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CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 2340

AN ORDINANCE relating to the implementation of the State Environmental Policy Act and establishing categorical determinations of environmental significance, repealing Ordinance No. 2183 and Bellevue City Code Chapter 22.02 and substituting therein a new Chapter 22.02 in the Bellevue City Code.

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

Section 1. Ordinance No. 2183 and Bellevue City Code Chapter 22.02 are each hereby repealed.

Section 2. There is hereby added to the Bellevue City Code a new Chapter, Chapter 22.02, to be entitled the Bellevue Environmental Procedures Code, which may be cited as such and will be referred to herein as "this code."

22.02.005. Policy.

- (1) The policies and objectives of the State Environmental Policy Act of 1971, as amended, herein referred to as "SEPA", are hereby adopted as the policies and objectives of the City of Bellevue.
- (2) The City possesses the authority to deny or condition actions so as to mitigate or prevent adverse environmental impacts. An action may be denied if such would constitute a significant and irreversible adverse environmental impact. Conditions may be imposed to mitigate any identifiable adverse environmental impact. However, a finding indicating an adverse impact does not require that an action be disapproved or that conditions be imposed. The decision of the responsible official shall be accorded substantial weight.

This authority applies to all city activities whether or not such activities are considered to be ministerial in nature.

- (3) Furthermore, the City, recognizing that each person has a fundamental and inalienable right to a healthful environment and that each person has a responsibility to contribute to the preservation and enhancement of the environment, declares to the fullest extent possible the City will utilize a systematic, interdisciplinary approach to insure the integrated use of the natural, physical and social sciences to:

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- A. Take action necessary to provide the people of the City with clean air and water, freedom from unnecessary noise and an opportunity to enjoy the aesthetic, natural, scenic, and historic qualities of the environment.
- B. Take all action necessary to protect, rehabilitate, and enhance the environment of the City.
- C. Insure that the long term protection of the environment shall be one of the guiding criteria in public decision making.
- D. Create and maintain conditions under which man and nature can exist in productive harmony to fulfill the social and economic requirements of present and future generations.

22.02.010. Purpose.

The purpose of these procedures is to implement the requirements of the National Environmental Policy Act (NEPA), the State Environmental Policy Act of 1971 (SEPA), RCW 43.21C, as amended, and the SEPA Guidelines adopted by the State of Washington Council on Environmental Policy and the authority and function of the City as provided therein. These procedures shall provide the City of Bellevue with principles, objectives, criteria and definitions to provide an efficient overall city wide approach for implementation of the State Environmental Laws and Guidelines.

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 NEPA, SEPA and the SEPA Guidelines for all City activities and actions. To the fullest extent possible, the procedures required by this code shall be integrated with existing planning and licensing procedures utilized by the City.

22.02.020. Adoption by Reference. The City hereby adopts by reference as if fully set forth herein the following sections or subsections of chapter 197-10 of the Washington Administrative Code (the "SEPA Guidelines" adopted by the State of Washington, Council on Environmental Policy) as adopted on December 12, 1975 and as hereafter amended:

- WAC 197-10-040: Definitions
- 050: Use of the Environmental Checklist Form
- 060: Scope of a Proposal and its Impacts
- 100: Summary of Information Which May be Required of a Private Applicant

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- 160: No Presumption of Significance for Non-exempt Actions
- 170: Categorical Exemptions.
- 190: Use and Effect of Categorical Exemptions
- 200: Lead Agency Responsibilities
- 203: Determination of Lead Agency Procedures
- 205: Lead Agency Designation - Governmental Proposals
- 210: Lead Agency Designation - Proposals Involving Both Private and Public Construction
- 215: Lead Agency Designation - Private Projects for Which There is Only One Agency
- 220: Lead Agency Designation - Private Projects, Licenses for More Than One Agency When One is City/County
- 230: Lead Agency Designation - Specific Proposals
- 240: Agreement as to Lead Agency Status
- 245: Agreements Between Agencies as to Division of Lead Agency Duties
- 260: Dispute as to Lead Agency Determination
- 270: Assumption of Lead Agency by Another Agency With Jurisdiction
- 300: Threshold Determination Requirement
- 310: Threshold Determination Procedures - Environmental Checklist
- 320: Threshold Determination Procedures - Initial Review of Environmental Checklist
- 330: Threshold Determinations Procedures - Information in Addition to Checklist
- 340: Threshold Determination Procedures - Negative Declarations
- 345: Assumption of Lead Agency Status by Another Agency with Jurisdiction Over a Proposal
- 350: Affirmative Threshold Determination
- 355: Form of Declaration of Significance/Non-significance
- 360: Threshold Determination Criteria - Application of Environmental Checklist
- 365: Environmental Checklist
- 370: Withdrawal of Affirmative Threshold Determination
- 375: Withdrawal of Negative Threshold Determination
- 390: Effect of Threshold Determination by Lead Agency
- 400: Duty to Begin Preparation of a Draft EIS
- 405: Purpose and Function of Draft EIS
- 410: Pre-draft Consultation Procedures
- 420: Preparation of EIS by Persons Outside the Lead Agency

