

ORIGINAL

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09/17/84

ORDINANCE NO. 1210

AN ORDINANCE OF THE CITY OF REDMOND, WASHINGTON; RELATING TO ENVIRONMENTAL GOALS AND POLICIES; ADOPTING RULES FOR THE IMPLEMENTATION OF SEPA; REPEALING CHAPTER 20F.30 AND SECTION 20F.20.200 OF THE REDMOND MUNICIPAL CODE AND COMMUNITY DEVELOPMENT GUIDE; ADDING A NEW CHAPTER 20F.30 AND SECTION 20F.20.200; DGA-84-8 AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the State Environmental Policy Act (SEPA), Chapter 43.21C RCW, sets forth an environmental policy for Washington State and requires that the environmental impacts of proposals be analyzed and, where appropriate, mitigated, and

WHEREAS, SEPA applies to state agencies, counties and municipal and public corporations, and

WHEREAS, SEPA has been amended to require the State Department of Ecology to issue new uniform statewide rules for carrying out SEPA, and

WHEREAS, the City is required to adopt SEPA policies and procedures that are consistent with the SEPA rules adopted by the Department of Ecology in Chapter 197-11 WAC and may adopt by reference any or all of the provisions of those rules and the model ordinance adopted by the Department of Ecology in Chapter 173-806-WAC, and

WHEREAS, the City has provided public notice and opportunity for public comment as part of the process for adopting its SEPA procedures and formally designating its SEPA policies, now, therefore,

THE CITY COUNCIL OF THE CITY OF REDMOND, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Chapter 20F.30, from Sections 20F.30.010 through and including 20F.30.180, of the Redmond Municipal Code and Community Development Guide are hereby repealed and a new Chapter 20F.30 is added to read as follows:

20F.30.000 ENVIRONMENTAL IMPACT PROCEDURES

20F.30.010 PURPOSE.

The purposes of this chapter are to establish procedures for implementing the State Environmental Policy Act (SEPA), RCW 43.21C, as amended, to provide

environmental information to City decision makers, to create a process that is efficient, effective and promotes certainty with respect to the requirements of SEPA and integrates SEPA procedures with decision making.

20F.30.020 SCOPE.

It is the intent that compliance with these procedures and requirements constitutes compliance with SEPA.

20F.30.030 ADOPTION BY REFERENCE. The City adopts the following sections of Chapter 197-11 WAC, as now existing or hereinafter amended, by reference:

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

20F.30.040 ADDITIONAL DEFINITIONS. In addition to those definitions contained within WAC 197-11-700 through 799, when used in this chapter the following terms shall have the following meanings, unless the content indicates otherwise:

.30.040(05) "Department" - means any division, subdivision or organizational unit of the City established by ordinance, rule or order.

.30.040(10) "SEPA Rules" - means Chapter 197-11 WAC adopted by the Department of Ecology.

.30.040(15) "Early notice" - means the City's response to an applicant stating whether it considers issuance of the determination of significance likely for the applicant's proposal.

20F.30.050 DESIGNATION OF RESPONSIBLE OFFICIAL.

For those proposals for which the City is a lead agency, the responsible official shall be the City of Redmond Technical Committee as defined in Section 20F.10.100 TECHNICAL COMMITTEE. For all proposals for which the City is a lead agency, the Technical Committee shall make the threshold determination, supervise scoping and preparation of any required EIS and perform any other functions assigned to the lead agency or responsible official by those sections of the SEPA rule that have been adopted by reference.

20F.30.060 LEAD AGENCY DETERMINATION AND RESPONSIBILITIES.

The responsible official shall determine the lead agency for that proposal under WAC 197-11-050 and WAC 197-11-922 through 197-11-940, unless the lead agency has been previously determined or is aware that another agency is in the process of determining the lead agency.

20F.30.070 CATEGORICAL EXEMPTIONS AND THRESHOLD DETERMINATIONS -- ADOPTION BY REFERENCE.

The City adopts the following sections of Chapter 197-11 WAC,

as now existing or hereinafter amended, by reference as supplemented in this chapter:

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.
197-11-360	Determination of significance (DS)/initiation of scoping.
197-11-390	Effect of threshold determination.

