and .140; repealing existing Bellevue City Code Sections 22.02.020, .030, .035, .040, .041, .042, .055, .060, .065, .085, .090, .095, .100, .101, .102, .105, .110, .115 and .120; and adding new Sections 22.02.020, .030, .031, .032, .033, .034, .035, .036, .037, .038, .039, .040 and .065 to the Bellevue City Code.

WHEREAS, the Bellevue Environmental Procedures Code, Bellevue City Code Chapter 22.02, contains the rules and procedures governing the administration and application of the State Environmental Policy Act in the City of Bellevue; and

WHEREAS, on January 26, 1984, the Department of Ecology of the State of Washington adopted Washington Administrative Code Chapter 197-11 adopting the new State Environmental Policy Act Rules, and repealed Washington Administrative Code Chapter 197-10 containing the former State Environmental Policy Act Guidelines; and

WHEREAS, under Washington Administrative Code 197-11-904 and 906 the City is required to adopt SEPA policies and procedures, which must implement and be consistent with the SEPA rules adopted by the Department of Ecology pursuant to WAC Chapter 197-11; and

WHEREAS, it is the purpose of this ordinance to comply with WAC 197-11-904 and 906 by amending the existing Environmental Procedures Code, and by adding certain new provisions to said Code, which amendments and new provisions are consistent with and will implement such SEPA Rules; now, therefore,

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

Section 1. Section 2 (part) of Ordinance No. 2340 and Bellevue City Code 22.02.010 are hereby amended to read as follows:

8-8-84  
3674J

22.02.010 Purpose.

The purpose of these procedures is to implement the requirements of the State Environmental Policy Act of 1971 (SEPA), RCW Chapter 43.21C, as amended, and the SEPA Rules adopted by the state of Washington, Department of Ecology. These procedures establish principles, objectives, criteria and definitions to provide an efficient overall city wide approach for implementation of the State Environmental Policy Act and Rules. These procedures also designate the responsible official, where applicable, and assign responsibilities within the City under the National Environmental Policy Act (NEPA).

Section 2. Section 2 (part) of Ordinance No. 2340 and Bellevue City Code 22.02.015 are amended to read as follows:

22.02.015 Scope and Coverage of this Code.

It is the intent of the City that compliance with the requirements of this Code shall constitute complete procedural compliance with SEPA and the SEPA Rules for all City proposals. To the fullest extent possible, the procedures required by this Code shall be integrated with existing planning and licensing procedures utilized by the City.

Section 3. Section 2 (part) of Ordinance No. 2340 and Bellevue City Code 22.02.020 are repealed.

Section 4. A new section 22.02.020 is added to Chapter 22.02 of the Bellevue City Code, to read as follows:

22.02.020 Adoption by Reference.

The City adopts by reference as though fully set forth herein the following sections and subsections of Chapter 197-11 of the Washington Administrative Code (the SEPA Rules) as adopted by the Department of Ecology of the State of Washington on January 26, 1984, and as the same may be hereafter amended:

WAC 197-11-020(3): Purpose  
030: Policy  
040: Definitions  
050: Lead agency  
055: Timing of the SEPA Process  
060: Content of environmental review  
070: Limitations on actions during the SEPA process  
080: Incomplete or unavailable information  
090: Supporting documents

8-8-84  
3674J

100: Information required of applicants  
 300: Purpose of this part (Categorical Exemptions  
 and Threshold Determinations)  
 305: Categorical exemptions  
 310: Threshold determination required  
 315: Environmental checklist  
 330: Threshold determination process  
 335: Additional Information  
 340: Determination of nonsignificance  
 350: Mitigated DNS  
 360: Determination of significance (DS)/initiation  
 of scoping  
 390: Effect of threshold determination  
 400: Purpose of EIS  
 402: General requirements  
 405: EIS types  
 406: EIS timing  
 408: Scoping  
 410: Expanded scoping  
 420: EIS preparation  
 425: Style and size  
 430: Format  
 435: Cover letter or memo  
 440: EIS contents  
 442: EIS contents on non-project proposals  
 443: EIS contents when prior non-project EIS  
 444: Elements of the environment  
 448: Relationship of EIS to other considerations  
 450: Cost-benefit analysis  
 455: Issuance of DEIS  
 460: Issuance of FEIS  
 500: Purpose of this part (Commenting)  
 502: Inviting comment  
 504: Availability and cost of environmental documents  
 508(2): SEPA Register  
 535: Public hearings and meetings  
 545: Effect of no comment  
 550: Specificity of comments  
 560: FEIS response to comments  
 570: Consulted agency costs to assist lead agency  
 600: When to use existing environmental documents  
 610: Use of NEPA documents  
 620: Supplemental environmental impact statement -  
 Procedures  
 625: Addenda - Procedures  
 630: Adoption - Procedures  
 635: Incorporation by reference - Procedures  
 640: Combining documents