- 425: Organization and Style of a Draft EIS
- 440: Contents of a Draft EIS
- 442: Special Considerations Regarding Contents of an EIS on a Non-Project Action
- 444: List of Elements of the Environment
- 450: Public Awareness of Availability of Draft EIS
- 455: Circulation of a Draft EIS - Review Period
- 460: Specific Agencies to which Draft EIS shall be Sent
- 465: Agencies Possessing Environmental Expertise
- 480: Public Hearing on a Proposal - When Required
- 485: Notice of Public Hearing on Environmental Impact of the Proposal
- 490: Public Hearing on the Proposal - Use of Environmental Documents
- 495: Preparation of Amended or New Draft EIS
- 545: Effect of No Written Comment
- 550: Preparation of the Final EIS - Time Period Allowed
- 570: Preparation of the Final EIS - When No Critical Comments Received on Draft EIS
- 580: Preparation of the Final EIS - Contents - When Critical Comments Received on Draft EIS
- 600: Circulation of the Final EIS
- 650: Effect of an Adequate Final EIS Prepared Pursuant to NEPA
- 652: Supplementation of a Lead Agency of an Inadequate Final NEPA EIS
- 660: Use of Previously Prepared EIS for a Different Proposed Actions
- 690: Use of a Lead Agency's EIS by Other Acting Agencies for the Same Proposal
- 695: Draft in Final Supplement to a Revised EIS
- 700: No Action for Seven Days After Publication of the Final EIS

22.02.025. Additional Definitions. In addition to those definitions contained within WAC 197-10-040, the following terms shall have the following meanings, unless the context indicates otherwise:

- (1) "City" means the municipal corporation of Bellevue and all official departments and divisions thereof.
- (2) "SEPA Guidelines" means Chapter 197-10 Washington Administrative Code adopted by the Council on Environmental Policy, as now or hereafter amended.

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- (3) "Emergency" means a sudden unexpected occurrence demanding immediate action to prevent or mitigate loss or damage to property, life, health, welfare of the public, or essential public services as designated by the City Manager or his designee.
- (4) NEPA. NEPA means the National Environmental Policy Act.

22.02.030. Designation of Responsible Official. The City Manager or his designee shall appoint the responsible official for the City who shall perform all the functions assigned by this code and the State SEPA Guidelines which were adopted by reference in Section 22.02.020 hereof.

22.02.035. Duties of Responsible Official. The Responsible Official shall:

- (1) Administer policies, regulations, ordinances and laws in accordance with the provisions set forth in this code; the Bellevue Shorelines Master Program, the Shorelines Management Act, SEPA and NEPA.
- (2) Develop procedures and guidelines for the review of activities subject to SEPA and NEPA to insure that environmental, economic and social considerations will each be given appropriate weight in decision making.
- (3) Assess the adequacy of information submitted to support threshold decisions and environmental impact statements. Inadequate environmental impact statements will be referred back to the originator for revision.
- (4) Promulgate such guidelines, rules and regulations which establish procedures to be utilized by all city departments in preparation of environmental documents, and for the evaluation of actions to be undertaken by the City.
- (5) Initiate requests for review of additional categorical exemptions pursuant to WAC 197-10-150.
- (6) Direct the operation and maintenance of the SEPA Public Information Center.
- (7) Make the threshold determination, supervise preparation of Draft and Final EIS's.
- (8) Be responsible for compliance by the City with WAC 197-10-500 through 540 of the SEPA Guidelines whenever the City is a consultant agency and is hereby authorized to develop operating

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procedures which will insure that responses to consultation requests are prepared in a timely fashion and include data from all appropriate departments of the City.