20F.30.080 CATEGORICAL EXEMPTIONS AND THRESHOLD DETERMINATIONS - TIME ESTIMATES. The time estimates contained in this section apply when the City processes licenses for all private projects and those governmental proposals submitted to the City by other agencies. The actual time may vary with the complexity of the project, availability of staff, cooperation of agencies with jurisdiction or expertise, etc. The time estimates contained herein shall not be construed to be mandatory. Days for the purpose of this section, shall mean a day upon which the City is open for business, except for 20F.30.080(10)(c) which shall mean a calendar day.

.30.080(05) Categorical Exemptions. The City will normally identify whether an action is categorically exempt within seven (7) days of receiving a completed application.

.30.080(10) Threshold Determinations.

- (a) The City will normally complete threshold determinations that can be based solely upon review of the environmental checklist for the proposal within fifteen (15) days of the date an applicant's adequate application and completed checklist are submitted.
- (b) When the Technical Committee requires further information from the applicant or consults with other agencies with jurisdiction:
 - . The City will normally request such further information within fifteen (15) days of receiving an adequate application and completed environmental checklist.
 - . The City will normally wait no longer than fifteen (15) days for a consulted agency to respond.
 - . The responsible official will normally complete the threshold determination within fifteen (15) days of receiving the requested information from the applicant or the consulted agency.
- (c) When the City must initiate further studies, including field investigations, to obtain the information to make the threshold determination, the City will normally complete the

studies within thirty (30) days of receiving an adequate application and a completed checklist.

- (d) The City will normally complete threshold determinations on actions where the applicant recommends in writing that an EIS be prepared, because of the probable significant adverse environmental impacts described in the application, within fifteen (15) days of receiving an adequate application and completed checklist.
- (e) The Technical Committee will normally respond to a request for early notice within ten (10) days. The threshold determination will normally be made within fifteen (15) days of receipt of the changed or clarified proposal, environmental checklist and/or permit application.

20F.30.090 CATEGORICAL EXEMPTIONS -- ADOPTION BY REFERENCE. The City adopts the following rules for categorical exemption of Chapter 197-11, as now existing or hereinafter amended, by reference, as supplemented in this chapter:

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

20F.30.100 CATEGORICAL EXEMPTIONS - DETERMINATION.

.30.100(05) Exemptions - When the City receives an application for a license or, in the case of governmental proposals a department initiates a proposal, the Technical Committee shall determine whether the license and/or the proposal is exempt. The determination that a proposal is exempt shall be final and not subject to administrative review. If a proposal is exempt, none of the procedural requirements of this chapter shall apply to the proposal.

.30.100(10) Defined - When determining whether or not a proposal is exempt the responsible official shall make certain the proposal is properly defined and shall identify the governmental license required. If a proposal includes exempt and nonexempt actions, the responsible official shall determine the lead agency even if the license application that triggers the consideration is exempt.

.30.100(15) Split Actions - If a proposal includes both exempt and nonexempt actions, the City may authorize exempt actions prior to compliance with the procedural requirements of this chapter, except that:

- (a) The City shall not give authorization for:
 - . Any nonexempt action;
 - . Any action that would have an adverse environmental impact; or
 - . Any action that would limit the choice of reasonable alternatives.

- (b) The City may withhold approval of an exempt action that would lead to modification of the physical environment, when such modification would serve no purpose if the nonexempt actions were not approved, and
- (c) The City may withhold approval of exempt actions that would lead to substantial financial expenditures by a private applicant when the expenditures would serve no purpose if the nonexempt actions were not approved.

20F.30.110 THRESHOLD DETERMINATION - REVIEW AT CONCEPTUAL STAGE. If the City's only action on a proposal is a decision on a building permit or other licenses 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.

30.110(05) Summittal Requirements - In addition to the environmental documents an applicant shall submit the following information for early environmental review:

- (a) All items required for submittal for site plan review as noted in City handouts.
- (b) Other information as the responsible official may determine.