8-8-84  
3674J

650: Purpose of this part (SEPA and Agency Decisions)  
655: Implementation  
660: Substantive authority and mitigation  
680: Appeals  
700: Definitions  
702: Act  
704: Action  
706: Addendum  
708: Adoption  
710: Affected Tribe  
712: Affecting  
714: Agency  
716: Applicant  
718: Built environment  
720: Categorical exemption  
722: Consolidated appeal  
724: Consulted agency  
726: Cost-benefit analysis  
728: County/city  
730: Decisionmaker  
732: Department  
734: Determination of nonsignificance (DNS)  
736: Determination of significance (DS)  
738: EIS  
740: Environment  
742: Environmental checklist  
744: Environmental document  
746: Environmental review  
748: Environmentally sensitive area  
750: Expanded scoping  
752: Impacts  
754: Incorporation by reference  
756: Lands covered by water  
758: Lead agency  
760: License  
762: Local agency  
764: Major action  
766: Mitigated DNS  
768: Mitigation  
770: Natural environment  
772: NEPA  
774: Nonproject  
776: Phased review  
778: Preparation  
780: Private project  
782: Probable  
784: Proposal  
786: Reasonable alternative

8-8-84  
3674J

- 788: Responsible official
- 790: SEPA
- 792: Scope
- 793: Scoping
- 794: Significant
- 796: State agency
- 797: Threshold determination
- 799: Underlying governmental action
- 800: Categorical exemptions
- 880: Emergencies
- 900: Purpose of this part (Agency Compliance)
- 902: Agency SEPA policies
- 904: Agency SEPA procedures
- 906: Content and consistency of agency procedures
- 908: Environmentally sensitive areas
- 910: Designation of responsible official
- 916: Application to ongoing actions
- 920: Agencies with environmental expertise
- 924: Determining the lead agency
- 926: Lead agency for governmental proposals
- 928: Lead agency for public and private proposals
- 930: Lead agency for private projects with one agency with jurisdiction
- 932: Lead agency for private projects requiring licenses from more than one agency, when one of the agencies is a county/city
- 934: Lead agency for private projects requiring licenses from a local agency, not a county/city, and one or more state agencies
- 936: Lead agency for private projects requiring licenses from more than one state agency
- 938: Lead agencies for specific proposals
- 942: Agreements on lead agency status
- 944: Agreements on division of lead agency duties
- 946: DOE resolution of lead agency disputes
- 948: Assumption of lead agency status
- 960: Environmental checklist
- 965: Adoption notice
- 970: Determination of nonsignificance (DNS)
- 980: Determination of significance and scoping notice (DS)
- 985: Notice of assumption of lead agency status
- 990: Notice of action

Section 5. Section 2 (part) of Ordinance No. 2340 and Bellevue City Code 22.02.025 are amended to read as follows:

8-8-84  
3674J

22.02.025 Additional Definitions.

In addition to those definitions contained within WAC 197-11 - Part 8 - Definitions, the following terms have the following meanings, unless the context indicates otherwise:

- A. "Advisory Body" means any body established by ordinance of the Bellevue City Council whose responsibilities include making a recommendation to the City Council on actions subject to SEPA.
- B. "City" means the municipal corporation of Bellevue and all departments and divisions thereof.
- C. "Environmental Coordinator" is the person appointed by the City Manager to act as the responsible official under SEPA and the SEPA Rules, and to administer City compliance with NEPA when required.
- D. "Lead department" means the City department or departments with the primary responsibility for making the decision or final administrative recommendation on a proposal.
- E. "Proponent" means an agency or private applicant proposing an action subject to SEPA. For purposes of agency contact the proponent shall mean the contact person on the environmental checklist, or agent designated for that purpose by the agency or private applicant.
- F. "SEPA Rules" means Chapter 197-11, Washington Administrative Code adopted by the Department of Ecology on January 26, 1984, as now or hereafter amended.

