

TITLE 15

TOWN OF LYMAN

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ENVIRONMENTAL POLICY**

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PART ONE RELATIONSHIP TO THE GROWTH MANAGEMENT ACT AND AUTHORITY

15.12.010 **Relationship to the Growth Management Act**

- A. Comprehensive plans and development regulations adopted by the town under chapter 36.70A RCW and environmental laws and rules adopted by the state and federal government have addressed a wide range of environmental subjects and impacts. These plans, regulations, rules and laws often provide environmental analysis and mitigation measures for project actions without the need for an environmental impact statement or further project mitigation:
- B. Existing plans, regulations, rules, or laws provide environmental analysis and measures that avoid or otherwise mitigate the probable specific adverse environmental impacts of proposed projects should be integrated with, and should not be duplicated by, environmental review under chapter 43.21C RCW and this code.
- C. Proposed projects should continue to receive environmental review, which should be conducted in a manner that is integrated with and does not duplicate other requirements. Project-level environmental review should be used to: (1) Review and document consistency with comprehensive plans and development regulations; (2) provide prompt and coordinated review by government agencies and the public on compliance with applicable environmental laws and plans, including mitigation for specific project impacts that have not been considered and addressed at the plan or development regulation level; and (3) ensure accountability by local government to applicants and the public for requiring and implementing mitigation measure.
- D. When a project permit application is filed, the responsible official should analyze the proposal's environmental impacts, as required by applicable regulations and the environmental review process required by this chapter, in one project review process. The review process is specified in Lyman Municipal Code Chapter 17.68. The project review process includes land use, environmental, public, and governmental review, as provided

by the applicable regulations and the rules adopted under this chapter, so that documents prepared under different requirements can be reviewed together by the public and other agencies. This project review will provide the town with the information necessary to make a decision on the proposed project.

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E. Through this project review process: (1) If the applicable regulations require studies that adequately analyze all of the project's specific probable adverse environmental impacts, additional studies under this chapter will not be necessary on those impacts; (2) if the applicable regulations require measures that adequately address such environmental impacts, additional measures would likewise not be required under this chapter; and (3) if the applicable regulations do not adequately analyze or address a proposal's specific probable adverse environmental impacts, this chapter provides the authority and procedures for additional review.

F. A primary role of environmental review is to focus on the gaps and overlaps that may exist in applicable laws and requirements related to a proposed action. Environmental review is integrated with project review in Lyman Municipal Code Chapter 10.68. The State Environmental Policy Act review is not a substitute for other land use planning and environmental requirements.

G. If the requirements of subsection H in this section are satisfied, the responsible official reviewing a project action may determine that the requirements for environmental analysis, protection, and mitigation measures in the town's development regulations and comprehensive plans adopted under the Growth Management Act, and in other applicable local, state or federal laws and rules provide adequate analysis of and mitigation for the specific adverse environmental impacts of the project action to which the requirements apply.

H. The responsible official may make the determination provided for in subsection G above if:

1. In the course of project review, including any required environmental analysis, the responsible official considers the specific probably adverse environmental impacts of the proposed action and determines that these specific impacts are adequately addressed by the development regulations or other applicable requirements of the comprehensive plan or other local, state, or federal rules or laws; and

2. The responsible official bases or conditions its approval on compliance with these requirements or mitigation measures.

I. If the town's comprehensive plans and development regulations adequately address a project's probable specific adverse environmental impacts, as determined under subsections A and B of this section, the town shall not impose additional mitigation under this chapter during project review. Project review shall be integrated with environmental analysis under this chapter, as further provided in Lyman Municipal Code Chapter 10.68.

J. A comprehensive plan or development regulation shall be considered to adequately address an impact if the town, through the planning and environmental review process under the Growth Management Act and this chapter, has identified the specific adverse environmental impacts and:

1. The impacts have been avoided or otherwise mitigated; or

2. The town council has designated as acceptable certain levels of service, land use designations, development standards, or other land use planning required or allowed by the Growth Management Act.

