

## **Chapter 6.88 ENVIRONMENTAL POLICY**

### **Part I. Authority**

[6.88.010](#) Authority

### **Part II. General Requirements**

[6.88.020](#) Purpose Of This Part And Adoption By Reference

[6.88.030](#) Additional Definitions

[6.88.040](#) Designation Of Responsible Official

[6.88.050](#) Lead Agency Determination And Responsibilities

[6.88.058](#) Additional Timing Considerations

[6.88.060](#) SEPA/GMA Integration

[6.88.062](#) Planned Actions

### **Part III. Categorical Exemptions And Threshold Determinations**

[6.88.065](#) Purpose Of This Part And Adoption By Reference

[6.88.070](#) Flexible Thresholds For Categorical Exemptions

[6.88.080](#) Use Of Exemptions

[6.88.090](#) Environmental Checklist

[6.88.100](#) Mitigated Determination Of Nonsignificance (MDNS)

### **Part IV. Environmental Impact Statement (EIS)**

[6.88.110](#) Purpose Of This Part And Adoption By Reference

[6.88.120](#) Preparation Of Environmental Impact Statement (EIS)—Additional Considerations

[6.88.125](#) Additional Elements

### **Part V. Commenting**

[6.88.128](#) Adoption By Reference

[6.88.130](#) Public Notice

[6.88.140](#) Responsible Official To Perform Consulted Agency Responsibilities For The City

### **Part VI. Using Existing Environmental Documents**

[6.88.150](#) Purpose Of This Part And Adoption By Reference

### **Part VII. SEPA And Agency Decisions**

[6.88.155](#) Purpose Of This Part And Adoption By Reference

[6.88.160](#) Substantive Authority

[6.88.170](#) Appeals

[6.88.173](#) Notice/Statute Of Limitations

### **Part VIII. Definitions**

[6.88.175](#) Purpose Of This Part And Adoption By Reference

### **Part IX. Categorical Exemptions**

[6.88.180](#) Adoption By Reference

## **Part X. Agency Compliance**

[6.88.185](#) Purpose Of This Part And Adoption By Reference

[6.88.200](#) Fees

[6.88.205](#) Effective Date

[6.88.220](#) Severability

## **Part XI. Forms**

[6.88.230](#) Adoption By Reference

## **Part I. Authority**

### **6.88.010 Authority**

The city of Yakima adopts the ordinance codified in this chapter under the State Environmental Policy Act (SEPA), RCW 43.21C.120, and the SEPA rules, WAC 197-11-904. The ordinance codified in this chapter adopts many of the statewide SEPA rules by reference. This chapter contains this city's SEPA procedures and implements the purposes and policies of SEPA pursuant to RCW 43.21C.010 and 43.21C.020, which are adopted by reference. The SEPA rules, WAC Ch. 197-11, should be referred to in conjunction with this chapter.

## **Part II. General Requirements**

### **6.88.020 Purpose Of This Part And Adoption By Reference**

This part contains the basic requirements that apply to the SEPA process. The city adopts the following sections of the SEPA rules by reference, as supplemented by this part:

#### WAC

|            |   |
|------------|---|
| 197-11-030 | Policy  |
| 197-11-040 | Definitions   |
| 197-11-050 | Lead agency   |
| 197-11-055 | Timing of the SEPA process  |
| 197-11-060 | Content of environmental review   |
| 197-11-070 | Limitations on actions during SEPA process                                    |
| 197-11-080 | Incomplete or unavailable information   |
| 197-11-090 | Supporting documents  |
| 197-11-100 | Information required of applicants  |
| 197-11-158 | GMA project review—Reliance on existing plans, laws, and regulations          |
| 197-11-164 | Planned actions—Definitions and criteria                                      |
| 197-11-168 | Ordinances or resolutions 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 MTCA actions  |
| 197-11-256 | Preliminary evaluation   |
| 197-11-259 | Determination of nonsignificance for MTCA remedial action  |
| 197-11-262 | Determination of significance and EIS for MTCA remedial actions  |
| 197-11-265 | Early scoping for MTCA remedial actions  |
| 197-11-268 | MTCA interim actions   |

### **6.88.030 Additional Definitions**

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

- A. “Department” means any division, subdivision or organizational unit of the city established by ordinance, rule or order.
- B. “SEPA rules” means WAC Ch. 197-11 as adopted, revised, or amended by the Department of Ecology of the state of Washington.
- C. “Early notice” means the city’s response to an applicant stating whether it considers issuance of a determination of significance likely for the applicant’s proposal.
- D. “City” means the city of Yakima.
- E. “Day” means calendar day.