Section 6. Section 2 (part) of Ordinance No. 2340 and Bellevue City Code 22.02.030 and 22.02.035 are repealed.

Section 7. A new section 22.02.030 is hereby added to Chapter 22.02 of the Bellevue City Code, to read as follows:

22.02.030 Environmental Coordinator - Duties.

The Environmental Coordinator shall:

- A. Perform all duties of the responsible official under SEPA and the SEPA Rules, and this Code.
- B. Perform all duties required to be performed by the City under NEPA, including the provision of coordination with the

8-8-84  
3674J

- appropriate federal agencies.
- C. Establish procedures to guide City departments in determining whether proposals are categorically exempt under SEPA.
  - D. Make the threshold determination on all proposals that are subject to SEPA.
  - E. Supervise the preparation of all Draft and Final Environmental Impact Statements and Supplemental Environmental Impact Statements.
  - F. Establish procedures as needed for the preparation of environmental documents, including Environmental Impact Statements.
  - G. Develop procedures to ensure that environmental factors are considered by City decision-makers.
  - H. Supervise the response of the City when the City is a consulted agency, and establish procedures to ensure that City responses to consultation requests are prepared in a timely manner and include data from all appropriate City departments.
  - I. Determine the lead agency as mandated by the SEPA Rules.
  - J. Recommend procedures and criteria to the City Council for determining fees to be charged for compliance with SEPA requirements.
  - K. Maintain an inventory of significant environmental data and maps of environmentally sensitive areas.
  - L. Provide information to citizens, proponents and others concerning SEPA and this Code.
  - M. Monitor and report on legislation and issues involving environmental matters to the City Council and affected departments.
  - N. Conduct other duties as may be assigned by the City Manager or designee thereof.

Section 8. A new Section 22.02.031 is added to Chapter 22.02 of the Bellevue City Code to read as follows:

8-8-84  
3674J

22.02.031 Timing of the environmental review process.

- A. The timing of the environmental review process shall be determined based on the criteria in the SEPA Rules and this section.
- B. In accordance with WAC 197-11-055(4) the Environmental Coordinator shall adopt procedures for environmental review of private proposals prior to the final detailed design stage. Such procedures shall specify the amount of detail needed from proponents for such early environmental review.
- C. For City-initiated proposals, the initiating department should contact the Environmental Coordinator at initial proposal formulation to integrate environmental concerns into the early stage of the decision-making process.
- D. For proposals subject to SEPA, the procedural requirements of SEPA and this Code shall be completed prior to the City's issuance of a permit, committing to a particular course of action, or taking action that would either have an adverse environmental impact, or limit the choice of reasonable alternatives.
- E. No threshold determination is final until expiration of the administrative appeal period following publication of the threshold determination, if not appealed, or, if appealed, until the decision on the administrative appeal becomes final.

Section 9. Section 2 (part) of Ordinance No. 2340, Section 2 of Ordinance No. 3305 and Bellevue City Code 22.02.040 is repealed.

Section 10. A new Section 22.02.032 is hereby added to Chapter 22.02 to read as follows:

22.02.032 Determination of Categorical Exemption.

Upon the receipt of an application for a proposal, the receiving department shall, and for City proposals, the initiating department shall, determine whether the proposal is an action potentially subject to SEPA and, if so, whether it is categorically exempt. This determination shall be made based on the definition of action (WAC 197-11-704), the process for determining categorical exemption (WAC 197-11-305) and the designation of environmentally sensitive areas under Section 22.02.045 of this Code. Departments shall ensure that the proposal is properly defined per WAC 197-11-060(3). If there is any question whether or not a proposal is exempt, the Environmental Coordinator shall be consulted and shall make the determination. If the proposal is not categorically exempt, the department making this determination (if different from the proponent) shall notify the proponent of the proposal that

8-8-84  
3674J

he/she must submit an Environmental Checklist per Section 22.02.033.

Section 11. A new Section 22.02.033 is hereby added to Chapter 22.02 of the Bellevue City Code.