K. In deciding whether a specific adverse environmental impact has been addressed by an existing rule or law of another agency with jurisdiction with environmental expertise with regard to a specific environmental impact, the town shall consult orally or in writing with that agency and may expressly defer to that agency. In making this deferral, the town shall base or condition its project approval on compliance with these other existing rules or laws.

L. Nothing in this section limits the authority of an agency in its review or mitigation of a project to adopt or

otherwise rely on environmental analyses and requirements under other laws, as provided by this chapter.

15.12.015 Authority.

- A. The town adopts this ordinance under the State Environmental Policy Act (SEPA), RCW 43.21C.120, and the SEPA rules, WAC 197-11-904.
- B. This ordinance contains the town's SEPA procedures and policies.
- C. The SEPA rules, chapter 197-11 WAC, must be used in conjunction with this ordinance.

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**PART TWO
GENERAL REQUIREMENTS**

15.12.020 Purpose of this part and adoption by reference.

This part contains the basic requirements that apply to the SEPA process. This town adopts the following sections of chapter 197-11 of the Washington Administrative Code (WAC) 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.

15.12.030 Additional definitions.

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

- 1. **SEPA rules** means chapter 197-11 WAC adopted by the Department of Ecology.
- 2. **Early notice** means the town's response to an applicant stating whether it considers issuance of a determination of significance likely for the applicant's proposal (mitigated determination of non-significance (DNS) procedures).
- 3. **Town department** means any division, subdivision or organizational unit of the town established by ordinance, rule or order.

15.12.040 Designation of responsible official.

- 1. For those proposals for which the town is the lead agency, the responsible official shall be the director of planning and community development or any other such person as the director may designate in writing.
- 2. For all proposals for which the town 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 were adopted by reference in 15.12.020.
- 3. The town shall retain all documents required by the SEPA rules (chapter 197-11 WAC) and make them available in accordance with Chapter 42.17 RCW.

15.12.050 Lead agency determination and responsibilities.

1. If the town receives an application for or initiates a proposal that involves a nonexempt action, the town shall determine the lead agency for that proposal under WAC 197-11-050 and 197-11-922 through 197-11-940, unless the lead agency has been previously determined or the town is aware that another agency is in the process of determining the lead agency.
2. When the town is not the lead agency for a proposal, the town shall use and consider, as appropriate, either the DNS or the final EIS of the lead agency in making decisions on the proposal. The town shall not 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 town may conduct supplemental environmental review under WAC 197-11-600.
3. If the town receives a lead agency determination made by another agency that appears 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

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originally making the determination and resolved within fifteen days of receipt of the determination, or the town must petition the department of ecology for a lead agency determination under WAC 197-11-946 within the fifteen day time period. Any such petition on behalf of the town may be initiated by the responsible official.

4. The town is 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: Provided, that the responsible official and any town department that will incur responsibilities as the result of such agreement approve the agreement.
5. The town, in 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 (that is: which agencies require non-exempt licenses?).

15.12.053 Transfer of lead agency status to a state agency.

For any proposal for a private project where the town would be the lead agency and for which one or more state agencies have jurisdiction, the responsible official may elect to transfer the lead agency duties to a 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 town shall be an agency with jurisdiction. To transfer lead agency duties, the 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 of the town shall also give notice of the transfer to the private applicant and any other agencies with jurisdiction over the proposal.

15.12.055 Additional consideration in time limits applicable to the **SEPA process**.

Time estimates contained in this section (expressed in calendar days) shall apply when the town processes licenses for all private projects and those governmental proposals submitted to the town 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. Time periods for making threshold determinations shall commence upon payment of fees.

1. Categorical exemptions. The town will normally identify whether an action is categorically exempt Within seven days of receiving a completed application.
2. Threshold determinations.
 - a. The town will normally complete threshold determinations that can be based solely upon review of the environmental checklist for the proposal within fifteen days of the date an applicant's completed

application and completed checklist are submitted.

