

TMC TITLE 18C

STATE ENVIRONMENTAL POLICY ACT (SEPA)

CHAPTERS:

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CHAPTER 18C.10

AUTHORITY

18C.10.010 Purpose

The City of Tenino adopts this Title under the State Environmental Policy Act (SEPA) [RCW 43.21C.120](#), and SEPA rules [WAC 197-11-904](#). The SEPA rules of [Chapter 197-11 WAC](#) must be used in conjunction with this Title.

CHAPTER 18C.20

GENERAL REQUIREMENTS

Sections:

[18C.20.010](#) Purpose of this Chapter and Adoption by Reference.

[18C.20.020](#) Additional Definitions.

[18C.20.030](#) Designation of Responsible Official.

[18C.20.040](#) Lead Agency Determination and Responsibilities.

[18C.20.050](#) Transfer of Lead Agency Status to a State Agency.

[18C.20.060](#) Additional Timing Considerations.

18C.20.010 Purpose of this Chapter and Adoption by Reference.

This Chapter contains the basic requirements that apply to the SEPA process. The City adopts the following sections of Chapter 197-11 of the Washington Administrative Code by reference:

WAC

[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 and regulations.

[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 GMA/SEPA 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 actions.

[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.

18C.20.020 Additional Definitions.

In addition to those definitions contained within WAC 197-11-700 through 197-11-799, and WAC 197-11-220, when used in this Title, the following terms shall have the following meanings, unless the context indicates otherwise:

CITY. The City of Tenino.

COUNTY. Thurston County.

EARLY NOTICE. The City's response to an applicant stating whether the City considers issuance of a determination of significance (DS) likely for the applicant's proposal.

ORDINANCE. This Title, and may include any City ordinance, resolution, or other procedure used by Tenino to adopt regulatory requirements.

SEPA RULES. Chapter 197-11 WAC adopted by the Department of Ecology.

18C.20.030 Designation of Responsible Official.

- A. For proposals for which the City is the lead agency, the responsible official shall be the mayor or mayor's designee.
- B. 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 EIS, and perform any other functions assigned to the "lead agency" or "responsible official" by those sections of the SEPA rules adopted by reference in this chapter.
- C. The City shall retain all documents required by the SEPA rules, and shall make them available to the public in accordance with [Chapter 42.17 RCW](#).

18C.20.040 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 WAC 197-11-050, 197-11-253, and WAC 197-11-922 through 197-11-940, 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 the lead agency for a proposal, the department receiving the application shall determine the responsible official who shall supervise compliance with the threshold determination requirements and if an EIS is necessary, shall supervise preparations of the EIS.
- C. 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 it finds it to be required under criteria of WAC 197-11-600. In some cases, the City may conduct supplemental environmental review under WAC 197-11-600.
- D. If the City or any of its departments receives a lead agency determination made by another agency that appears to it to be inconsistent with the criteria of WAC 197-11-922 through 197-11-940, it may object to the determination. Any objection must be made to the agency originally making the determination and be resolved within 15 days of receipt of the determination, or the City can, within such 15-day period, petition the Department of Ecology

for a lead agency determination under WAC 197-11-946. Any such petition on behalf of the City shall be initiated by the responsible official.

- E. Departments of the City are authorized to make agreements as to lead agency status or shared lead agency duties for a proposal under WAC 197-11-942 and 197-11-944.
- F. Any department making a lead agency determination for a private project shall require sufficient information from the applicant to identify which other agencies have jurisdiction over the proposal.
- G. When the City of Tenino is lead agency for a MTCA remedial action, the Department of Ecology shall be provided an opportunity under WAC 197-11-253(5) to review the environmental documents prior to public notice being provided. If the SEPA and MTCA documents are issued together with one public comment period under WAC 197-11-253(6), the City shall decide jointly with Ecology who receives the comment letters and how copies of the comment letters will be distributed to the other agency.

18C.20.050 Transfer of Lead Agency Status to a State Agency.