#### 22.02.033 Environmental Checklist.

An Environmental Checklist is required for every proposal determined not to be exempt, except in the case of proposals on which the City has decided to prepare its own EIS, or non-City proposals on which the City and the proponent agree an EIS will be prepared. In the case of a private proposal the proponent (or agent thereof) shall prepare the checklist except where WAC 197-11-340(3)(a)(iii) applies. The Permit Coordinator shall forward a copy of the checklist and plans to the Office of Environmental Coordination. For proposals involving a permit application, copies of the checklist and related plans shall be submitted to the Permit Coordinator as specified on the permit application instructions. For proposals not involving a permit application, a copy of the environmental checklist shall be submitted directly to the Office of Environmental Coordination, along with any other relevant materials describing the proposal and its impacts.

Section 12. A new Section 22.02.034 is added to Chapter 22.02 of the Bellevue City Code to read as follows:

#### 22.02.034 Threshold Determination.

- A. The Environmental Coordinator shall make the threshold determination and issue a Determination of Non-significance (DNS) or Significance (DS). The Environmental Coordinator shall make such threshold determination in accordance with applicable sections of the SEPA Rules, as adopted by this Code. In addition to giving any notice required under the SEPA Rules, or this Code, the Environmental Coordinator shall notify the proponent, the lead department, and (where a permit is involved) the Permit Coordinator of the threshold determination.
- B. Threshold determinations are appealable as set forth in Section 22.02.080. Section 22.02.031(E) indicates when threshold determinations become final.

Section 13. A new Section 22.02.035 is added to Chapter 22.02 of the Bellevue City Code to read as follows:

8-8-84  
3674J

22.02.035 Mitigated DNS

- A. A proposal shall not be considered clarified or changed so as to permit the issuance of a mitigated DNS under WAC 197-11-350 unless all license applications on file with the City for the proposal are revised to conform to the changes, or, when mitigating measures are proposed that do not affect the license application, until other documented binding commitments are made by the proponent.
- B. Proposed mitigating measures must be specific, feasible, and enforceable.
- C. If a mitigated DNS is issued then the proposal revisions or mitigating measures that were committed to that allowed issuance of a mitigated DNS shall be included as part of the proposal in any decision or recommendation of approval of the underlying action.
- D. If at any time the proposal (including associated mitigating measures) is substantially changed, the responsible official shall re-evaluate the threshold determination and, if necessary, withdraw the mitigated DNS and issue a DS or new mitigated DNS. Any questions regarding whether or not a change is substantial shall be resolved by the Environmental Coordinator.

Section 14. A new Section 22.02.036 is added to Chapter 22.02 of the Bellevue City Code to read as follows:

22.02.036 Environmental Impact Statements

A. When Required:

An Environmental Impact Statement shall be required on any proposal determined to be a major action having a probable significant, adverse environmental impact. If it is determined that an Environmental Impact Statement is required, the Environmental Coordinator shall notify the proponent, the lead department and (where a permit is involved) the Permit Coordinator in addition to giving notice required under the SEPA Rules.

B. Responsibility for EIS Preparation:

For private proposals, an EIS shall be prepared by the proponent or by an outside consultant retained by the proponent or by the City. The Environmental Coordinator

8-8-84  
3674J

shall determine whether the proponent, a consultant retained by the proponent, or a consultant retained by the City shall prepare the EIS. For City proposals, the EIS shall be prepared by a consultant or by City staff. In all cases the method of preparation and the selection of the consultant shall be subject to the approval of the Environmental Coordinator. The Environmental Coordinator shall assure that the EIS is prepared in a responsible and professional manner, with appropriate methodology and consistent with the SEPA Rules. The Environmental Coordinator shall also direct the areas of research and examination to be undertaken, as well as the organization of the resulting document. Services rendered by the Environmental Coordinator and other City staff shall be subject to collection of fees as described in Section 22.02.070.

C. EIS Scope:

An Environmental Impact Statement is required to analyze those probable adverse environmental impacts which are significant. Beneficial environmental impacts may be discussed. The Environmental Coordinator shall consult with agencies, affected tribes and the public to identify such impacts and limit the scope of an Environmental Impact Statement in accordance with applicable sections of the SEPA Rules and with the procedures set forth in Subsection D. The purpose of the scoping process is to narrow the scope of every EIS to the probable significant adverse impacts and reasonable alternatives, including mitigation measures.