- b. When the responsible official requires further information from the applicant or consultation with other agencies with jurisdictions:
 - i. The town will normally request such further information within fifteen days of receiving a completed application and completed environmental checklist;
 - ii. The town will normally wait no longer than thirty days for a consulted agency to respond;
 - iii. The responsible official will normally complete the threshold determination within fifteen days of receiving the request~d information from the applicant or the consulted agency.
- c. When the town must initiate further studies, including field investigations, to obtain the information to make the threshold determination, the town will normally complete the studies within thirty days of receiving a completed application and a completed checklist.
- d. The town 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 impact(s) described in the application, within fifteen days of receiving a completed application and completed checklist.

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PART THREE

CATEGORICAL EXEMPTIONS AND THRESHOLD DETERMINATIONS

15.12.065 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) to be prepared. This part also contains rules for evaluating the impacts of proposals not requiring an EIS. The town adopts the following sections by reference, as supplemented in this part:

WAC

- 197-11-300 Purpose of this part.
- 197-1 1-305 Categorical exemptions.
- 197-1 1-3 10 Threshold determination required.
- 197-11-315 Environmental checklist.
- 197-1 1-330 Threshold determination process.
- 197-1 1-335 Additional information.
- 197-11-340 Determination of non-significance (DNS).
- 197-1 1-350 Mitigated DNS.
- 197-1 1-360 Determination of significance (DS)/initial scoping.
- 197-11-390 Effect of threshold determination.

15.12.070 Flexible thresholds for categorical exemptions.

1. Categorical exemptions are adopted by reference under 15.12.180. The town establishes the following exempt levels for minor new construction under WAC 197-1 10-800(1)(b) based on local conditions:
 - a. For residential dwelling units in WAC 197-11-800 (1)(b)(i): 4 units.
 - b. For agriculture structures in WAC 197-1 1-800 (1)(b)(ii): 10,000 square feet.

- c. For office, school, commercial, recreational, service or storage buildings in WAC 197-1 1-800(1)(b)(iii): 4,000 square feet and 20 parking spaces.
 - d. For parking lots in WAC 197-1 1-800(1)(b)(iv): 20 parking spaces.
 - e. For landfills and excavations in WAC 197-1 1-800(1)(b)(v): 500 cubic yards.
 - f. Demolition of any structure or facility up to the maximum exempt level provided in WAC 197-1 1-800.
 - g. Replacement, addition of up to 20% of gross floor area, alteration or modification of an existing commercial structure, up to 12,000 square feet.
2. The Town shall send the new exempt levels established under this section to the Department of Ecology, Headquarters Office, Olympia, Washington, 98504 under WAC 197-1 1-800(1)(c).

15.12.080 Use of exemptions.

- 1. Upon receiving an application for a license or, in the case of governmental proposals, initiating the proposal, the town shall determine whether the license and/or the proposal is exempt. The town's determination that a proposal is exempt shall be final and not subject to administrative review. If 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 ordinance shall apply to the proposal.
- 2. In determining whether or not a proposal is exempt, the town shall make certain the proposal is properly deemed and shall identify the governmental licenses required. WAC 197-11-060. If a proposal includes exempt and nonexempt actions, the town shall determine the lead agency, even if the license application that triggers the town's consideration is exempt.

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- 3. If a proposal includes both exempt and nonexempt actions, the town may authorize exempt actions prior to compliance with the procedural requirements of this ordinance, except that:
 - a. The town shall not give authorization for:
 - i. Any nonexempt action;
 - ii. Any action that would have an adverse environmental impact; or
 - iii. Any action that would limit the choice of alternatives.
 - b. The town 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 action(s) were not approved.
- 4. Proposed short subdivision of land that is adjacent to previous short subdivisions or adjacent to land on which a subdivision is pending shall not be exempt if adjacent subdivisions share any improvements or access easements. In such cases, the proposed short plat will be considered physically or functionally related regardless of ownership.