20F.30.120 THRESHOLD DETERMINATIONS - ENVIRONMENTAL CHECKLIST. A completed environmental checklist shall be filed at the same time as an application for a permit, license, certificate or other approval not exempted by this chapter. The checklist shall be in the form of WAC 197-11-960 with such additions that may be required by the responsible official in accordance with WAC 197-11-906(4).

.30.120(05) EIS Agreement - A checklist is not needed if the City and the applicant agree an EIS is required, SEPA compliance has been completed, or SEPA compliance has been initiated by another agency.

.30.120(10) Lead Agency Determination - The City shall use the environmental checklist to determine the lead agency and, if the City is the lead agency for determining the responsible official and for making the threshold determination.

.30.120(15) Preparation - For private proposals, the applicant is required to complete the environmental checklist. The City may provide assistance as necessary. For City proposals the department initiating the proposal shall complete the environmental checklist for that proposal.

.30.120(20) Assistance - The City may decide to complete all or part of the environmental checklist for a private proposal, if either of the following occurs:

- (a) The City has technical information on a question or questions that is unavailable to the private applicant; or

- (b) The applicant has provided inaccurate information on previous proposals or on proposals currently under consideration.

20F.30.130 THRESHOLD DETERMINATIONS - MITIGATED DNS. The Technical Committee may issue a determination of nonsignificance (DNS) based on conditions attached to the proposal by the Technical Committee or on changes to, or clarifications of, the proposal made by the applicant.

.30.130(05) Early Notice - An applicant may request in writing early notice of whether a DS is likely. The request must:

- (a) Follow submission of a permit application and environmental checklist for a nonexempt proposal for which the department is lead agency; and
- (b) Precede the City's actual threshold determination for the proposal.

.30.130(10) Response - The Technical Committee's response to the request for early notice shall:

- (a) State whether the City currently considers issuance of a DS likely and, if so, indicate the general or specific areas of concern that are leading the City to consider a DS; and
- (b) State that the applicant may change or clarify the proposal to mitigate the indicated impacts, and may revise the environmental checklist and/or permit application as necessary to reflect the changes or clarifications.

.30.130(15) Revisions - When an applicant submits a changed or clarified proposal, along with a revised environmental checklist, the City shall base its threshold determination on the changed or clarified proposal.

- (a) If the City indicated specific mitigation measures in its response to the request for early notice, and the applicant changed or clarified the proposal to include those specific mitigation measures, the City shall issue and circulate a determination of nonsignificance if the City determines that no additional information or mitigation measures are required.
- (b) If the City indicated areas of concern, but did not indicate specific mitigation measures that would allow it to issue a DNS, the City shall make the threshold determination, issuing a DNS or DS as appropriate.
- (c) The applicant's proposed mitigation measures, clarifications, changes or conditions must be in writing and must be specific.
- (d) Mitigation measures which justify issuance of a mitigated DNS may be incorporated in the DNS by reference to agency staff reports, studies or other documents.

.30.130(20) Action - The City shall not act upon a proposal for which a mitigated DNS has been issued for fifteen (15) days after the date of issuance.

.30.130(25) Mitigation Compliance - Mitigation measures incorporated in the mitigated DNS shall be deemed conditions of approval of the licensing decision and may be enforced in the same manner as any term or condition of the permit or enforced in any matter specifically prescribed by the City. Failure to comply with the designated mitigation measures shall be grounds for suspension and/or revocation of any license issued.

.30.130(30) Tentative Decisions - If the City's tentative decision on a permit or approval does not include mitigation measures that were incorporated in a mitigation DNS for the proposal, the City should evaluate the threshold determination to assure consistency with WAC 197-11-340(3)(a) relating to the withdrawal of a DNS.

.30.130(30) Previous Responses - The City's written response under subsection .30.130(05) Early Notice shall not be construed as a determination of significance. In addition, preliminary discussion of clarification 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.

20F.30.140 ENVIRONMENTAL IMPACT STATEMENT (EIS) - ADOPTION BY REFERENCE. The City adopts the following sections of Chapter 197-11 WAC, as now existing or hereinafter amended, by reference as supplemented by this chapter:

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.