D. Procedures for Scoping:

1. The Environmental Coordinator shall consult with agencies, affected tribes, and the public when determining the scope of an Environmental Impact Statement by any or all of the following means. The specific method to be followed shall be determined on a proposal-by-proposal basis by the Environmental Coordinator, but at a minimum shall include subsection (a) below:
  - a. The Environmental Coordinator shall give notice that an EIS is to be prepared, which notice shall provide that agencies, affected tribes and the public may submit written comments on probable significant adverse impacts, reasonable alternatives, mitigation measures, and licenses or other approvals that may be required; comments

8-8-84  
3674J

must be submitted to the Environmental Coordinator not later than 21 days from the date of issuance of the Declaration of Significance. Such notice shall be given as specified in Section 22.02.065. Additionally, notice may be sent to any individuals or community groups known by the responsible official to have a possible interest in the proposal. Notice of the intent to prepare an EIS and the opportunity for commenting on the scope thereof may be sent with other public notices concerning the project.

- b. The Environmental Coordinator may conduct a meeting to provide the opportunity for oral comment on the scope of the EIS. Notice of such meeting shall be published in a newspaper of general circulation at least seven days prior to the date of the meeting. The scoping meeting may be combined with other meetings or hearings concerning the proposal.
  - c. The Environmental Coordinator may prepare or direct the EIS consultant to prepare a scoping questionnaire or information for distribution to interested parties, affected tribes and responsible public agencies for their response.
2. The appendix to the EIS shall include a summary of the issues raised during the scoping process and whether those issues have or have not been determined significant for analysis in the EIS. If a public meeting is held pursuant to this section, a tape of the meeting or a transcript thereof shall be included in the Environmental Coordinator's official file on the proposal, except that a tape or transcript is not required if an informal workshop is held. If an informal workshop is held, a written summary of the workshop shall be prepared. All written comments regarding the scope of the EIS shall be included in the proposal file.
  3. The public and agency consultation process regarding the scope of the EIS shall normally occur within 30 days after the Declaration of Significance is issued, unless the Environmental Coordinator and the proponent agree on a later date.

Section 15. A new Section 22.02.037 is added to Chapter 22.02. of

the Bellevue City Code to read as follows:

22.02.037 When environmental review has previously been completed.

If a proponent indicates the proposal has previously complied with environmental review procedures, then documentation of this review must be provided. For those proposals modified since the DNS or FEIS was issued or not explicitly covered in the prior environmental review, an environmental checklist must be submitted that references earlier environmental documents where appropriate. Alternatively, a copy of, or reference to, the prior environmental document with a cover letter identifying any changes or revisions may be submitted. In the latter case, a new environmental checklist may be required, and in either case, other additional information may be required at the option of the Environmental Coordinator. The Environmental Coordinator shall determine whether a new threshold determination is required and whether existing environmental documents are adequate for the current proposal using the criteria of WAC 197-11-600.

Section 16. A new Section 22.02.038 is added to Chapter 22.02 of the Bellevue City Code to read as follows:

22.02.038 When a previously prepared EIS is adopted to meet the EIS requirement for a different proposal.

- A. When a proposal is determined to have a probable significant adverse environmental impact, and the EIS requirement for that proposal is proposed to be met by adoption of a previously prepared EIS, then a proposed notice of adoption shall be issued and a 15-day comment period provided. Notice of this comment period shall be provided by the notice method specified in 22.02.065.
- B. Based on the comments received and analysis thereof, the Environmental Coordinator may determine that the new proposal is substantially different from the previous proposal so that the previous EIS does not adequately analyze its significant adverse environmental impacts or there are changed conditions or new information indicating significant adverse environmental impacts not adequately analyzed in the EIS. In such case, a supplemental EIS shall be required. If no comments are received that change the Environmental Coordinator's decision, the notice of adoption shall be issued; an addendum may be prepared if warranted.