15.12.090 Environmental checklist.

- I. A completed environmental checklist (or a copy), in the form provided in WAC 197-1 1-960, shall be filed at the same time as an application for a permit, license, certificate, or other approval not specifically exempted in this ordinance; provided, that a checklist is not needed if the town and applicant agree an EIS is required, SEPA compliance has been completed, or SEPA compliance has been initiated by another agency. The town shall use the environmental checklist to determine the lead agency.

2. For private proposals, the town will require the applicant to complete the environmental checklist, providing assistance as necessary. For town proposals, the applicant shall complete the environmental checklist for that proposal.

15.12.100 Mitigated DNS.

1. As provided in this section and in WAC 197-11-350, the responsible official or on changes to, or clarifications of, the proposal made by the applicant.
2. An applicant may request in writing early notice of whether aDS is likely under WAC 197-11-350. The request must:
 - a. Follow submission of a permit application and environmental checklist for a nonexempt proposal for which the town is lead agency; and
 - b. Precede the town's actual threshold determination for the proposal.
3. The responsible official should respond to the request for early notice within 15 working days. The response shall:
 - a. Be written;
 - b. State whether the town currently considers issuance of a DS likely and, if so, indicate the general or specific areas of concern that are leading the town to consider a DS; and
 - c. 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.
4. As much as possible, the town should assist the applicant with identification of impacts to the extent necessary to formulate mitigation measures.
5. When the applicant submits a changed or clarified proposal along with a revised or amended environmental checklist, the town shall base its threshold determination on the changed or clarified proposal and should make the determination within fifteen days of receiving the changed or clarified proposal:

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- a. If the town indicated specific mitigation measures in its response in its response to the request for early notice, and the applicant changed or clarified the proposal to include those specific mitigation measures, the town shall issue and circulate a DYS under WAC 197-11-340(2).
- b. If the town indicated areas of concern, but did not indicate specific mitigation measures that would allow it to issue a DNS, the town 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. For example, proposals to "control noise" or "prevent storm-water runoff" to "muffle machinery to X decibel" or "construct 200-foot stormwater retention pond at Y location" are adequate.
- 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.

6. A mitigated DNS is issued under WAC 197-11-340(2), requiring a fifteen-day comment period and public notice.
7. 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 town. Failure to comply with the designated mitigation measures shall be grounds for suspension and/or revocation of any issued license or permit.
8. If the town's tentative decision on a permit or approval does not include mitigation measures that were incorporated in a mitigated DNS for the proposal, the town should evaluate the threshold determination to assure consistency with WAC 197-11-340(3)(a) (withdrawal of DNS).
9. The town's written response under subsection (2) of this section shall not be construed as a determination of significance. In addition, preliminary discussions of clarifications or changes to a proposal, as opposed to a written request for early notice, shall not bind the town to consider the clarifications or changes in its threshold determination.

PART FOUR

ENVIRONMENTAL IMPACT STATEMENT (EIS)

15.12.110 Purpose of this part and adoption by reference.

This part contains the rules for preparing environmental impact statements. The town adopts the following sections 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 non-project proposals.
- 197-11-443 EIS contents when prior non-project 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.

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15.12.120 Preparation of EIS. Additional considerations.

1. Preparation of draft and final EISes (DEIS and FEIS) and draft and final supplemental EISes (SETS) is the responsibility of the town under the direction of the responsible official. Before the town issues an EIS, the responsible official shall be satisfied that it complies with this ordinance and chapter 197-11 WAC.
2. The DEIS and FEIS or draft and final SEIS shall be prepared by town staff, the applicant, or by a consultant selected by the town or the applicant. If the responsible official requires an EIS for a proposal and determines

that someone other than the town 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 town's procedure for EIS preparation, including approval of the DEIS and FEIS prior to distribution.

3. The town may require an applicant to provide information the town does not possess, including 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 town may request under another ordinance or statute.)
4. The environmental impact statement may be combined with the recommendation or report on the proposal or issues as a separate document. The substantive decisions or recommendations shall be clearly identifiable in the combined document.