- A. For any proposal for a private project where the City would be the lead agency and for which one or more state agencies have jurisdiction, the City's responsible official may transfer the lead agency duties to the state agency. The state agency with jurisdiction appearing first on the priority listing in WAC 197-11-936 shall be the lead agency and the City shall be an agency with jurisdiction.
- B. To transfer lead agency duties, the City's responsible official must transmit a notice of the transfer together with any relevant information available on the proposal to the appropriate state agency with jurisdiction. The responsible official shall also give notice of the transfer to the private applicant and any other agencies with jurisdiction over the proposal.

18C.20.060 Additional Timing Considerations.

For nonexempt proposals, the final EIS for the proposal shall accompany the City staff recommendations to any appropriate advisory body, such as the planning commission, or City Council.

CHAPTER 18C.30

CATEGORICAL EXEMPTIONS AND THRESHOLD DETERMINATIONS

Sections:

[18C.30.010](#) Purpose of this Chapter and Adoption by Reference.

[18C.30.020](#) Flexible Thresholds for Categorical Exemptions.

[18C.30.030](#) Use of Exemptions.

[18C.30.040](#) Environmental Checklist.

[18C.30.050](#) Mitigated Determination of Non-significance (DNS).

18C.30.010 Purpose of this Chapter and Adoption by Reference.

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

WAC

[197-11-300](#) Purpose of this part, relating to categorical exemptions and threshold determinations.

[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.

18C.30.020 Flexible Thresholds for Categorical Exemptions.

- A. The City of Tenino establishes the following exempt levels for minor new construction not occurring in a critical area or associated buffer that are less than:
1. For residential dwelling units in WAC 197-11-800(1)(b)(i): up to four dwelling units.
 2. For agricultural structures in WAC 197-11-800(1)(b)(ii): those containing up to 10,000 square feet.
 3. For office, school, commercial, recreational, service or storage buildings in WAC 197-11-800(1)(b)(iii): up to 4,000 square feet and up to 20 parking spaces.
 4. For parking lots in WAC 197-11-800(1)(b)(iv): up to 20 parking spaces.
 5. For landfills and excavations in WAC 197-11-800(1)(b)(v): up to 300 cubic yards, using the following lot size sliding scale:

- a. Up to 0.25-acre lot = 50 Cubic Yards.
 - b. 0.25 - 0.5-acre lot = 100 Cubic Yards.
 - c. 0.5 - 1.0-acre lot = 150 Cubic Yards.
 - d. 1.0 - 2.0-acre lot = 200 Cubic Yards.
 - e. Over 2.0-acre lot = 300 Cubic Yards.
- B. In addition to the exempt levels established in TMC 18C.30.020A, the following proposed actions shall be categorically exempt from threshold determination and EIS requirements subject to the rules and limitations on categorical exemptions contained in [WAC 197-11-305](#); [WAC 197-11-800\(1\)\(b as modified above\)](#); (2); (3); (4); (5); (6); (7); (11)(b); (12); (13); (14); (15); (16); (17); (18); (19); (20); (21); (22); (23); (24)(b), (d), (g), (h), (i), and (j); and (25).

18C.30.030 Use of Exemptions.

- A. Each department within the City which receives an application for a license or, in the case of governmental proposals, the department which initiates the proposal, shall determine whether the license and/or proposal is exempt. The department's 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 applies to the proposal. The City shall not require completion of an environmental checklist for an exempt proposal.
- B. In determining whether or not a proposal is exempt, the department shall make certain the proposal is properly defined and shall identify the governmental licenses required by [WAC 197-11-060](#). If a proposal includes exempt and also nonexempt actions, the department shall determine the lead agency, even if the license application which triggered the department's consideration is exempt.
- C. If a proposal includes both exempt and nonexempt actions, the City may authorize the exempt actions to proceed prior to compliance with the procedural requirements of this chapter, except that:
- C. The City 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 reasonable alternatives (see [WAC 197-11-070](#));
- D. A department may withhold approval of an exempt action which would lead to modification of the physical environment, when such modification would serve no purpose if nonexempt action(s) subsequently were not approved; and
- E. A department may withhold approval of exempt actions which would lead to substantial financial expenditure by a private applicant when the expenditures would serve no purpose if nonexempt action(s) subsequently were not approved.