Section 17. A new section 22.02.039 is added to Chapter 22 of the Bellevue City Code to read as follows:

8-8-84  
3674J

22.02.039 Internal Circulation of Environmental Documents.

- A. For proposals subject to SEPA, environmental documents shall be transmitted to decision makers prior to their committing to a particular course of action, or taking action that would either have an adverse environmental impact, or limit the choice of reasonable alternatives on proposals subject to SEPA.
- B. A DNS and supporting environmental documents or final EIS will normally be transmitted to advisory bodies prior to their final recommendation on a proposal. However, failure to do so shall not result in non-compliance with SEPA or this Code.

Section 18. A new Section 22.02.040 is added to Chapter 22.02 of the Bellevue City Code to read as follows:

22.02.040 Public hearings under WAC 197-11-535(2)

When a public hearing is held under WAC 197-11-535(2), such hearing shall be held before the Environmental Coordinator.

Section 19. Section 3 of Ordinance No. 3305 and Bellevue City Code 22.02.041 are repealed.

Section 20. Section 4 of Ordinance No. 3305 and Bellevue City Code 22.02.042 are repealed.

Section 21. Section 2 (part) of Ordinance No. 2340, Section 5 of Ordinance No. 3305 and Bellevue City Code 22.02.045 are amended to read as follows:

22.02.045 Environmentally Sensitive Areas.

- A. The maps filed under Clerk's Receiving No. 3828, and adopted by reference in this Chapter, designate the location of environmentally sensitive areas within the City. For each sensitive area, exemptions within WAC 197-11-800 (1), (2)(d), (2)(e), 2(g), (2)(h), (6)(a), (14)(c), (24)(a) through (d) and (g), and (25)(d), (f), and (h) of the SEPA Rules are inapplicable to that area. Other exemptions identified in WAC 197-11-800 shall continue to apply within environmentally sensitive areas of the City.

Section 22. Section 2 (part) of Ordinance No. 2340 and Bellevue City Code 22.02.050 are amended to read as follows:

8-8-84  
3674J

22.02.050 Emergency Actions

The City Manager or the designee thereof shall designate when such an action constitutes an emergency under WAC 197-11-880.

Section 23. Section 2 (part) of Ordinance No. 2340 and Bellevue City Code 22.02.055, 22.02.060 and 22.02.065 are repealed.

Section 24. A new section 22.02.065 is added to Chapter 22.02 of the Bellevue City Code to read as follows:

22.02.065 Public notice of environmental determinations and availability of environmental documents.

A. Whenever the Environmental Coordinator is required to give notice under WAC 197-11-510 or to give notice of the right to appeal a threshold determination or to comment on the adoption of a previously prepared EIS, the following notice provisions shall be met:

1. publishing notice in the newspaper;
2. sending notice (for an annual fee) to an interested parties list developed and updated every year by contacting community clubs and organizations and environmental groups and by advertising the formation of this interested parties list;
3. and when an EIS or EIS hearing is required, posting the site for site-specific proposals.

B. The Environmental Coordinator may also elect to give notice by one or more of the other methods specified in WAC 197-11-510.

Section 25. Section 2 (part) of Ordinance No. 2340, Section 5 of Ordinance 2539 and Section 6 of Ordinance No. 3305, and Bellevue City Code 22.02.070 are amended to read as follows:

22.02.070 Fees.

The following fees shall be required for actions by the City in accordance with the provisions of this Code:

A. Environmental Checklist. The City shall establish a fee for review of an Environmental Checklist performed by the City when the City is the lead agency and the proponent is other than the City. This fee shall be collected prior to undertaking a threshold determination.

8-8-84  
3674J

B. Environmental Impact Statements.

1. For all non-City initiated proposals when the City is the lead agency and the Environmental Coordinator determines that an EIS is required, the proponent shall be charged a fee equal to the administrative costs of supervision and preparation of the draft and final EIS's.
2. The amount of the fee shall be based on a fee schedule of actual costs for services and materials, plus reimbursement for out-of-pocket expenses borne by the City in complying with the provisions of this Code and the SEPA Rules.
3. The proponent shall make an initial payment to the City in an amount equal to the projected cost estimated by the Environmental Coordinator but not less than \$750.00. At the time of issuance of the final EIS, or if the proposal is modified so an EIS is no longer needed, the proponent shall pay any costs in excess of the initial payment, or if costs are less than the initial payment, the City shall refund any excess to the proponent.
- (4) For private proposals, the cost of retaining consultants for assistance in EIS preparation shall be borne by the proponent whether the consultant is retained directly by the proponent, by the City or through a third party contract involving the City and the proponent.
- (5) For City proposals, the cost of any required consultants shall be borne by the initiating department or departments.