15.12.125 Additional elements to be covered in an EIS.

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 ordinance:

1. Economy of the area.
2. Social policy analysis.
3. Cost-benefit analysis.
4. Such other elements as may be required by the responsible official.

**PART FIVE
COMMENTING**

15.12.128 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 town adopts the following sections by reference, as supplemented in this part:

WAC

- 197-11-500 Purpose of this part.
- 197-11-502 Inviting comment.
- 197-1 1-504 Availability and cost of environmental documents.
- 197-1 1-508 SEPA register.
- 197-1 1-535 Public hearings and meetings.
- 197-11-545 Effect of no comment.
- 197-1 1-550 Specific town of comments.
- 197-1 1-560 FEIS response to comments.
- 197-1 1-570 Consulted agency costs to assist lead agency.

15.12.130 Public notice.

1. Whenever the town issues a DNS under WAC 197-11-340(2) or a DS under WAC 197-11-360(3) the town shall give public notice as required by Lyman Municipal Code Chapter 10.68.

15.12.140 Designation of official to perform consulted agency responsibilities for the town.

- I. The responsible official shall be responsible for preparation of written comments for the town in response to a consultation request prior to a threshold determination, participation in scoping, and reviewing a DEIS.
2. The responsible official shall be responsible for the town's compliance with WAC 197-1 1-550 whenever the town 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 town departments.

PART SIX

USING EXISTING ENVIRONMENTAL DOCUMENTS

15.12.150 Purpose of this part and adoption by reference.

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

WAC

- 197-11-600 When to use existing environmental documents.
- 197-1 1-6 10 Use of NEPA documents.
- 197-11-620 Supplemental environmental impact statement - Procedures.
- 197-11-625 Addenda--Procedures.
- 197-11-630 Adoption-- Procedures.
- 197-1 1-63 5 Incorporation by reference - Procedures.
- 197-11-640 Combining documents.

PART SEVEN

SEPA AND AGENCY DECISIONS

15.12.155 Purpose of this part and adoption by reference.

This part contains rules (and policies) for 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 town adopts the following sections by reference:

WAC

- 197-1 1-650 Purpose of this part.
- 197-1 1-655 Implementation.
- 197-1 1-660 Substantive authority and mitigation.
- 197-1 1-680 Appeals.

15.12.160 Substantive authority.

1. The policies and goals set forth in this ordinance are supplementary to those in the existing authorization of the Town of Lyman.
2. The town may attach conditions to a permit or approval for a proposal so long as:
 - a. Such conditions are necessary to mitigate specific probable adverse environmental impacts identified in environmental documents prepared pursuant to this ordinance; and
 - b. Such conditions are in writing; and

- c. The conditions or mitigation measures included in such conditions are reasonable and capable of being accomplished; and
 - d. The town 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 subsection (4) of this section.
3. The town 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 FEIS or final SEIS prepared pursuant to this ordinance; and
 - b. A finding is made that no reasonable mitigation measures are capable of being accomplished that are sufficient to mitigate the identified impact; and
 - c. The denial is based on one or more policies identified in subsection (4) of this section and identified in writing in the decision document.
4. The town designates and adopts by reference the following policies as the basis for the town's exercise of authority pursuant to this section:
- a. The town 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:
 - i. Fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;
 - ii. Assure for all people of Washington safe, healthful, productive, and aesthetically and culturally pleasing surroundings;
 - iii. Attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;
 - iv. Preserve important historic, cultural, and natural aspects of our national heritage.
 - v. Maintain, wherever possible, an environment which supports diversity and variety of individual choice;
 - vi. Achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and
 - vii. Enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.
 - b. The town 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.
 - c. The town adopts by reference the policies in the following:
 - i. Lyman Municipal Code, including all other chapters contained in Title 15, Environment., as may be further amended.
 - ii. Lyman Comprehensive Plan dated June, 1994, and map, as may be further amended.

iii. Shoreline Management Act, as may be further amended.

iv. Growth Management Act, as may be further amended.

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v. Forest Practice Act and Regulations as may be further amended.