### **6.88.040 Designation Of Responsible Official**

- A. For those proposals for which the city is the lead agency, the responsible official shall be the Yakima city manager, or the city manager’s designee.
- B. For proposals initiated by the city, agency people carrying out SEPA procedures should be different, whenever possible, from agency people initiating the proposal.
- C. For all proposals for which the city is the lead agency, the responsible official shall make the threshold determination, supervise scoping and preparation of any required environmental impact statement (EIS), and perform any other functions assigned to the “lead agency” or “responsible official” by those sections of the SEPA rules that are adopted by reference in this chapter.
- D. The city shall retain all documents required by the SEPA rules and make them available in accordance with RCW Ch. 42.56.

### **6.88.050 Lead Agency Determination And Responsibilities**

- A. The department within the city receiving an application for or initiating a proposal that involves a nonexempt action shall determine the lead agency for that proposal under the applicable SEPA rules and supplemental provisions adopted in this chapter, unless the lead agency has been previously determined or the department is aware that another department or agency is in the process of determining the lead agency.
- B. When the city is not the lead agency for a proposal, all departments of the city shall use and consider, as appropriate, either the DNS or the final EIS of the lead agency in making

decisions on the proposal. No city department shall prepare or require preparation of a DNS or EIS in addition to that prepared by the lead agency, unless required under WAC 197-11-600. In some cases, the city may conduct supplemental environmental review under WAC 197-11-600.

- C. If the city or any of its departments receives a lead agency determination made by another agency that appears inconsistent with the criteria of the SEPA rules and supplemental provisions adopted in this chapter, it may object to the determination and seek Department of Ecology resolution of lead agency disputes according to the SEPA rules and supplemental provisions of this chapter.
- D. The responsible official is authorized to make agreement as to lead agency status or shared lead agency duties in accordance with the SEPA rules and supplemental provisions of this chapter.
- E. The responsible official shall require sufficient information from the applicant to identify which other agencies have jurisdiction over the proposal (that is: which agencies require nonexempt licenses?).

#### **6.88.058 Additional Timing Considerations**

- A. For nonexempt proposals where action by an advisory or decision-making body such as the city of Yakima planning commission, hearings examiner, or city council is required, the DNS or final EIS for the proposal shall be combined with the city's staff recommendation to the advisory or decision-making body.
- B. If the city's only action on a proposal is a decision on a building permit or other license that requires detailed project plans and specifications, the applicant may request in writing that the city conduct environmental review prior to submission of the detailed plans and specifications and the responsible official may agree to such request; provided, that adequate information must be furnished to the responsible official pursuant to the SEPA rules and supplemental provisions of this chapter to allow a threshold determination to be made.
- C. The optional DNS process in WAC 197-11-355 may be used to indicate on a notice of application that the lead agency is likely to issue a DNS. If this optional process is used, a separate comment period on the DNS may not be required.

#### **6.88.060 SEPA/GMA Integration**

- A. The city endorses the procedures for SEPA and Growth Management Act integration as provided by the SEPA rules and any supplemental provisions adopted pursuant to this part.
- B. The city endorses the procedures for environmental review of GMA project proposals as provided by WAC 197-11-158 and any supplemental provisions adopted pursuant to this part.
  - 1. In reviewing the environmental impacts of a GMA project and making a threshold determination, the responsible official may determine that the requirements for environmental analysis, protection, and mitigation measures in the city's development regulations and comprehensive plan, and in other applicable local, state, or federal laws or rules, provide adequate analysis of and mitigation for some or all of the specific adverse environmental impacts of the project.
  - 2. In making the determination under subsection (B)(1) of this section, the responsible official shall follow the SEPA rules contained in WAC 197-11-158.

### **6.88.062 Planned Actions**

- A. The city endorses the procedures in the SEPA rules adopted in this section for project review as a “planned action” and will apply the provisions of WAC 197-11-164 through 197-11-172 to projects that meet the criteria for planned action environmental review under RCW 43.21C.031.
- B. Whenever a project proposal meets the requirement and criteria for a planned action set forth in WAC 197-11-164 to 197-11-172, and the planned action ordinances of the city, the responsible official shall not be required to issue a threshold determination or require an EIS under the provisions of this chapter.
- C. Nothing in this section limits the city from using this chapter or other applicable law to place conditions on the project in order to mitigate impacts through the normal local project review and permitting process.