C. Consultant Agency Fees. No fees shall be collected by the City for performing its duty as a consultant agency.

D. Document Fees. The City may charge any person for copies of any documents prepared pursuant to the requirements of this Code and for mailing thereof, in a manner provided by RCW Chapter 42.17; provided, that no charge shall be levied for circulation of documents as required by this Code to other agencies.

Section 26. Section 2 (part) of Ordinance No. 2340 and Section 7 of Ordinance No. 3305 and Bellevue City Code 22.02.075 are amended to

8-8-84  
3674J

read as follows:

22.02.075 Notice - Statute of limitations

- A. The proponent of an action may publish notice of action pursuant to RCW 43.21C.080. The Environmental Coordinator is not responsible for publishing notice of action.
- B. The form of the notice shall be substantially in the form and manner set forth in RCW 43.21C.080.
- C. If there is a time period for appealing the underlying city action to court, the city shall give notice stating the date and place for commencing an appeal of the underlying action and an appeal under RCW Chapter 43.21C, the State Environmental Policy Act. Notice shall be given in accordance with WAC 197-11-680(5).

Section 27. Section 6 of Ordinance No. 2539 and Bellevue City Code 22.02.080 are amended to read as follows:

22.02.080 Appeal of Threshold Determination.

- A. Right to Appeal: Any person aggrieved by a threshold determination made by the Environmental Coordinator may appeal said determination to the City of Bellevue Hearing Examiner.
- B. Time limitation on appeals: A written notice of appeal of a threshold determination identifying the grounds for appeal must be filed within ten days of the date of publication of the threshold determination.
- C. Fee to Accompany Notice of Appeal: A fee of \$100.00 shall accompany the written notice of appeal and be filed during the appeal period with the City Clerk. No notice of appeal shall be accepted unless accompanied by full payment of a filing fee. The fee shall be utilized to cover publication costs, mailing and other costs directly associated with the appeal.
- D. Notice of Hearing: Notice of appeal, timely filed shall be transmitted by the City Clerk to the Hearing Examiner and the Environmental Coordinator. The Hearing Examiner shall determine the date, time and place of a public hearing to consider the appeal, and shall notify the parties thereof.
- E. Public Hearing: A public hearing of an appeal of a threshold

8-8-84  
3674J

determination shall be conducted in accordance with rules of procedure established by the Hearing Examiner.

- F. Presentation and Recording of Evidence: All testimony taken at the public hearing shall be taken under oath. All parties to the appeal shall be entitled to submit relevant evidence. The hearing shall be recorded electronically or by other suitable method.
- G. Substantial Weight - Burden of Proof: A threshold determination by the Environmental Coordinator is entitled to substantial weight. The burden is on the appellant to establish that the determination is in error, and the threshold determination shall be upheld unless the Hearing Examiner determines that it is arbitrary and capricious or clearly erroneous.
- H. Decision of the Hearing Examiner: On the basis of all of the information received in public hearing and all information relied upon by the Environmental Coordinator, the Hearing Examiner shall prepare a written decision, including findings and conclusions.

The Hearing Examiner may sustain, sustain with conditions or reverse the threshold determination.

- I. Dismissal of appeal: The Hearing Examiner may summarily dismiss an appeal without hearing when such appeal is determined by the Hearing Examiner to be without merit on its face, frivolous, or brought merely to secure a delay.
- J. Court review: The decision of the Hearing Examiner on a threshold determination may only be appealed to Superior Court in conjunction with an appeal of the underlying action, in accordance with RCW 43.21C.075, the State Environmental Policy Act. Any such appeal must be brought within the time limits specified therein.

Section 28. Sections 7, 8, 9, 10, 11, 12 and 13 of Ordinance No. 2539, Sections 8, 9, 10 and 11 of Ordinance No. 3305, and Section 1 of Ordinance No. 2556, and Bellevue City Code 22.02.085, 22.02.090, 22.02.095, 22.02.100, 22.02.101, 22.02.102, 22.02.105, 22.02.110, 22.02.115 and 22.02.120 are repealed.