20F.30.150 EIS - PREPARATION. Preparation of draft and final EISs and SEISs shall be under the direction of the Technical Committee. Before the City issues an EIS, the Technical Committee shall be satisfied that it complies with this chapter and Chapter 197-11 WAC.

.30.150(05) Preparation Procedures - Preparation of an EIS is the responsibility of the Technical Committee. The Committee shall adopt rules for the method

of choosing and paying a consultant for any EIS preparation involving a private applicant as long as the applicant pays for the EIS. If the Technical Committee requires an EIS for a proposal and determines that someone other than the City will prepare the EIS, the Technical Committee shall notify the applicant immediately after completion of the threshold determination. The Technical Committee shall also notify the applicant of the City's procedure for EIS preparation, including approval of the draft and final EIS prior to distribution.

.30.150(10) 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.

20F.30.160 EIS - ADDITIONAL ELEMENTS. The Technical Committee may require additional elements as part of the environment for the purpose of EIS content, however, these elements do not add to the criteria for threshold determinations or perform any other function of purpose under this chapter.

20F.30.160 EIS - COMMENTING - ADOPTION BY REFERENCE. The City adopts the following sections of Chapter 197-11 WAC, as now existing or hereinafter amended, by reference as supplemented in this chapter:

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

20F.30.170 PUBLIC NOTICE. Whenever the City issues a threshold determination, or EIS requiring public notice, the City shall give public notice of the determination or the availability of the environmental documents and whether any public hearing will be held as follows:

.30.170(05) Cases of Notice and Availability - Public notice will be given on the following situations:

- (a) DNS involving another agency with jurisdiction.
- (b) DNS involving demolition of any structure or facility not exempted by 197-1-800(2)(f) or 197-11-880.
- (c) DNS involving issuance of clearing or grading permits not exempted under WAC Part Nine - Categorical Exemptions.

- (d) DNS under WAC 197-11-350(2) Early Notice.
- (e) DNS under WAC 197-11-350(3) Mitigated DNS.
- (f) DNS under WAC 197-11-360(4) change from DS to DNS.
- (g) Availability of a DEIS.

.30.170(10) Type of Notice - Under Section
~~.030.170(05)~~ notice will be given as follows:

- (a) Posting in City Hall, post office and library.
- (b) SEPA Register
- (c) Other methods as deemed necessary and appropriate by the Technical Committee

.30.170(15) DEIS Public Hearing and DS for Scoping -
 Whenever a public hearing on a DEIS is held notice shall be given.

30.170.(20) Type of Notice - Under Section
~~.30.170(15)~~ notice will be given as follows:

- (a) Posting on or near the property for site specific proposals.
- (b) Mailing to property owners within 300 feet for site specific proposals.
- (c) Posting in City Hall, post office and library.
- (d) In the case of a DS for scoping purposes, notice shall also be given to the SEPA Register.
- (e) Other methods as deemed necessary and appropriate by the Technical Committee.

.30.170(25) Scoping - Whenever the City issues a DS, the City shall state the scoping procedure for the proposal in the DS as required in WAC 197-11-408.

.30.170(30) Compensation and Assistance - The City may require an applicant to compensate the City for the costs of compliance with the public notice requirements for the applicant's proposal or provide services and materials to assist.

20F.30.180 CONSULTED AGENCY RESPONSIBILITIES. The Technical Committee 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 and reviewing of a draft EIS. The Technical Committee 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 departments of the City.

20F.30.190 USE OF EXISTING ENVIRONMENTAL DOCUMENTS - ADOPTION BY REFERENCE. The City adopts the following sections of Chapter 197-11 WAC, as now existing or hereinafter amended, by reference:

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

20F.30.200 SEPA DECISIONS -- ADOPTION BY REFERENCE.

The City adopts the following sections of Chapter 197-11 WAC, as now existing or hereinafter amended, by reference:

197-11-650	Purpose of this Part.
197-11-655	Implementaion.
197-11-660	Substantive authority and mitigation.
197-11-680	Appeals.
197-11-700	Definitions.

20.F.30.210 SEPA DECISIONS. The following bodies shall receive mitigated DNS's and draft and final EIS's prior to forwarding recommendations or making decisions.

