

ORDINANCE # 544

An Ordinance adopting the policies of the State Environmental Policy Act and adopting by reference certain portions of the SEPA Rules, Chapter 197-11 WAC and the SEPA Model Ordinance, Chapter 173-806 WAC.

WHEREAS, the City of College Place has a legal obligation under the State Environmental Policy Act to protect the public's right to a healthful environment and contribute to the enhancement of the environment, and

WHEREAS, the City of College Place intends to utilize the SEPA in a manner which will balance environmental considerations with the need for growth and development, and

WHEREAS, the State Legislature has amended the State Environmental Policy Act, Chapter 43.21C RCW, and adopted new State Environmental Policy Act Rules, Chapter 197-11 WAC which requires that local jurisdictions adopt their own SEPA procedures by October 1, 1984, and

WHEREAS, the College Place Planning Commission has recommended adoption of the Ordinance, and

WHEREAS, the City Council has held a public hearing for the purpose of taking testimony from interested persons, now, therefore,

THE CITY COUNCIL OF THE CITY OF COLLEGE PLACE DOES ORDAIN:

PART I AUTHORITY

Section 1: Authority

The City of College Place adopts this ordinance under the State Environmental Policy Act (SEPA), RCW 43.21C.120, and the SEPA Rules, WAC 197-11-904. This Ordinance contains the City's SEPA procedures and policies. The SEPA Rules, chapter 197-11-WAC and the model ordinance, chapter 173-806 WAC must be used in conjunction with this ordinance.

PART II GENERAL REQUIREMENTS

Section 1: Adoption by Reference

City of College Place adopts the following sections or subsections of chapter 173-806 WAC by reference:

WAC 173-806-020 Adoption by Reference
WAC 173-806-030 Additional Definitions
WAC 173-806-050(3)

Section 2: Designation of Responsible Official

- 1) For all proposals for which the City is the lead agency for responsible official shall be the Mayor of the City of College Place
- 2) For all proposals for which the City is the lead agency, the responsible official, or his designee, shall make the threshold determination, supervise scoping and preparation of any required environmental impact statement (EIS), and perform any other function assigned to the "lead agency" or "responsible official" by those sections of the SEPA rules that were adopted by reference in WAC 173-806-020.
- 3) The City shall retain all documents required by the SEPA rules (chapter 197-11 WAC) and make them available in accordance with Chapter 42.17 RCW.

Section 3: Lead Agency Determination and Responsibilities

- 1) The department within the City receiving an application for or initiating a proposal that involves a non-exempt action shall forward the environmental documents to the City Engineer for determination of the lead agency for that proposal under WAC 197-11-050 and 197-11-922 thru 197-11-940; unless the lead agency has been previously determined or the department is aware that another agency is in the process of determining the lead agency.
- 2) If the City or any of its departments receives a lead agency determination made by another agency that appears inconsistent with the criteria of WAC 197-11-922 thru 197-11-940, it may object to the determination. Any objection must be made by the responsible official to the agency originally making the determination; or the City must petition the Department of Ecology for a lead agency determination under WAC 197-11-946 within the 15 day time period. Any such petition on behalf of the City may be initiated by the responsible official with approval of the City Council.
- 3) The City Engineer is authorized to make agreements as to the lead agency status of shared lead agency duties for a proposal under WAC 197-11-942 and 944 PROVIDED that the responsible official and any department that will incur responsibilities as a result of such agreement approve the agreement.
- 4) When making a lead agency determination for a private project, the City Engineer shall require sufficient information for the applicant to identify which other agencies have jurisdiction over the proposal.

Section 4: Additional Considerations in Time Limits Applicable to the SEPA Process.

The following time limits (expressed in calendar days) shall apply:

- 1) Categorical exemptions - The City shall identify whether an action is categorically exempt within seven (7) days of receiving a completed application.
- 2) Threshold determinations -
 - a) The City should complete threshold determinations that can be based solely upon review of an adequate environmental checklist for the proposal within fifteen (15) days of the date an adequate application and completed checklist are submitted.
 - b) The City shall wait no longer than fifteen (15) days for a consulted agency to respond to a request for further information.