18C.30.040 Environmental Checklist.

- A. A completed environmental checklist in the form provided in [WAC 197-11-960](#) or the City Environmental Checklist, shall be filed at the same time as an application for a permit, license, certificate, or other approval not specifically exempted in this chapter, provided:
- 1. A checklist is not needed if the City and applicant agree an EIS is required; or
 - 2. If SEPA compliance has been completed; or

3. If SEPA compliance has been initiated by another agency.
- B. The City shall use the environmental checklist to determine the lead agency and, if the City is the lead agency, to determine the responsible official and make the threshold determination.
- C. For private proposals, the City will require the applicant to complete the environmental checklist and provide assistance as necessary. For City proposals, the department initiating the proposal shall complete the environmental checklist for that proposal.
- D. The City may require that it, and not the private applicant, will complete all or part of the environmental checklist for a private proposal, if either of the following occurs:
 1. The City has technical information on a question or questions that is unavailable to the private applicant; or
 2. The applicant has provided inaccurate information on previous proposals or on proposals currently under consideration. In addition to the established environmental review fee, an environmental checklist preparation fee shall also be collected to complete the environmental checklist.

18C.30.050 Mitigated Determination of Non-significance (DNS).

- A. As provided in this section and in [WAC 197-11-350](#), the responsible official may issue a determination of non-significance (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 department 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 within 15 working days. The response will:
 1. Be written;
 2. State whether the City currently considers issuance of a DS likely and, if so, indicate the general or specific area(s) 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. As much as possible, the City should 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 changed or clarified proposal and should make the determination within 15 days of receiving the changed or clarified proposal:
 1. 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 DNS under [WAC 197-11-340\(2\)](#).
 2. 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.

3. The applicant's proposed mitigation measures (clarifications, changes or conditions) must be in writing and must be specific. For example, proposals to "control noise" or "prevent stormwater runoff" are inadequate, whereas proposals to "muffle machinery to X decibel" or "construct 200-foot stormwater retention pond 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 is issued under WAC 197-11-340(2), requiring a 14-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) (withdrawal of DNS).
 - 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.

CHAPTER 18C.40

ENVIRONMENTAL IMPACT STATEMENT (EIS)

Sections:

[18C.40.010](#) Purpose of this Chapter and Adoption by Reference.

[18C.40.020](#) Preparation of EIS – Additional Considerations.

[18C.40.030](#) Additional Elements that May be Covered in an EIS.

18C.40.10 Purpose of this Chapter and Adoption by Reference.

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

WAC

[197-11-400](#) Purpose of EIS.

[197-11-402](#) General requirements of an EIS.

[197-11-405](#) EIS types.

[197-11-406](#) EIS timing.

[197-11-408](#) Scoping.

[197-11-410](#) Expanded scoping. (optional)

[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.

18C.40.020 Preparation of EIS – Additional Considerations.

- A. Preparation of draft and final EISs (DEIS and FEIS) and draft and final supplemental EISs (SEIS) is the responsibility of the applicant or department under the supervision 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.
- B. The DEIS and FEIS or draft and final SEIS shall be prepared by City staff, the applicant, or by a consultant selected by the City or the applicant. 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 and may require the applicant to make specific investigations. However, the applicant is not required to supply information that is not required under this ordinance or that is being requested from another agency. This does not apply to information the City may request under another ordinance or statute.

18C.40.030 Additional Elements that May be Covered in an EIS.

- A. The following additional elements are part of the environment for the purpose of EIS content, but do not add to the criteria for threshold determinations or perform any other function or purpose under this chapter:
 - 1. Economy;
 - 2. Social policy analysis;
 - 3. Cost-benefit analysis;
 - 4. Consistency with the City's adopted comprehensive plan, capital facilities plan, and other adopted plans, regulations and standards;
 - 5. The criteria for determining whether the proposal is consistent with adopted plans, policies, regulations, and standards are:
 - 1. The type of land use allowed,
 - 2. The level of development allowed,
 - 3. The adequacy of public infrastructure, and
 - 4. The characteristics of the proposed development.
- B. The lead agency may include, in an EIS or appendix, the analysis of any impact relevant to the agency's decision, whether or not environmental. The inclusion of such analysis may be based upon comments received during the scoping process. The provision for combining documents may be used (WAC 197-11-640). The EIS shall comply with the format requirements of this part. The decision whether to include such information and the adequacy of any such additional analysis shall not be used in determining whether an EIS meets the requirements of SEPA.