Section 29. Section 12 of Ordinance 3305, Section 2 (part) of Ordinance 2766 and Section 1 of Ordinance 2603 and Bellevue City Code 22.02.140 are amended to read as follows:

22.02.140 Authority to condition or deny proposals

- A. Any proposal may be conditioned or denied by the City pursuant to RCW 43.21C.060 and WAC 197-11-660 subject to the limitations and requirements contained therein.
- B. The following policies plans, rules and regulations are identified and designated by the city council as possible bases for the exercise of authority under SEPA:
  - 1. The comprehensive plan of the city;
  - 2. The land use code of the city, Bellevue City Code Title 20;
  - 3. The shoreline master program of the city;
  - 4. The policies in Section 22.02.005 of the Bellevue Environmental Procedures Code, including the policies and objectives of SEPA as adopted by the City;
  - 5. Drainage Master Plan;
  - 6. Public Works Development Standards;
  - 7. Storm and Surface Water Utility Regulations adopted under Chapter 24.06 of the Bellevue City Code;
  - 8. Drainage Code, Chapter 24.06 of the Bellevue City Code;
  - 9. Storm & Surface Water Utility Inspection Maintenance Code, Chapter 24.08, 3.40 and 9.10.020 of the Bellevue City Code;
  - 10. Clearing and Grading Code, Chapter 23.76 of the Bellevue City Code;
  - 11. Floodplain Management Code, Chapter 23.72 of the Bellevue City Code;
  - 12. Platting & Subdivisions Code, Chapter 22D.10 of the Bellevue City Code;
  - 13. Short Plat & Short Subdivisions Code, Chapter 22D.11 of the Bellevue City Code;
  - 14. Ordinance No. 3320, adopting the Uniform Building Code, 1982 Edition; Uniform Solar Energy Code, 1982 Edition & Uniform Swimming Pool Spa & Hot Tub Code, 1982 Edition; and amending sections of the Building Code, Chapter 23.10 of the Bellevue City Code;
  - 15. Ordinance No. 3267, regarding excavation & shoring;
  - 16. Non-Motorized Transportation Plan;
  - 17. Adopted Capital Improvement Program Plan;
  - 18. Six-Year Transportation Improvement Program;
  - 19. Ordinance No. 3376, adopting the Uniform Fire Code, 1982 Edition, portions of the Appendix to the Uniform Fire Code, 1982 Edition, the Uniform Fire Code Standards, 1982 Edition; and amending, repealing & adding new sections to the Bellevue City Code;
  - 20. Resolution No. 3981, Bellevue Comprehensive Sewer Plan;
  - 21. Ordinance No. 3337, Water & Sewer Utility Regulations;
  - 22. Resolution No. 3452, Water System Comprehensive Plan;
  - 23. Resolution No. 4153, adopting Water and Sewer Developer Extension Agreements;

8-8-84  
3674J

- 24. Exhibit A of Resolution 3946, Bellevue Pedestrian Corridor Guidelines; and
- 25. Section 1 of Ordinance 3309, Design Guidelines: Building/Sidewalk Relationships,  
as those documents now read or hereafter are amended.
- C. The responsibility for enforcing conditions under SEPA rests with the department or official responsible for enforcing the decision on the underlying action.
- D. This section shall not be construed as a limitation on the authority of the City to approve, deny or condition a proposal for reasons based upon other statutes, ordinances, or regulations.

Section 30. If any section or portion of a section of this ordinance, or of the Environmental Procedures Code, Chapter 22.02 of the Bellevue City Code, is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance or of the Environmental Procedures Code.

Section 31. This ordinance shall take effect and be in force thirty days after final passage by the City Council.

PASSED by the City Council this 27<sup>th</sup> day of August, 1984, and signed in authentication of its passage this 27<sup>th</sup> day of August, 1984.

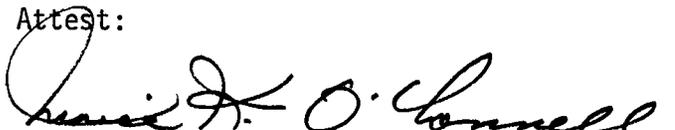
(SEAL)

  
Cory E. Bozeman, Mayor

Approved as to form:

  
Richard L. Andrews, City Attorney

Attest:

  
Marie K. O'Connell, City Clerk

Published August 30, 1984