Section 5: Additional Timing Considerations

- 1) For non-exempt proposals, the declaration of non-significance or in the case where an EIS has been required, a final Environmental Impact Statement for the proposal shall accompany the City's staff report to the City Planning Commission and the City Council.
- 2) If the City's only action on a proposal is a decision on a building permit or other license which requires detailed plans and specifications, the applicant may request in writing that the City conduct an environmental review prior to the submission of the detailed plans and specifications.
- 3) When the City receives a request per (2) above, the City shall specify, in writing, the degree of detail required to make a threshold determination for that particular proposal under WAC 173-806-058(2).

PART III CATEGORICAL EXEMPTIONS

Section 1: Adoption by Reference

The City of College Place adopts by reference the following sections or subsections of Chapter 173-806 WAC:

- WAC 173-806-065 Adoption by Reference
- WAC 173-806-070(2) Flexible Thresholds for Categorical Exemptions
- WAC 173-806-080(2)(3) Use of Exemptions
- WAC 173-806-100(4)(5)(b)(c)(d)(6)(7)(9) Mitigated Declaration of Non-significance

Section 2: Flexible Thresholds for Categorical Exemptions

- 1) The City of College Place establishes the following exempt levels for minor new construction under WAC 197-11-800(1)(b) based on local conditions:
 - a) For agricultural structures in WAC 197-11-800(1)(b)(ii); up to 30,000 square feet.
 - b) For offices, school, commercial and recreational, service or storage building in WAC 197-11-800(1)(b)(iii); up to 12,000 square feet and up to 40 parking spaces.
 - c) For parking lots in WAC 197-11-800(1)(b)(iv); up to 40 automobiles.
 - d) For landfills and excavations in WAC 197-11-800 (1)(b)(v); up to 200 cubic yards.

Section 3: Use of Exemptions

- 1) Each department within the City that receives an application, or in the case of governmental proposals, the department initiating the proposal, shall forward the application to the City Engineer for determination of whether the proposal is exempt. The determination that a proposal is exempt is final and not subject to administrative review.

Section 4: Environmental Checklist

- 1) A completed environmental checklist in the form provided in WAC 197-11-960, shall be filed at the same time as an application for a permit, license, or other approval not exempted in this ordinance; except, a checklist is not needed if the City and applicant agree an EIS is required, SEPA compliance has been completed, or SEPA compliance has been initiated by another agency.
- 2) For private proposals, the City will require the applicant to complete the environmental checklist, providing assistance as necessary. For City proposals, the department initiating the proposal shall complete the environmental checklist.
- 3) The City may complete or revise 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 applicant;
or
 - b) The applicant has provided inaccurate information on previous proposals or on proposals currently under consideration.

Section 5: Mitigated Declaration of Non-Significance (DNS)

- 1) As provided in this section and in WAC 197-11-350, the responsible official may issue a 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.
- 2) An applicant may request in writing early notice of whether a declaration of significance is likely under WAC 197-11-350. The request must:
 - a) Follow submission of an application and adequate environmental checklist; and
 - b) Precede the City's actual threshold determination for the proposal.
- 3) The City should respond to the request for early notice within fifteen (15) working days. The response shall:
 - a) Be written
 - b) State whether the City currently considers issuance of a DS likely and, if so, indicate the general or specific areas of concern that is/are leading to the City 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 application as necessary to reflect the changes or clarifications.
 - d) The City shall not continue with the threshold determination until receiving a written response from the applicant changing or clarifying the proposal or asking that the threshold determination be based on the original proposal. The applicant shall respond within fifteen (15) days of the City's response.