CHAPTER 18C.50

COMMENTING

Sections:

[18C.50.010](#) Adoption by Reference.

[18C.50.020](#) Public Notice.

[18C.50.030](#) Designation of Official to Perform Consulted Agency Responsibilities for City.

18C.50.010 Adoption by Reference.

This Chapter 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 by reference, as supplemented in 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.

18C.50.020 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 permit(s) or approval(s) required for the proposal pursuant to TMC Chapter 18.40 Procedures for Land Use Permits and Decisions.
- B. Whenever the City issues a DNS under [WAC 197-11-340\(2\)](#), an MDNS under [WAC 197-11-350](#), or a DS under [WAC 197-11-360\(3\)](#), the City shall give public notice pursuant to Type II procedures described in TMC 18.18.40.090 Process II, Administrative Action, as follows:
 1. If an environmental document is issued concurrently with the notice of application, the public notice requirements for the notice of application in [RCW 36.70B.110\(4\)](#) will suffice to meet the SEPA public notice requirements in [WAC 197-11-510\(1\)](#).
 2. If no public notice is otherwise 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. Posting notice in a conspicuous place at City Hall.

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 and in the public notice.
- C. If a DNS is issued using the optional DNS process, the public notice requirements for a notice of application in RCW 36.70B.110 (4) as supplemented by the requirements in WAC 197-11-355 will suffice to meet the SEPA public notice requirements in WAC 197-11-510(b).
- D. 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 license;
 2. Posting the property, for site-specific proposals;
 3. Publishing notice in a newspaper of general circulation in Clark County;
 4. Notifying public or private groups which have expressed interest in a certain proposal or in the type of proposal being considered; and
 5. Posting public notice in a conspicuous place at City Hall and two other prominent locations within the City limits.
- E. The City may require an applicant to complete the public notice requirements. However, the applicant shall reimburse the City for costs directly associated with this requirement.

18C.50.030 Designation of Official to Perform Consulted Agency Responsibilities for City.

- A. The responsible official 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 or reviewing a draft EIS.
- B. The responsible official shall be responsible for the City's compliance with WAC 197-11-550 whenever the City is a consulted agency and the responsible official 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.

CHAPTER 18C.60

USING EXISTING ENVIRONMENTAL DOCUMENTS

Sections:

18C.60.010 Purpose of this Chapter and Adoption by Reference.

18C.60.010 Purpose of this Chapter and Adoption by Reference.

This Chapter contains rules for using and supplementing existing environmental documents prepared under SEPA or National Environmental Policy Act (NEPA), for the City's own environmental compliance. The City adopts the following sections of 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 Agenda – Procedures.

197-11-630 Adoption – Procedures.

197-11-635 Incorporation by reference – Procedures.

197-11-640 Combining documents.

CHAPTER 18C.70

SEPA AND AGENCY DECISIONS

Sections:

[18C.70.010](#) Purpose of this Chapter and Adoption by Reference.

[18C.70.020](#) Substantive Authority.

[18C.70.030](#) Appeals.

[18C.70.040](#) Notice / Statute of Limitations.

18C.70.010 Purpose of this Chapter and Adoption by Reference.

This Chapter contains rules (and policies) for SEPA's substantive authority, such as decisions to mitigate or reject proposals as a result of SEPA. This article also contains procedures to appeal SEPA determinations to agencies or the courts. The City adopts the following sections of SEPA rules 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.

18C.70.020 Substantive Authority.