15.12.170 Appeals.

A. Any person may appeal the issuance of:

1. A determination of non-significance; and
2. A final environmental impact statement.

B. An appeal must be filed in writing with the responsible official within fifteen calendar days of the date of the decision becomes final. The appeal shall identify the decision, contain a summary of the grounds for the appeal and be accompanied by an appeal fee in an amount established by resolution of the town council. Following receipt of the appeal and the fee, the responsible official shall transmit a copy of the appeal to the town council.

C. Because a major purpose of this chapter is to combine environmental considerations with public decisions, any appeal brought under this chapter shall be linked to a specific governmental action. The State Environmental Policy Act provides a basis for challenging whether governmental action is in compliance with the substantive and procedural provisions of this chapter. The State Environmental Policy Act is not intended to create a cause of action unrelated to a specific governmental action.

D. Unless otherwise provided by this section:

- a. Appeals under this chapter shall be of the governmental action together with its accompanying environmental determinations.
- b. Appeals of environmental determination made (or lacking) under this chapter shall be commenced within the time required to appeal the governmental action which is subject to environmental review.

E. Only one appeal proceeding on a procedural determination (the adequacy of a determination of nonsignificance or of a final environmental impact statement). Such appeals shall also be allowed for a determination of nonsignificance which may be issued by the agency after supplemental review;

F. The appeal shall consolidate an appeal of procedural issues and of substantive determinations made under this chapter (such as a decision to require particular mitigation measures or to deny a proposal) with a hearing or appeal on the underlying governmental action by providing for a single simultaneous hearing before the town council to consider the decisions on a proposal and any appealable environmental determinations made under this chapter as defined in subsection A above.

G. Shall provide for the preparation of a record for use in any subsequent appeal proceedings, and shall provide for any subsequent appeal proceedings to be conducted on the record, consistent with other applicable law. An adequate record consists of findings and conclusions, testimony under oath, exhibits and taped or written transcript. An electronically recorded transcript will suffice for purposes of review under this subsection; and

H. Shall provide that procedural determinations made by the responsible official shall be entitled to substantial weight.

I. If a person aggrieved by an agency action has the right to judicial appeal and if an agency has an appeal procedure, such person shall, prior to seeking any judicial review, use such agency procedure if any such

procedure is available, unless expressly provided otherwise by state statute.

- J. The town council shall consider the appeal at a public hearing, the date and time of which shall be fixed at a meeting of the town council. Notice of the date and time of the public hearing shall be published once and mailed to the appellant and the responsible official at least 15 days before the public hearing. The town council shall consider the appeal on the record and on written appeal statements and arguments of the appellant and the town. The town council may allow the town and the appellant to make oral argument based on the record, may visit the site and may permit the record to be supplemented. Any additional testimony shall be taken under oath and the meeting shall be taped recorded. After

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consideration of the record, written appeal statements and arguments, and additional evidence and oral argument, if any, the town council shall enter its own findings of fact, conclusions of law and a decision, which may adopt in whole or in part by reference the decision entered by the responsible official. In rendering a decision, the town council shall give substantial weight to the decision of the responsible official. The decision of the town council is final unless an appeal is filed with the Superior Court.

- K. The town 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.

15.12.171 Planned Action.

1. A planned action, as provided for in subsection (2) of this section, does not require a threshold determination or the preparation of an environmental impact statement under this chapter, but is subject to environmental review and mitigation as provided in this chapter.
2. a. For purposes of this section, a planned action means one or more types of project action that:
 - i. Are designated planned actions by an ordinance or resolution adopted by a county, town or town planning under **RCW 36.70A.040**;
 - ii. Have had the significant impacts adequately addressed in an environmental impact statement prepared in conjunction with (A) a comprehensive plan or subarea plan adopted under chapter 36.70A RCW, or (B) a phased project;
 - iii. Are subsequent or implementing projects for the proposals listed in (a)(ii) of this subsection;
 - iv. Are located within an urban growth area, as defined in RCW 36.70A.030;
 - v. Are **not essential** public facilities, as defined in RCW 36.70A.200; and
 - vi. Are consistent with the comprehensive plan adopted under chapter 36.70A RCW.
- b. A county, town, or town shall limit planned actions to certain types of development or to specific geographical areas that are less extensive than the jurisdictional boundaries of the county, town, or town and may limit a planned action to a time period identified in the environmental impact statement or the ordinance or resolution adopted under this subsection.