Technical Committee
Hearing Examiner
Planning Commission
City Council

20F.30.220 SEPA DECISIONS -- SUBSTANTIVE AUTHORITY.

.30.220(05) Conditioning - The City may attach conditions to a license or approval for a proposal so long as:

- (a) Such conditions are necessary to mitigate specific adverse environmental impacts clearly identified in an environmental document prepared pursuant to this chapter; and
- (b) Such conditions are in writing; and
- (c) Such conditions are reasonable and capable of being accomplished; and
- (d) The City has considered whether other local, state or federal mitigation measures applied to the proposal are sufficient to mitigate the identified impacts; and
- (e) Such conditions are based on one or more policies in Section 20F.30.230 SEPA - POLICIES and cited in the permit, approval, license or other decision document.

.30.220(10) Denial - The City may deny a permit or approval for a proposal on the basis of SEPA so long as:

- (a) A finding is made that approving the proposal would result in probable significant adverse environmental impacts that are identified in a final EIS or final supplemental EIS; and

- (b) A finding is made that there are no reasonable mitigation measures are insufficient to mitigate the identified impact; and
- (c) The denial is based on one or more policies identified in Section 20F.30.230 SEPA-POLICIES and identified in writing in the decision document.

20F.30.230 SEPA - POLICIES. The City adopts the policies in the following City codes, ordinances, resolutions and plans, as now existing or hereinafter amended, by reference:

- (a) Chapter 43.21C. RCW STATE ENVIRONMENTAL POLICY ACT
- (b) SIX YEAR TRANSPORTATION IMPROVEMENT PROGRAM
- (c) TITLE 6 HEALTH AND SANITATION, REDMOND MUNICIPAL CODE
- (d) TITLE 7 ANIMALS, REDMOND MUNICIPAL CODE
- (e) TITLE 10 VEHICLES AND TRAFFIC, REDMOND MUNICIPAL CODE
- (f) TITLE 12 STREETS AND SIDEWALKS, REDMOND MUNICIPAL CODE
- (g) TITLE 13 WATER AND SEWERS, REDMOND MUNICIPAL CODE
- (h) TITLE 15 BUILDINGS AND CONSTRUCTION, REDMOND MUNICIPAL CODE
- (i) TITLE 20 COMMUNITY DEVELOPMENT GUIDE, REDMOND MUNICIPAL CODE

20F.30.240 SEPA APPEALS - Any interested person may appeal a threshold determination, adequacy of a final EIS and the conditions or denials of a requested action made by a non-elected City Official pursuant to the procedures set forth in Section 20F.20.200 APPEALS. No other SEPA appeals shall be allowed.

.30.240(05) Notice - Whenever there is a final action by the City Council for which compliance with SEPA is required and for which a statute or ordinance establishes a time limit for commencing judicial appeal, the City shall give official notice as required by WAC 197-11-680(5).

20F.30.260 DEFINITIONS--ADOPTION BY REFERENCE.

The City adopts the following sections of Chapter 197-11 WAC, as now existing or hereinafter amended, by reference, as supplemented in this chapter:

- 197-11-700 Definitions.
- 197-11-702 Act.
- 197-11-704 Action.
- 197-11-706 Addendum.
- 197-11-708 Adoption.
- 197-11-710 Affected tribe.
- 197-11-712 Affecting.
- 197-11-714 Agency.
- 197-11-716 Applicant.

197-11-718 Built environment.
 197-11-720 Categorical exemption.
 197-11-722 Consolidated appeal.
 197-11-724 Consulted agency.
 197-11-726 Cost-benefit analysis
 197-11-728 County/city.
 197-11-730 Decision maker.
 197-11-732 Department.
 197-11-734 Determination of non-
 significance (DNS).
 197-11-736 Determination of signifi-
 cance (DS).
 197-11-738 EIS.
 197-11-740 Environment.
 197-11-742 Environmental checklist.
 197-11-744 Environmental document.
 197-11-746 Environmental review.
 197-11-748 Environmentally sensitive
 area.
 197-11-750 Expanded scoping.
 197-11-752 Impacts.
 197-11-754 Incorporation by reference.
 197-11-756 Lands covered by water.
 197-11-758 Lead agency.
 197-11-760 License.
 197-11-762 Local agency.
 197-11-764 Major action.
 197-11-766 Mitigated DNS.
 197-11-768 Mitigation.
 197-11-770 Natural environment.
 197-11-772 NEPA.
 197-11-774 Nonproject.
 197-11-776 Phased review.
 197-11-778 Preparation.
 197-11-780 Private project.
 197-11-782 Probable.
 197-11-784 Proposal.
 197-11-786 Reasonable alternative.
 197-11-788 Responsible official.
 197-11-790 SEPA.
 197-11-792 Scope.
 197-11-793 Scoping.
 197-11-794 Significant.
 197-11-796 State agency.
 197-11-797 Threshold determination.
 197-11-799 Underlying governmental
 action.