- A. The policies and goals set forth in this chapter are supplementary to those in the existing authorization of the City.
- B. The City may attach conditions to permit or approval for a proposal so long as:
 1. Such conditions are necessary to mitigate specific, probable, significant, and adverse environmental impacts; and
 2. Such conditions are in writing; and
 3. The mitigation measures included in such conditions are reasonable and capable of being accomplished; and
 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 (D) below and are cited in the license or other decision document.
- C. The City may deny a permit or approval for any proposal on the basis of SEPA so long as:
 1. A finding has been made by the responsible official that the proposal, if approved, would result in probable, significant, adverse environmental impacts identified in a final EIS, or final supplemental EIS prepared pursuant to this chapter; and
 2. A finding is made that there are no reasonable mitigation measures capable of being accomplished sufficient to mitigate the identified impact; and

3. The denial is based on one or more policies stated in subsection (D) below and which are identified in writing in the decision document.
- D. The City designates and adopts the following policies as the basis for the City's exercise of authority pursuant to this section:
1. The City shall use all practicable means, consistent with other essential considerations of City and state policy, to improve and coordinate plans, functions, programs, and resources to the end that the state and City and their citizens may:
 - a. Fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;
 - b. Assure for all people of Washington the state of and/or City 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 and local heritage;
 - e. Maintain, whenever 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 City adopts by reference the policies in the following City plans, policies, regulations, standards and resolutions:
 - a. The currently adopted Tenino Municipal Code and amendments thereof;
 - b. Tenino Capital Facilities Plan.

18C.70.030 Appeals.

- A. The City of Tenino establishes the following administrative appeal procedures under RCW 43.21C.075 and WAC 197-11-680:
1. Any appeal of an action taken by the City of Tenino shall be made in accord with Chapter 18.40 TMC, Process II Appeal Authority. Where this section or Chapter 18.40 TMC is silent or ambiguous, the City shall consult WAC 197-11-680 to determine appropriate appeals procedure.
 2. Unless otherwise directed by WAC 197-11-680, the City shall attempt to consolidate appeals of SEPA substantive or procedural determinations and of local land use decisions.
 3. The time limit for commencing an appeal of a City decision shall be 14 days from the effective date of the decision. A person with standing may appeal a City decision at any time prior to the end of the effective date of a decision.
 4. An appeal of the intermediary steps under SEPA (e.g., lead agency determination, scoping or draft EIS adequacy) shall not be allowed [WAC 197-11-680(3)(a)(ii)].
- B. For any appeal under this subsection, the City shall provide for a record that shall consist of:

1. Findings and conclusions;
 2. Testimony under oath; and
 3. A taped or written transcript.
- C. The City may require the appellant to provide the electronic transcript.
- D. The procedural determination by the City's responsible official shall carry substantial weight in any appeal proceeding.
- E. The City shall give official notice under WAC 197-11-680(5) whenever it issues a permit or approval for which a statute or ordinance establishes a time limit for commencing judicial appeal.

18C.70.040 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, County auditor, applicant or proponent pursuant to [RCW 43.21C.080](#).

CHAPTER 18C.80

DEFINITIONS

Sections:

[18C.80.010](#) Purpose of this Chapter and Adoption by Reference.

18C.80.010 Purpose of this Chapter and Adoption by Reference.

This Chapter contains uniform usage and definitions of terms under SEPA. The City adopts the following sections by reference:

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.
- [197-11-750](#) 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.

CHAPTER 18C.90

CATEGORICAL EXEMPTIONS

Sections:

[18C.90.010](#) Adoption by Reference.

18C.90.010 Adoption by Reference.

The City adopts by reference the following rules for categorical exemptions, as supplemented in this ordinance, including TMC 18C.30.020 (Flexible thresholds) and TMC 18C.30.030 (Use of exemptions):

WAC:

1. 197-11-800 Categorical exemptions (listed in TMC 18C.30.020 and TMC 18C.30.030).
2. 197-11-880 Emergencies. Actions that must be undertaken immediately or within a time too short to allow full compliance with this chapter, to avoid an imminent threat to public health or safety, to prevent an imminent danger to public or private property, or to prevent an imminent threat of serious environmental degradation, shall be exempt. Agencies may specify these emergency actions in their procedures.
3. 197-11-890 Petitioning DOE to change exemptions.
 - a. Except for the preceding section, agencies may create additional exemptions in their procedures only after receiving approval from the department of ecology under this section.
 - b. An agency may petition the department to adopt additional exemptions or to delete existing exemptions by amending these rules. The petition shall be made under RCW 34.05.330. The petition shall state the language of the requested amendment, the petitioning agency's views on the environmental impacts of the activities covered by the proposed amendment, and the approximate number of actions of this type which have come before the petitioning agency over a particular period of time. The department shall consider and decide upon a petition within sixty days of receipt. If the determination is favorable, the department shall begin rule making under chapter 34.05 RCW. Any resulting amendments will apply either generally or to specified classes of agencies. Affected agencies shall amend their procedures accordingly.
 - c. An agency may also petition the department for an immediate ruling upon any request to add, delete, or change an exemption. If such a petition is granted, the department will notify the petitioning agency, which may immediately include the change approved by the department in its own procedures. The department may thereafter begin rule making proceedings to amend these rules. Until these rules are amended, any change granted under this subsection shall apply only to the petitioning agency or agencies.
 - d. The department will provide public notice of any proposed amendments to these rules in the manner required by the Administrative Procedure Act, chapter 34.05 RCW. A copy of all approvals by the department under the preceding subsection shall be given to any person requesting the department for advance notice of rule making.

CHAPTER 18C.100

AGENCY COMPLIANCE

Sections:

[18C.100.010](#) Purpose of this Chapter and Adoption by Reference.

[18C.100.020](#) Fees.

[18C.100.030](#) Severability.

18C.100.010 Purpose of this Chapter and Adoption by Reference.

This Chapter contains rules for City compliance with SEPA, including rules for charging fees under the SEPA process, designating categorical exemptions that do not apply within critical 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:

WAC

[197-11-900](#) Purpose of this part; agency compliance.

[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 agency 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.

18C.100.020 Fees.

A. The time periods provided by this Title for making a threshold determination shall not begin to run until payment of the fee has been paid to the City. The City shall require fees, as adopted by resolution, for the following activities in accordance with the provisions of this chapter:

1. Threshold Determination.
 - a. For every environmental checklist the City reviews when it is lead agency, the City shall collect the fee from the proponent for the proposal prior to undertaking the threshold determination.
 - b. When the City completes the environmental checklist at the applicant's request or under TMC 18C.30.040D(2), the established fee(s) shall be collected.
 2. Determination of Non-significance (DNS). Where the City is the lead agency and issues a DNS, the City shall charge the applicant the established fee.
 3. Mitigated Determination of Non-significance (MDNS). Where the City is the lead agency and the City issues a threshold determination of MDNS, the City shall charge the applicant for all administrative and professional costs the City incurs in preparing mitigation measures.
 4. Determination of Significance (DS) / Environmental Impact Statement (EIS) Required.
 - a. 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 preparing the EIS. The responsible official shall advise the applicant(s) of the projected costs for the EIS prior to actual preparation and the applicant shall post bond or otherwise ensure payment of such costs.
 - b. 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 the 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.
 - c. If a proposal is modified so that an EIS is no longer required, the responsible official or designee shall refund any fees collected under subsection (a) or (b) of this section which remain after incurred costs are paid.
- B. 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.
- C. The City shall not collect a fee for performing its duties as a consulted agency.
- 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.

18C.100.030 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 person or circumstances, shall not be affected. WAC 197-11-950 (Severability) is adopted by reference.

CHAPTER 18C.110

FORMS

Sections:

18C.110.010 Adoption by Reference of Certain Forms.

18C.110.010 Adoption by Reference of Certain Forms.

The City adopts the following forms and sections by reference:

WAC:

[197-11-960](#) Environmental checklist (as prepared by the City).

[197-11-965](#) Adoption notice.

[197-11-970](#) Determination of Non-significance (DNS).

[197-11-980](#) Determination of significance and scoping notice (DS).

[197-11-985](#) Notice of assumption of lead agency status.

[197-11-990](#) Notice of action.