## **Part III. Categorical Exemptions and Threshold Determinations**

### **6.88.065 Purpose Of This Part And Adoption By Reference**

This part contains the rules for deciding whether a proposal has a “probable significant, adverse environmental impact” requiring an environmental impact statement (EIS). This part also contains rules for evaluating the impact of proposals not requiring an EIS. The city adopts the following sections of the SEPA rules by reference, as supplemented by this part:

#### WAC

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

### **6.88.070 Flexible Thresholds For Categorical Exemptions**

- A. Effective April 7, 1986, the city establishes the following exempt levels for minor new construction under WAC 197-11-800(1)(b) based on local conditions:
  - 1. For residential dwelling units in WAC 197-11-800(1)(b)(i):
    - a. Twenty dwelling units in the R-2, R-3, B-1, B-2, SCC, LCC, CBD, GC, and RD zoning districts;
    - b. Nine dwelling units in the SR and R-1 zoning districts;
  - 2. For agricultural structures in WAC 197-11-800(1)(b)(ii):
    - a. Thirty thousand square feet in the SR, M-1 and M-2 zoning districts;
    - b. Ten thousand square feet in all other zoning districts;
  - 3. For office, school, commercial, recreational, service or storage buildings in WAC 197-11-800(1)(b)(iii):

- a. Neither more than twelve thousand square feet nor more than forty parking spaces in the B-1, B-2, SCC, LCC, AS, CBD, GC, RD, M-1 and M-2 zoning districts;
- b. Neither more than four thousand square feet nor more than twenty parking spaces in all other zoning districts;
- 4. For parking lots in WAC 197-11-800(1)(b)(iv):
  - a. Forty parking spaces in the R-3, B-1, B-2, SCC, LCC, AS, CBD, GC, RD, M-1 and M-2 zoning districts;
  - b. Twenty parking spaces in all other zoning districts;
- 5. For landfills and excavations in WAC 197-11- 800(1)(b)(v):
  - a. Five hundred cubic yards in all zoning districts.

### **6.88.080 Use Of Exemptions**

- A. Upon receipt of an application for a proposal, and for city-initiated proposals, the responsible official shall determine whether the proposal 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 any designation of environmentally sensitive or critical areas. The responsible official's determination that a proposal is exempt shall be final and not subject to administrative review. If a proposal is exempt, the city shall not require completion of an environmental checklist.
- B. In determining whether or not a proposal is exempt, the responsible official shall make certain the proposal is properly defined and shall identify the governmental licenses required.
- C. If a proposal includes both exempt and nonexempt actions, the responsible official may authorize exempt actions prior to compliance with the procedural requirements of this chapter, except that the responsible official shall not give authorization for:
  - 1. Any nonexempt action;
  - 2. Any action that would have an adverse environmental impact; or
  - 3. Any action that would limit the choice of alternatives.
- D. The responsible official may withhold approval of an exempt action that would lead to modification of the physical environment, when such modification would serve no purpose if nonexempt actions were not approved.
- E. The responsible official may withhold approval of an exempt action that would lead to substantial financial expenditures by a private applicant when the expenditures would serve no purpose if nonexempt actions were not approved.

### **6.88.090 Environmental Checklist**

- A. A completed environmental checklist, substantially in the form provided in WAC 197-11-960, shall be filed at the same time as an application for a permit, license, certificate or other approval not specifically exempted in this chapter.
- B. An environmental checklist is not needed for the following proposals:
  - 1. Proposals where the city and applicant agree that an EIS is required;
  - 2. Proposals where SEPA compliance has been previously completed; or
  - 3. Proposals where SEPA compliance has been initiated by another agency.
- C. The city shall use the environmental checklist to determine the lead agency and, if the city is the lead agency, for making the threshold determination.
- D. For private proposals, the city will require the applicant to complete the environmental checklist, providing assistance as the city determines necessary. For city proposals, the

department initiating the proposal shall complete the environmental checklist for that proposal.

- E. The city may require that it or a consultant of the city's choosing, and not the private applicant, will complete all or part of the environmental checklist for a private proposal if the city has technical information on a question or questions that is unavailable to the private applicant, or if the applicant has provided inaccurate information on previous proposals or on proposals currently under consideration.