15.12.173 Notice/statute of limitations.

1. The town, applicant, for, or proponent of an action may publish a notice of action pursuant to RCW 43.2 IC.080 for any action.
2. The form of the notice shall be substantially in the form provided in WAC 197-11-990. The notice shall be

published by the town clerk or county auditor, applicant or proponent pursuant to RCW 43.2 IC.080.

PART EIGHT
DEFINITIONS

15.12.175 Purpose of this part and adoption by reference.

This part contains uniform usage and definitions of terms under SEPA. The town adopts the following sections by reference, as supplemented by 15.12.040;

WAC

197-11-700 Definitions.
197-11-702 Act.
197-11-704 Action.
197-1 1-706 Addendum.

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197-11-708 Adoption
197-1 1-7 10 Affected tribe.
197-1 1-7 12 Affecting.
197-1 1-7 14 Agency.
197-1 1-7 16 Applicant.
197-11-7 18 Built environment.
197-11-720 Categorical exemption.
197-11-722 Consolidated appeal.
197-11-724 Consulted agency.
197-1 1-726 Cost-benefit analysis.
197-1 1-728 County/town.
197-1 1-730 Decision maker.
197-1 1-732 Department.
197-1 1-734 Determination of nonsignificance (DNS).
197-1 1-73 6 Determination of significance (DS).
197-11-738 EIS
197-11-740 Environment.
197-1 1-742 Environmental checklist.
197-11-744 Environmental document.
197-11-746 Environmental review.
197-11-748 Environmentally sensitive area.
197-1 1-750 Expanded scoping.
197-1 1-752 Impacts.
197-1 1-754 Incorporation ~y reference.
197-1 1-75 6 Lands covered by water.
197-1 1-75 8 Lead agency.
197-11-760 License.
197-11-762 Local agency.
197-1 1-764 Major action.
197-11-766 Mitigated DNS.
197-1 1-768 Mitigation.
197-11-770 Natural environment.
197-11-772 NEPA.
197-11-774 Non-project.
197-11-776 Phased review.
197-1 1-778 Preparation.

- 197-1 1-780 Private project.
- 197-1 1-782 Probable.
- 197-1 1-784 Proposal.
- 197-1 1-786 Reasonable.
- 197-1 1-788 Responsible official.
- 197-1 1-790 SEPA.
- 197-11-792 Scope.
- 197-1 1-793 Scoping.
- 197-11-794 Significant.
- 197-1 1-796 State agency.
- 197-1 1-797 Threshold determination.
- 197-1 1-799 Underlying governmental action.

PART NINE
AGENCY COMPLIANCE.

15.12.185 Purpose of this part and adoption by reference.

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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 town adopts the following sections by reference, as supplemented by 15.12.050 through 15.12.053 and this part:

WAC

- 197-11-900 Purpose of this part.
- 197-11-902 Agency SEPA policies.
- 197-1 1-916 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.
- 197-1 1-928 Lead agency for public and private proposals.
- 197-1 1-930 Lead agency for private projects with one agency with jurisdiction.
- 197-1 1-932 Lead agency for private projects requiring licensing from more than one agency, when one of the agencies is county/town.
- 197-1 1-934 Lead agency for private projects requiring licenses from a local agency, not a county/town, and one or more state agencies.
- 197-11-936 Lead agency for private projects requiring licenses from more than one state agency.
- 197-1 1-938 Lead agencies for specific proposals.
- 197-11-940 Transfer of lead agency status.
- 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.

PART TEN
FORMS

15.12.205 Adoption by reference.

The town adopts the following forms and sections by reference.

WAC

197-11-960 Environmental checklist.

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.