20F.30.270 COMPLIANCE WITH SEPA -- ADOPTION BY REF-
ERENCE. The City adopts the following sections of
 Chapter 197-11 WAC, as now existing or hereinafter
 amended, by reference, as supplemented in this chap-
 ter:

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 pro-
 posals.
 197-11-930 Lead agency for private projects with
 one agency with jurisdiction.
 197-11-932 Lead agency for private projects requiring
 licenses from more than one agency, when
 one of the agencies is a county/city.

- 197-11-934 Lead agency for private projects requiring licenses from a local agency, not a county/city, and one or more state agencies.
- 197-11-936 Lead agency for private projects requiring licenses from more than one state agency.
- 197-11-938 Lead agencies for specific proposals.
- 197-11-940 Transfer of lead agency status to a state agency.
- 197-11-942 Agreements on lead agency status.
- 197-11-944 Agreements on division of lead agency duties.
- 197-11-946 DOE resolution of lead agency disputes.
- 197-11-948 Assumption of lead agency status.

20F.30.280 ENVIRONMENTALLY SENSITIVE AREAS. The DEVELOPMENT LIMITATIONS AREA map for areas designated Very Severe and the SHORELINE ENVIRONMENTS map of the Redmond Community Development Guide designate the location of environmentally sensitive areas within the City and are adopted by reference. For each environmentally sensitive area, the exemptions within WAC 197-11-800 that are inapplicable for that area are (1), (2)(d), (2)(e), (6)(a), (24)(a)-(g), and (25)(f)(i). Unidentified exemptions shall continue to apply within environmentally sensitive areas of the City.

.30.280(05) Lands Covered by Water - Certain exemptions do not apply on lands covered by water, and this remains true regardless of whether or not lands covered by water are mapped.

.30.280(10) Treatment - The City shall treat proposals located wholly or partially within an environmentally sensitive area no differently than other proposals under this chapter, making a threshold determination for all such proposals. The City shall not automatically require an EIS for a proposal merely because it is proposed for location in an environmentally sensitive area.

20F.30.290 FORMS - ADOPTION BY REFERENCE. The City adopts the following forms and sections of Chapter 197-11 WAC, as now existing or hereinafter amended, by reference:

- 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.

Section 2. Sections 20F.20.200(05) through and including 20F.20.200(25) of the Redmond Municipal Code and Community Development Guide are hereby repealed and a new Section 20F.20.200 is added to read as follows:

20F.20.200 APPEALS

.20.200(05) Purpose/Scope - The purpose of this Section is to provide for the review of decisions by the Technical Committee, other administrative officials, the Hearing Examiner, and

Design Review Board made in the course of interpreting and administering the Development Guide and the State Environmental Policy Act (RCW 43.21C). This Section shall not govern appeals of actions taken by the City on Shoreline Development Permit applications which shall be governed by RCW 90.58, the Shoreline Management Act of 1971, as amended.

.20.200(10) Right of Appeal - Any person adversely affected by any of the following actions shall have the right to appeal to the City Council as provided in this Section:

- (a) A final decision on a land use permit or other application for approval provided for by the Community Development Guide;
- (b) A written interpretation of any provision of the Community Development Guide.
- (c) Any other action for which a right of appeal is provided by another provision of the Community Development Guide or State Law.

.20.200(15) Time for Filing Appeals - All appeals filed pursuant to this Section must be filed in writing with the Department of Community Development within fourteen (14) days of the date of the decision appealed from.