#### **6.88.100 Mitigated Determination Of Nonsignificance (MDNS)**

- A. As provided in this section and in WAC 197-11-350, the responsible official may issue a determination of nonsignificance (DNS) based on conditions attached to the proposal by the responsible official or on changes to, or clarifications of, the proposal made by the applicant.
- B. An applicant may request in writing early notice of whether a determination of significance (DS) is likely under WAC 197-11-350. The request must:
  - 1. Follow submission of a permit application and environmental checklist for a nonexempt proposal for which the city is lead agency; and
  - 2. Precede the city's actual threshold determination for the proposal.
- C. The responsible official should respond to the request for early notice as soon as feasible after the time the city receives such a request. The response shall:
  - 1. Be written;
  - 2. State whether the city currently considers issuance of a DS likely and, if so, indicate the areas of concern that are leading the city to consider a DS; and
  - 3. State that the applicant may change or clarify the proposal to mitigate the indicated impacts, revising the environmental checklist and/or permit application as necessary to reflect the changes or clarifications.
- D. The city may assist the applicant with identification of impacts to the extent necessary to formulate mitigation measures.
- E. When an applicant submits a changed or clarified proposal, along with a revised or amended environmental checklist, the city shall base its threshold determination on the revised proposal:
  - 1. If the responsible official indicated specific mitigation measures in its response to the request for early notice, and the applicant revised the proposal to include those specific mitigation measures, the responsible official shall issue and circulate a DNS under WAC 197-11-340(2).
  - 2. If the responsible official indicated areas of concern, but did not indicate specific mitigation measures that would allow it to issue a DNS, the responsible official shall make the threshold determination, issuing a DNS or DS as appropriate.
  - 3. The applicant's proposed mitigation measures (clarifications, changes or conditions) must be in writing and must be specific, feasible and enforceable. For example, proposals to "control noise" or "prevent stormwater runoff" are inadequate, whereas proposals to "muffle machinery to X decibel" or "construct two-hundred-foot stormwater retention ponds at Y location" are adequate.
  - 4. Mitigation measures which justify issuance of a mitigated DNS may be incorporated in the DNS by reference to agency staff reports, studies or other documents.
- F. A mitigated DNS issued under WAC 197-11-340(2), requires a fifteen-calendar-day comment period and public notice.

- G. Mitigation measures incorporated in the mitigated DNS shall be deemed conditions of approval of the permit decision and may be enforced in the same manner as any term or condition of the permit, or enforced in any manner specifically prescribed by the city.
- H. If the city’s tentative decision on a permit or approval does not include mitigation measures that were incorporated in a mitigated DNS for the proposal, the city should evaluate the threshold determination to assure consistency with WAC 197-11-340(3)(a).
- I. The city’s written response under subsection B of this section shall not be construed as a determination of significance. In addition, preliminary discussion of clarifications or changes to a proposal, as opposed to a written request for early notice, shall not bind the city to consider the clarifications or changes in its threshold determination.

**Part IV. Environmental Impact Statement (EIS)**

**6.88.110 Purpose Of This Part And Adoption By Reference**

This part contains the rules for preparing environmental impact statements. The city adopts the following sections of the SEPA rules by reference, as supplemented by this part:

|            |   |
|------------|---|
| WAC        |   |
| 197-11-400 | Purpose of EIS                              |
| 197-11-402 | General requirements                        |
| 197-11-405 | EIS types                                   |
| 197-11-406 | EIS timing                                  |
| 197-11-408 | Scoping                                     |
| 197-11-410 | Expanded scoping.                           |
| 197-11-420 | EIS preparation                             |
| 197-11-425 | Style and size                              |
| 197-11-430 | Format                                      |
| 197-11-435 | Cover letter or memo                        |
| 197-11-440 | EIS contents                                |
| 197-11-442 | Contents of EIS on nonproject proposals     |
| 197-11-443 | EIS contents when prior nonproject EIS      |
| 197-11-444 | Elements of the environment                 |
| 197-11-448 | Relationship of EIS to other considerations |
| 197-11-450 | Cost-benefit analysis                       |
| 197-11-455 | Issuance of DEIS                            |
| 197-11-460 | Issuance of FEIS                            |

**6.88.120 Preparation Of Environmental Impact Statement (EIS)—Additional Considerations**

- A. Preparation of draft and final EISs and SEISs shall be under the direction of the responsible official. Before the city issues an EIS, the responsible official shall be satisfied that it complies with this chapter and Chapter 197-11 WAC. The DEIS and FEIS or draft and final SEIS may be prepared by city staff, the applicant, or by a consultant selected by the city or applicant.
- B. If the responsible official requires an EIS for a proposal and determines that someone other than the city will prepare the EIS, the responsible official shall notify the applicant



immediately after completion of the threshold determination. The responsible official shall also notify the applicant of the city's procedure for EIS preparation, including approval of the draft and final EIS prior to distribution.

- C. The city may require an applicant to provide information the city does not possess, including specific investigations. However, the applicant is not required to supply information that is not required under this chapter or that is being requested from another agency; provided, however, this does not apply to information the city may request under another ordinance or statute.

### **6.88.125 Additional Elements**

The lead agency may include, in a FEIS, DEIS or SEIS, an analysis of any impact determined to be relevant to the agency's decision, whether or not required by the provisions of this chapter and the SEPA rules. The inclusion of such analysis may be based upon comments received during the scoping process. Such additional analysis shall not add to the criteria for threshold determinations or perform any other function or purpose under this chapter.