PART IV ENVIRONMENTAL IMPACT STATEMENT (EIS)

Section 1: Adoption by Reference

The City of College Place adopts by reference the following section or subsections of Chapter 173-806 WAC:

- WAC 173-806-110 Adoption by Reference
- WAC 173-806-125 Additional Elements to be covered in an EIS

Section 2: Preparation of EIS - Additional Considerations

- 1) The City may elect to prepare the DEIS, FEIS, and SEIS, or may retain a consultant with approval of the applicant to prepare the EIS. In the event the responsible official determines that the consultant will be retained to prepare an EIS, the applicant shall be so notified immediately after completion of the threshold determination. The City shall also notify the applicant of the City's procedures for EIS preparation, including approval of the EIS, FEIS and SEIS prior to distribution.

- 2) In the event that an EIS is to be prepared by a consultant retained by the agreement of the City and the applicant, the responsible official shall assure that the EIS is prepared in a responsible manner and with appropriate methodology. The responsible official shall direct the areas of research and examination to be undertaken as well as the organization of the resulting document.

PART V COMMENTING.

Section 1: Adoption by Reference

The City of College Place adopts the following sections or subsections of Chapter 173-806 WAC:

- WAC 173-806-128 Adoption by Reference
- WAC 173-806-140(2) Designation of Official to Perform Consulted Agency Responsibilities for the City

Section 2: Public Notice

- 1) Whenever the City of College Place issues a DNS under WAC 197-11-340(2) or a DS under WAC 197-11-360(3) the City shall give public notices as follows:
 - a) If public notice is required for a non-exempt license, the notice shall state whether a DS or DNS has been issued and when comments are due.
 - b) If no public notice is required for the permit or approval, the City shall give notice of the DNS or DS by:
 - i) Posting the property for site-specific proposals and
 - ii) Publishing notice in a newspaper of general circulation in the City or general area where the proposal is located.
 - c) Whenever the City issues a DS under WAC 197-11-360(3), the City shall state the scoping procedures for the proposal in the DS as required in WAC 197-11-408 and in the public notice.
- 2) Whenever the City issues a DEIS under 197-11-455(5) or an SEIS under WAC 197-11-620, notice of availability of those documents shall be given by:
 - a) Indicating the availability of the DEIS in any public notice required for a proposal; and
 - b) Posting the property for site-specific proposals;
 - c) Publishing notice in a newspaper of general circulation in the City or area where the proposal is located.
- 3) Whenever possible, the City shall integrate the public notice required under this section with existing notice procedures for the City's non-exempt permit(s) or approval(s) required for the proposal.

- 4) The applicant shall complete the public notice requirements for the applicant's proposal at his/her expense.

Section 3: Designation of Official to Perform Consulted Agency Responsibilities for the City

- 1) The City Engineer shall be responsible for the preparation of written comments for the City in response to a consultation request prior to a threshold determination, participation in scoping and reviewing a DEIS.

PART VI USING EXISTING ENVIRONMENTAL DOCUMENTS

Section 1: Adoption by Reference

The City of College Place adopts Chapter 173-806-150 WAC by reference.

PART VII SEPA AND AGENCY DECISIONS

Section 1: Adoption by Reference

The City of College Place adopts by reference the following sections or subsections of Chapter 173-806 WAC:

- WAC 173-806-155 Adoption by Reference
- WAC 173-806-160(3)(4)(a)(b)(5) Substantive Authority
- WAC 173-806-173 Notice/Statute of Limitations

Section 2: Substantive Authority

- 1) The policies and goals set forth in the ordinance are supplementary to those in the existing authorization of the City of College Place.
- 2) The City may attach conditions to a permit or approval for a proposal so long as:
 - a) Such conditions are necessary to mitigate specific probable significant adverse environmental impacts identified in environmental documents prepared pursuant to this ordinance; and
 - b) Such conditions are in writing; and
 - c) The mitigation measures included in 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 may include, but are not limited to the following:
 - i. Exact location and nature of development, including additional building and parking area setbacks, screenings in the form of landscaped berms, landscaping, or fencing;