.20.200(20) Form of Appeal - All appeals filed pursuant to this Section shall specify the error of law or fact, procedural error, or new evidence which could not have been reasonably available at the time of the public hearing or consideration of approval, which shall constitute the basis of the appeal.

.20.200(25) Procedure - On receipt of a timely written notice of appeal, with respect to an action giving rise to a right of appeal as provided in Section 20F.20.200(07) Right of Appeal, the Director of the Department of Community Development or his or her designee shall advise the City Council of the pendency of the appeal and request that a date for considering the appeal be established. In all cases except appeals from final decision of the Hearing Examiner the City Council shall have the option of directing that the appeal be heard before the Hearing Examiner who shall forward a recommendation to the City Council which shall take final action on the approval. Referral to the Hearing Examiner may be made by motion approved by a majority of the Councilmembers present at the time of voting. At the time of advising the City Council of the pendency of an appeal, the Department of Community Development shall make its recommendation to the City Council as to whether the appeal should be heard by the Hearing Examiner or the City Council. The recommendation and determination shall be based on relevant consideration including, but not limited to, the time expected to be required to hear the appeal and the need to create a full, formal record.

.20.200(30) Standard of Review -

- (a) An appeal of a final decision of the Hearing Examiner shall be based upon the record of the hearing conducted by the Hearing Examiner. Testimony or other evidence and information not presented to the Hearing Examiner shall not be considered unless the Council finds there is good reason to take additional evidence, in which case the matter shall be considered at a public hearing before the City Council, with notice given in the same manner as required for the hearing before the Hearing Examiner. In the event the City Council elects to conduct a public hearing and take new evidence, its decision shall be made de novo. In all other cases, the City Council shall uphold the decision of the Hearing Examiner unless, based upon the record, it is determined that the Hearing Examiner's decision is clearly erroneous.
- (b) In the cases of all appeals, other than appeals from a final decision of the Hearing Examiner, all relevant evidence shall be received during the hearing of the appeal and the decision shall be made de novo.
- (c) The decision of the administrative official or official body appealed from shall be accorded substantial weight, but may be reversed or modified by the City Council if, after considering all of the evidence in light of the applicable goals, policies, and provisions of the City Code and Community Development Guide, the City Council determines that a mistake has been made.

20.200(35) Record - For appeals decided de novo, the City shall provide for a record that shall consist of the following:

- (a) Findings and conclusions;
- (b) Testimony under oath; and
- (c) A taped or written transcript.

.20.200(40) Judicial Review - Limitation on Time for Filing Action - Exemption of Administrative Remedy - Unless otherwise provided by State Statute, all actions seeking review of a final action of the City, whether in the form of an appeal, declaratory judgment action, petition for writ of review or other extraordinary writ or in any other form shall be filed with the court within fourteen (14) days of the decision which is sought to be reviewed and otherwise shall be barred. No action to obtain judicial review may be commenced unless all rights of administrative appeal provided by the Development Guide or State Law have been exhausted. The cost of transcription of all records ordered certified by the court for such review shall be borne by the appellant.

Section 3. WAC's on File. The City Clerk shall maintain on file for public use and examination three (3)

copies of the Washington Administrative Code Sections referred to herein.

Section 4. Severability. If any section, sentence, clause or phrase of this ordinance, including any section adopted by reference, should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance or any other section adopted by reference.

Section 5. Effective Date. This ordinance, being an administrative act of the legislative body and adopting laws, rules and regulations mandated by State statute and policies already in existence, is not subject to referendum, and shall take effect five (5) days after passage and publication by posting as provided by law.

APPROVED:

Doreen Marchione
MAYOR, DOREEN MARCHIONE

ATTEST/AUTHENTICATED:

Doris A. Schaible
CITY CLERK, DORIS A. SCHAIBLE

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY:

BY Barbara Heavry

FILED WITH THE CITY CLERK: 9/18/84
PASSED BY THE CITY COUNCIL: 9/25/84
POSTED: 9/27/84
EFFECTIVE DATE: 10/02/84
ORDINANCE NO. 1210