## **Part V. Commenting**

### **6.88.128 Adoption By Reference**

This part contains rules for consulting, commenting and responding on all environmental documents under SEPA, including rules for public notice and hearings. The city adopts the following sections of the SEPA rules by reference, as supplemented by this part:

#### WAC

|            |  |
|------------|--|
| 197-11-500 | Purpose of this part                             |
| 197-11-502 | Inviting comment                                 |
| 197-11-504 | Availability and cost of environmental documents |
| 197-11-508 | SEPA register                                    |
| 197-11-510 | Public notice                                    |
| 197-11-535 | Public hearings and meetings                     |
| 197-11-545 | Effect of no comment.                            |
| 197-11-550 | Specificity of comments                          |
| 197-11-560 | FEIS response to comments                        |
| 197-11-570 | Consulted agency costs to assist lead agency     |

### **6.88.130 Public Notice**

- A. Whenever possible, the city shall integrate the public notice required under this section with existing notice procedures for the city's nonexempt permits or approvals required for the proposal.
- B. Whenever the city issues a DNS under WAC 197-11-340(2), under the optional process in WAC 197-11-355, or a DS under WAC 197-11-360(3), the city shall give public notice as follows:
  - 1. If public notice is required for a nonexempt permit or approval, the notice shall state whether a DS or DNS has been issued and when comments are due.
  - 2. If no public notice is required for the permit or approval, the city shall give notice of the DNS or DS by:

- a. Posting the property, for site-specific proposals;
  - b. Notifying adjacent property owners within 300 feet of the subject property, and;
  - c. Notifying the public or private groups that have expressed interest in a certain proposal or in the type of proposal being considered.
3. Whenever the city issues a DS under WAC 197-11-360(3), the city shall state the scoping procedure for the proposal in the DS as required in WAC 197-11-408.
- C. Whenever the city issues a DEIS under WAC 197-11-455(5) or a SEIS under WAC 197-11-620, notice of the availability of those documents shall be given by:
- 1. Indicating the availability of the DEIS in any public notice required for a nonexempt permit;
  - 2. Posting the property, for site-specific proposals;
  - 3. Publishing notice in a newspaper of general circulation in the county, city, or general area where the proposal is located; and
  - 4. Notifying the public or private groups that have expressed interest in a certain proposal or in the type of proposal being considered.
- D. The city may require an applicant to complete the public notice requirements for the applicant's proposal at the applicant's expense, compensate the city for costs of carrying out the public notice requirements on behalf of the applicant, or provide services or materials to assist the city in carrying out the public notice requirements.

**6.88.140 Responsible Official To Perform Consulted Agency Responsibilities For The City**

- A. The responsible official or designee shall be responsible for preparation of written comments for the city in response to a consultation request prior to a threshold determination, participation in scoping, or reviewing a DEIS.
- B. The responsible official or designee shall be responsible for the city's compliance with WAC 197-11-550 whenever the city is a consulted agency and is authorized to develop operating procedures that will ensure that responses to consultation requests are prepared in a timely fashion and include data from all appropriate city departments.

**Part VI. Using Existing Environmental Documents**

**6.88.150 Purpose Of This Part And Adoption By Reference**

This part contains rules for using and supplementing existing environmental documents prepared under SEPA or the National Environmental Policy Act (NEPA) for the city's own environmental compliance. The city adopts the following sections of the SEPA rules by reference:

|            |  |
|------------|--|
| WAC        |  |
| 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 VII. SEPA and Agency Decisions**

### **6.88.155 Purpose Of This Part And Adoption By Reference**

This part contains the rules and policies for the city to exercise SEPA's substantive authority, such as decisions to mitigate or reject proposals as a result of SEPA. This part also contains procedures for appealing SEPA determinations to agencies or the courts. The city adopts the following sections by reference:

WAC

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

### **6.88.160 Substantive Authority**

- A. The policies and goals set forth in this chapter are supplementary to those in the existing authorizations of the city.
- B. The city may attach conditions to a permit or approval for a proposal so long as:
  - 1. Such conditions are necessary to mitigate specific probable adverse environmental impacts identified in environmental documents prepared pursuant to this chapter;
  - 2. Such conditions are in writing;
  - 3. The mitigation measures included in such conditions are reasonable and capable of being accomplished;
  - 4. The city has considered whether other local, state or federal mitigation measures applied to the proposal are sufficient to mitigate the identified impacts; and
  - 5. Such conditions are based on one or more policies in subsection E of this section.
- C. The city may deny a permit or approval for a proposal on the basis of SEPA so long as:
  - 1. A finding is made that approving the proposal would result in probable significant adverse environmental impacts that are identified in a FEIS or final SEIS prepared pursuant to this chapter;
  - 2. A finding is made that there are no reasonable mitigation measures capable of being accomplished that are sufficient to mitigate the identified impact; and
  - 3. The denial is based on one or more policies identified in subsection E of this section and identified in writing in the decision document.
- D. If during project review the city 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 or federal laws or rules provide adequate analysis of and mitigation for the specific adverse environmental impacts under RCW 43.21C.240, the city shall not impose additional mitigation under this chapter.
- E. The city designates and adopts by reference the following policies as the basis for the city's exercise of authority pursuant to this section including the conditioning or denying of proposals:
  - 1. The city shall use all practicable means, consistent with other essential considerations of state policy, to improve and coordinate plans, functions, programs and resources to the end that the state and its citizens may:

- a. Fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;
  - b. Assure for all people of Washington safe, healthful, productive, and aesthetically and culturally pleasing surroundings;
  - c. Attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;
  - d. Preserve important historic, cultural and natural aspects of our national heritages;
  - e. Maintain, wherever possible, an environment which supports diversity and variety of individual choice;
  - f. Achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and
  - g. Enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.
2. The city recognizes that each person has a fundamental and inalienable right to a healthful environment and that each person has a responsibility to contribute to the preservation and enhancement of the environment.
  3. The following city codes, ordinances, resolutions, and plans:
    - a. Yakima urban area comprehensive plan, with amendments and supplements thereto;
    - b. YMC Title [4](#), Health and Sanitation;
    - c. YMC Title [5](#), Licenses and Business Regulations;
    - d. YMC Title [6](#), Public Safety and Morals;
    - e. YMC Title [7](#), Public Services and Utilities;
    - f. YMC Title [8](#), Streets and Sidewalks;
    - g. YMC Title [9](#), Traffic;
    - h. YMC Title [10](#), Fire;
    - i. YMC Title [11](#), Buildings;
    - j. YMC Title [12](#), Development Standards;
    - k. YMC Title [13](#), Parks and Playgrounds;
    - l. YMC Title [14](#), Subdivisions;
    - m. YMC Title [15](#), Yakima Urban Area Zoning Ordinance;
    - n. YMC Title [16](#), Administration of Development Permit Regulations;
    - o. WAC 173-19-4706 (Shoreline Management), including the Yakima shorelines master program;
    - p. Agreement for wastewater treatment and disposal service (dated February 23, 1976) as amended;
    - q. Urban Yakima area regional planning agreement (dated January 25, 1977), as amended;
    - r. Yakima urban area growth policy;
    - s. Annexation policy;
    - t. Outside utility service policy (Resolution No. D- 1250, as amended);
    - u. Greenway Park development plan.

### **6.88.170 Appeals**

- A. It is the purpose of this chapter to combine environmental considerations with public decisions, and for this reason any appeal brought under this chapter shall be linked to a

specific governmental action. Appeals under this chapter are not intended to create a cause of action unrelated to a specific governmental action.

- B. The appellate procedures provided for by RCW 43.21C.060, which provides for an appeal to a local legislative body of any decision by a nonelected official conditioning or denying a proposal under authority of SEPA, are formally eliminated. The administrative appeal procedures provided by this part shall be construed consistently with RCW 43.21C.075, Chapter 36.70B RCW, and WAC 197-11-680.
- C. Appeals under the provisions of this part shall be limited solely to those actions and/or determinations listed below. No administrative appeals shall be allowed for other actions and/or determinations taken or made pursuant to this chapter (such as lead agency determination, a determination that a proposal is categorically exempt, scoping, draft EIS adequacy, etc.).
  - 1. Appeals of the responsible official's compliance with the provisions of SEPA, the SEPA rules, and this chapter with respect to the following:
    - a. Determination of nonsignificance;
    - b. Determination of significance.
- D. Except as provided in subsection E of this section, an appeal under this section shall consolidate any available SEPA appeal with a hearing or appeal on the underlying governmental action in a single simultaneous hearing before one hearing officer or body. The hearing or appeal shall be one at which the hearing officer or body will consider either the agency's decision or a recommendation on the proposed underlying governmental action. If no hearing or appeal on the underlying governmental action is otherwise provided, then no SEPA appeal is allowed under this section, except as allowed under subsection E of this section.
- E. The appeal of a determination of significance need not be consolidated with a hearing or appeal on the underlying governmental action.
- F. All SEPA appeals provided under this section shall be initiated by filing a written notice of SEPA administrative appeal with the responsible official, accompanied with the applicable appeal fee.
  - 1. The notice of appeal required by this section shall include, at a minimum:
    - a. The name and address of the party or agency filing the appeal;
    - b. An identification of the specific proposal and specific SEPA actions, omissions, conditions or determinations for which appeal is sought;
    - c. A statement of the particular grounds or reasons for the appeal.
  - 2. The responsible official shall arrange to conduct the SEPA appeal in conjunction with a hearing or appeal on the underlying permit or approval, where required to consolidate the SEPA appeal with a hearing on the underlying governmental action.
    - a. SEPA appeals shall be initiated and conducted in the manner set forth below:
      - i. An appeal to the issuance of a DNS or MDNS may be filed by any agency or aggrieved person as follows:
        - (a.) For proposals which may be approved by an administrative official without public hearing, an appeal shall be filed within fourteen days after notice that the determination has been made has been issued. Such SEPA appeal shall be heard in conjunction with the appeal of the underlying permit or approval, where such appeal is allowed; provided, that if no administrative appeal of the underlying permit or approval is otherwise provided for, and consolidation is

not required by subsection D of this section, an appeal of the DNS shall be heard and decided in an open record hearing by the hearing examiner. The decision of the hearing examiner on the SEPA appeal shall be final and not subject to further administrative appeal.