- (9) Provide information to citizens, project sponsors and others about SEPA and other applicable legislation.
- (10) Provide the City Attorney with technical support during litigation involving environmental matters.
- (11) Monitor and report on legislation and issues involving environmental procedures to the City Council and affected departments.
- (12) Determine criteria and maintain maps identifying sensitive areas pursuant to section 22.02.045 of this code.
- (13) Determine the Lead Agency for all actions where the City is the acting agency.
- (14) Determine requirement for and supervise field studies initiated by the City or undertaken by a consultant for an action where the City is the Lead Agency.
- (15) Recommend procedures and criteria for determining fees to be charged for compliance with SEPA requirements.
- (16) Develop and maintain an inventory of significant environmental data.

22.02.040. Environmental Process.

- (1) A Department or the Permit Coordinator upon receipt of an application of a request for governmental action shall forward to the Responsible Official a copy of the application and a copy of the Environmental Checklist if the application is not categorically exempt.
- (2) Determination of whether the project is categorically exempt shall be made by the Department receiving the request, the Permit Coordinator or the Responsible Official. This determination should be noted on the application form.
- (3) If not categorically exempt, the Responsible Official shall review the application and checklist to determine if the information is adequate to make a threshold determination. If the information is adequate, then the Responsible Official shall make the threshold determination and provide the Department receiving the request or the Permit Coordinator with the

necessary documents of that determination. If the information is inadequate, the Responsible Official shall inform the Department receiving the request or the Permit Coordinator of the inadequacy and indicate what additional information is needed. The Responsible Official may refuse to process and consider a private application further if the applicant at any time in the process refuses or fails to provide the required information.

- (4) In the case of a threshold determination which would require the preparation of an Environmental Impact Statement (EIS), the Responsible Official shall notify the Department receiving the request or the Permit Coordinator who shall notify the applicant and arrange for a meeting with the responsible official and the applicant to schedule the necessary events and to give any guidance necessary in the preparation of the EIS.
- (5) Individual departments receiving the requests are responsible for notification to the applicant of the threshold determination.

22.02.045. Environmentally Sensitive Areas.

- (1) The maps filed under Clerk's Receiving No. ~~5628~~, and adopted by reference hereto, designates the location of environmentally sensitive areas within the City. For each sensitive area, exemptions within WAC 197-10-170 (1)(a) through (f) and (i) through (n); (5)(c), (9)(a) through (c); (10)(a); (18)(a) through (d) and (i); and (19)(d), (f) and (h) of the SEPA Guidelines are identified on the maps as being inapplicable to that area. Other exemptions identified in WAC 197-10-170 shall continue to apply within environmentally sensitive areas of the City.
- (2) Major actions which will be located within designated environmentally sensitive areas are to be treated no differently than other major actions under these guidelines. A threshold determination shall be made for all such actions, and an EIS shall not be automatically required for a proposal merely because it is proposed for location in an environmentally sensitive area.
- (3) Certain Categorical Exemptions for minor new construction (WAC 197-10-170 (1)), approval of short plats or short subdivision (WAC 197-10-170 (10a)) and Utility related actions (WAC 197-10-170 (18)) do not apply on lands covered by water, and this remains true regardless of whether or not lands covered by water are mapped.

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22.02.050. **Emergency Actions.** It shall not be necessary to comply with the requirements of this code or the provisions of WAC 197-10 if action must be undertaken immediately to avoid an imminent threat to public health, safety or welfare or to prevent an imminent danger to public or private property, or to prevent an imminent threat of serious environmental degradation. The City Manager or the City Council shall designate when such an action constitutes an emergency.

22.02.055. **Additional Elements to be Covered in an EIS.** The following additional elements, if applicable, are part of the environment for the purpose of EIS content but do not add to the criteria for the threshold determinations or perform any other function or purpose under these rules:

- (1) Social
- (2) Cultural
- (3) Economic. (Required by substitute Senate Bill No. 3097, Chapter 117 of the 1976 Second Extraordinary Session).

22.02.060. **Timing of the Environmental Review Process.** The environmental process should be completed prior to undertaking any proposed major action.