- ii. Impact of the development upon other land;
 - iii. Hours of use or operation or type and intensity of activities;
 - iv. Sequence and scheduling of development;
 - v. Maintenance of the development;
 - vi. Duration of use and subsequent removal of structures; and
 - vii. Granting of easements for utilities or other purposes and dedication of land or other provision for public facilities, the need for which the agency finds would be generated in whole or in significant part by the proposed development.
- f) Such conditions are based on one or more policies in WAC 173-806-160(4)(a)(b) or subsection 3 of this section and cited in the license or other decision document.
- 3) The City adopts by reference the policies in the following adopted City documents:
- a) City of College Place Comprehensive Plan, 1983
 - b) City of College Place Zoning Ordinance #539, 1984
 - c) Walla Walla/College Place Coordinated Water System Plan Regional Supplement and Water General Plan
 - d) City of College Place Municipal Water System Plan Update
 - e) College Place Land Division Ordinance #521
 - f) Sewer System Facility Plan
 - g) Walla Walla County Solid Waste Management Plan
 - h) The current Building, Mechanical, Fire and Plumbing Codes

PART VIII DEFINITIONS

Section 1: Adoption by Reference.

The City of College Place adopts Chapter 173-806-175 WAC by reference.

PART IV CATEGORICAL EXEMPTIONS

Section 1: Adoption by Reference

The City of College Place adopts Chapter 173-806-180 WAC by reference.

PART X AGENCY COMPLIANCE

Section 1: Adoption by Reference

The City of College Place adopts the following sections or subsections of Chapter 173-806 WAC by reference:

- WAC 173-806-185 Adoption by Reference
- WAC 173-806-190(2)(3) Environmentally Sensitive Areas
- WAC 173-806-200(4)(5) Fees
- WAC 173-806-220 Severability

Section 2: Environmentally Sensitive Areas

- 1) Environmentally sensitive areas shall be:
 - a) Areas designated as such in the appropriate Comprehensive Plan.
- 2) For environmentally sensitive areas, the exemptions within WAC 197-11-800 that are inapplicable are: WAC 197-11-800(1), WAC 197-11-800(6)(a), WAC 197-11-800(14)(c), WAC 197-11-800(24)(a)(b)(c)(d)(f), WAC 197-11-800(25)(h)(i).

Section 3: Fees

The City shall require the following fees for its activities in accordance with the provision of this ordinance:

- 1) Threshold determination. For every environmental checklist, the City will review when it is a lead agency, the City shall collect a fee of \$50.00. The time periods provided by this ordinance for making a threshold determination shall not begin to run until payment of the fee.
- 2) Environmental Impact Statement
 - a) As the lead agency, the City will charge a fee based on actual costs, for gathering information and conducting research in the preparation of an Environmental Impact Statement when the EIS is being prepared by a consultant.
 - b) For all proposals requiring an EIS for which the City is lead agency and for which 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 the applicant to cover costs incurred by the City in the preparation of an EIS. If it is determined that an EIS is required, applicants shall be advised of projected costs of the EIS prior to actual preparation and shall post bond or otherwise insure payment of such costs.
 - c) The responsible official may determine that the City will contract directly with the consultant for preparation of environmental documents for activities initiated by some persons or entity other than the City and may bill such costs and expenses directly to the applicant. The applicant shall post bond or otherwise insure payment of such costs. Such consultants shall be selected by mutual agreement of the City and applicant after a call for bids.

- d) If the proposal is modified so that an EIS is no longer required, the responsible official shall refund any fees collected under a, b or c of this subsection which remain after incurred costs are paid.
- 3) Public Notice. The City shall be reimbursed by the applicant for fees incurred in meeting the public notice requirements of this ordinance relating to the applicant's proposal.

PART XI FORMS

Section 1: Adoption by Reference

The City of College Place adopts Chapter 173-806-230 by reference.

PART XII REPEALER

The City hereby repeals Ordinance #440, adopted December 27, 1976.

This ordinance shall be in full force and effect upon its passage and posting as provided by law.

PASSED by the City Council of the City of College Place this 10th day of September, 1984.

APPROVED this 10th day of September, 1984.

George H. Fernald
Mayor

Faye Farnsworth
Clerk-Treasurer