- (b.) For proposals which may only be approved by open record hearing or open record predecision hearing recommendation, an appeal shall be filed within fourteen days following the last day of any comment period required to be provided by this chapter, or where no comment period is required, then within fourteen days following the date of issuance or adoption of the DNS, and shall be heard and decided in the open record hearing in conjunction with the decision or recommendation on the underlying proposal. The decision of the hearing examiner on the SEPA appeal shall be final and not subject to further administrative appeal.
  - (c.) An appeal to a DS may be filed by the proposal applicant or sponsor within fourteen days of the issuance of the DS/scoping notice. The appeal shall be heard in an open record hearing and decided by the hearing examiner, whose decision shall be final and not subject to further administrative appeal.
  - (d.) The SEPA determination of the responsible official shall be entitled to substantial weight, and the appellant shall bear the burden to establish a violation of SEPA, the SEPA rules, or the provisions of this chapter.
  - (e.) A SEPA determination shall be deemed to be conclusively in compliance with SEPA, the SEPA rules, and the provisions of this chapter, unless a SEPA appeal is filed in accordance with this part.
  - (f.) Where it is determined that there exists a violation of SEPA, the SEPA rules, or the provisions of this chapter, the hearing examiner may remand the SEPA determination to the responsible official and, in such event, shall continue the open record hearing or open record predecision hearing until such time as a new or modified SEPA determination is issued under the provisions of this chapter. The decision of the hearing examiner to remand the SEPA determination shall be a final administrative decision not subject to further administrative appeal. Where applicable, such remand shall toll any period for project permit approval required by Chapter 36.70B RCW or other statutes, or otherwise required by other provisions of this code.
- b. For any appeal under this subsection, the city shall provide for a record that shall consist of the following:
- ii. Findings and conclusions;
  - iii. Testimony under oath; and
  - iv. A taped or written transcript.

#### G. Judicial Appeal.

1. Any available administrative appeal provided under this section must be utilized by an agency or aggrieved person prior to initiating judicial review of any SEPA action, omission or determination made or taken under this chapter.
2. A judicial appeal of any SEPA action, omission or determination made or taken under this chapter must be filed within the time limitations established by any statute or ordinance for appeal of the underlying governmental action.

3. The city shall give official notice of the date and place for commencing a judicial appeal, in accordance with WAC 197-11-680(5), where there is a statute or ordinance establishing a time limit for commencing judicial appeal.

### **6.88.173 Notice/Statute Of Limitations**

- A. The city, applicant for, or proponent of an action may publish a notice of action pursuant to RCW 43.21C.080 for any action.
- B. The form of the notice shall be substantially in the form provided in WAC 197-11-990. The notice shall be published by the city clerk, applicant or proponent pursuant to RCW 43.21C.080.

## **Part VIII. Definitions**

### **6.88.175 Purpose Of This Part And Adoption By Reference**

This part contains uniform usage and definitions of terms under SEPA. The city adopts the following sections of the SEPA rules by reference, as supplemented by YMC [6.88.030](#):

| WAC        |  |
|------------|--|
| 197-11-700 | Definitions                            |
| 197-11-702 | Act                                    |
| 197-11-704 | Action                                 |
| 197-11-706 | Addendum                               |
| 197-11-708 | Adoption                               |
| 197-11-710 | Affected tribe                         |
| 197-11-712 | Affecting                              |
| 197-11-714 | Agency                                 |
| 197-11-716 | Applicant                              |
| 197-11-718 | Built environment                      |
| 197-11-720 | Categorical exemption                  |
| 197-11-721 | Closed record appeal                   |
| 197-11-722 | Consolidated appeal                    |
| 197-11-724 | Consulted agency                       |
| 197-11-726 | Cost-benefit analysis                  |
| 197-11-728 | County/City                            |
| 197-11-730 | Decision maker                         |
| 197-11-732 | Department                             |
| 197-11-734 | Determination of nonsignificance (DNS) |
| 197-11-736 | Determination of significance (DS)     |
| 197-11-738 | EIS                                    |
| 197-11-740 | Environment                            |
| 197-11-742 | Environmental checklist                |
| 197-11-744 | Environmental document                 |
| 197-11-746 | Environmental review                   |
| 197-11-748 | Environmentally sensitive area         |
| 197-11-750 | Expanded scoping                       |
| 197-11-752 | Impacts                                |