- (1) The threshold determination should be completed in approximately fifteen (15 days). When a threshold determination is expected to require more than fifteen days or additional information is necessary and a private applicant requests notification of the date when a threshold determination will be made, the Responsible Official shall transmit to the private applicant a written statement as to the expected date of decision.
- (2) The Responsible Official shall establish the times at which the EIS process shall be completed on a case by case basis. Extensions are permitted if deemed necessary by the Responsible Official.
- (3) When the City proposes a major action it is not necessary to determine time periods for the threshold determination and EIS process.

22.02.065. **Public Information Center.**

- (1) The following location constitutes the City's SEPA public information center: Bellevue Public Library located at 116th S.E. and Main Street in Bellevue, Washington. Telephone: 455-6889

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- (2) The SEPA Public Information Center shall contain the documents and provide the services required by WAC 197-10-830.

22.02.070. Fees. The following fees shall be required for actions by the City in accordance with the provisions of this code:

- (1) 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. This fee shall be collected prior to undertaking the threshold determination.
- (2) Environmental Impact Statements: Preparation of the EIS is the responsibility of the lead agency by or under the direction of its Responsible Official.
 - A. For all proposals when the City is the lead agency and the Responsible Official determines that an EIS is required, the applicant shall be charged a fee equal to the administrative costs of supervision and preparation of the Draft and Final EIS's.
 - B. 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 Guidelines. It shall not include costs for obtaining information not in the possession of the City or efforts related to predraft consultation.
 - C. The Applicant shall make an initial payment of \$500.00 to the City or post bond in an amount equal to projected costs estimated by the Responsible Official, whichever is greater.
 - D. An EIS shall be prepared by a private applicant or agent thereof or by an outside consultant retained by the private applicant. The selection of the consultant shall be subject to the approval of the Responsible Official. In such case the Responsible Official shall assure that the EIS is prepared in a responsible manner and with appropriate methodology. The Responsible Official 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 Responsible Official shall be subject to collection of fees as described in (B) and (C) of this subsection.

- E. The Responsible Official will coordinate any pre-draft consultation procedures so that the individual preparing the EIS immediately receives all substantive information submitted by consulted agencies. The Responsible Official shall also attempt to obtain any information needed by the person preparing the EIS which is on file with another agency or federal agency. The Responsible Official shall allow any private party preparing an EIS access to all public records of the lead agency which are relevant to the subject matter of the EIS, pursuant to RCW 42.17 [Public Disclosure and Public Records Law; Initiative 276, 1973].
- F. In the event that a proposal is modified so that less work is required of the Responsible Official or that an EIS is no longer required, the responsible official shall refund any monies collected in excess of costs incurred.

- (3) Consultant Agency Fees: No fee shall be collected by the City for performing its duty as a consultant agency.
- (4) SEPA Information Center Fees: The City or the SEPA Information Center 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 Chapter 42.17 RCW, PROVIDED THAT, no charge shall be levied for circulation of documents as required by this code to other agencies.

22.02.075. Notice/Statute of Limitations.

- (1) The applicant for or proponent of an action or the City, when the action is one the City is proposing, may publish notice of action pursuant to RCW 43.21C.080 for any action.
- (2) The form of the notice shall be substantially in the form and manner set forth in RCW 43.21C.080. The notice may be published by the city for city projects or the applicant or proponent for private projects.

Section 3. Severability. If any provision of this ordinance or its application to any person or circumstance is declared unconstitutional or invalid for any reason, the remainder of this ordinance, or the application

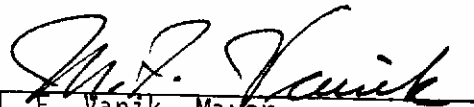
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of the provision to other persons or circumstances, shall not be affected.


Section 4. This ordinance shall take effect and be in force 30 days after enactment by the City Council.

PASSED by the City Council this 23 day of August,
1976, and signed in authentication of passage this 23 day of August,
1976.

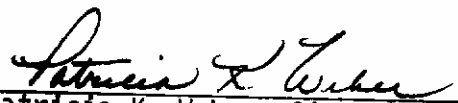
(SEAL)


M. F. Vanik, Mayor

Approved as to form:


Lee Kraft, City Attorney

Attest:


Patricia K. Weber, City Clerk

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