|            |                                |
|------------|--------------------------------|
| 197-11-754 | Incorporation by reference     |
| 197-11-756 | Lands covered by water         |
| 197-11-758 | Lead agency                    |
| 197-11-760 | License                        |
| 197-11-762 | Local agency                   |
| 197-11-764 | Major action                   |
| 197-11-766 | Mitigated DNS                  |
| 197-11-768 | Mitigation                     |
| 197-11-770 | Natural environment            |
| 197-11-772 | NEPA                           |
| 197-11-774 | Nonproject                     |
| 197-11-775 | 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 |

## **Part IX. Categorical Exemptions**

### **6.88.180 Adoption By Reference**

The city adopts by reference the following sections of the SEPA rules, as supplemented in this chapter, including YMC [6.88.070](#) (Flexible thresholds for categorical exemptions) and [6.88.080](#) (Use of exemptions):

|            |                                      |
|------------|--------------------------------------|
| WAC        |                                      |
| 197-11-800 | Categorical exemptions               |
| 197-11-880 | Emergencies                          |
| 197-11-890 | Petitioning DOE to change exemptions |
| 197-11-908 | Critical areas                       |

## **Part X. Agency Compliance**

### **6.88.185 Purpose Of This Part And Adoption By Reference**

This part contains rules for agency compliance with SEPA, including rules for charging fees under the SEPA process, designating environmentally sensitive areas, listing agencies with



environmental expertise, selecting the lead agency, and applying these rules to current agency activities. The city adopts the following sections by reference, as supplemented in this chapter:

#### WAC

|            |  |
|------------|--|
| 197-11-900 | Purpose of this part   |
| 197-11-902 | Agency SEPA policies   |
| 197-11-916 | Application to ongoing actions   |
| 197-11-920 | Agencies with environmental expertise  |
| 197-11-922 | Lead agency rules  |
| 197-11-924 | Determining the lead agency  |
| 197-11-926 | Lead agency for governmental proposals   |
| 197-11-928 | Lead agency for public and private proposals   |
| 197-11-930 | Lead agency for private projects with one agency with jurisdiction   |
| 197-11-932 | Lead agency for private projects requiring licenses from more than one agency, when one of the agencies is a county/city   |
| 197-11-934 | Lead agency for private projects requiring licenses from a local agency, not a county/city, and one or more state agencies |
| 197-11-936 | Lead agency for private projects requiring licenses from more than one state agency  |
| 197-11-938 | Lead agencies for specific proposals   |
| 197-11-940 | Transfer of lead agency status to 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   |

#### **6.88.200 Fees**

- A. Threshold Determination. For every environmental checklist the city will review when it is lead agency, the city shall collect a fee established in YMC [15.26.010](#) from the proponent of the proposal prior to undertaking the threshold determination.
- B. Environmental Impact Statement.
  1. When the city is the lead agency for a proposal requiring an EIS and the responsible official determines that the EIS shall be prepared by employees of the city, the city may charge and collect a reasonable fee from any applicant to cover costs incurred by the city in processing the EIS.
  2. The responsible official may determine that the city will contract directly with a consultant for preparation of an EIS, or a portion of the EIS, for activities initiated by some persons or entity other than the city and may bill such costs and expenses directly to the applicant. The city may require the applicant to post bond or otherwise ensure payment of such costs. Such consultants shall be selected by mutual agreement of the city and applicant.
  3. If a proposal is modified so that an EIS is no longer required, the responsible official shall refund any fees collected under subsection (B)(1) or (2) of this section which remain after incurred costs are paid.
- C. The city may collect a reasonable fee from an applicant to cover the cost of meeting the public notice requirements of this chapter relating to the applicant's proposal.

D. The city may charge any person for copies of any document prepared under this chapter, and for mailing the document, in a manner provided by Chapter 42.17 RCW.

### **6.88.205 Effective Date**

The effective date of this chapter is October 1, 1984.

### **6.88.220 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 XI. Forms**

### **6.88.230 Adoption By Reference**

The city adopts the following forms and sections of the SEPA rules by reference:

WAC

|            |   |
|------------|---|
| 197-11-960 | Environmental checklist                               |
| 197-11-965 | Adoption notice                                       |
| 197-11-970 | Determination of nonsignificance (DNS)                |
| 197-11-980 | Determination of significance and scoping notice (DS) |
| 197-11-985 | Notice of assumption of lead agency status            |
| 197-11-990 | Notice of action                                      |