19.04.040 Designation of responsible official.

A. For those proposals for which the city is a lead agency, the responsible official shall be the ~~public works superintendent~~ community development director or such other person as the ~~superintendent~~ mayor may designate in writing.

B. For those proposals for which the city is a 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 have been adopted by reference.

19.04.180 Public notice.

A. Whenever public notice is required, the city shall follow the procedures set forth in this section.

B. Public notice will be given in the following situations:

1. When the city issues the following determinations of nonsignificance (DNS):

a. DNS involving another agency with jurisdiction;~~,~~

b. DNS involving the demolition of any structure or facility not exempted by WAC 197-11-800(2)(f) or 197-11-880;~~,~~

c. DNS involving the issuance of a clearing or grading permit not exempted by WAC 197-11-800 through 197-11-890;~~,~~

d. DNS issued following a request for early notice pursuant to WAC 197-11-350(2);~~,~~

e. Mitigated DNS issued pursuant to WAC 197-11-350(3);~~,~~

f. DNS issued following the withdrawal of a DS pursuant to WAC 197-11-360(4);

2. When the city issues a determination of significance to commence scoping;

3. When a draft EIS (DEIS) is available for public comment;

4. Whenever the city holds a public hearing pursuant to WAC 197-11-535;

5. Whenever the responsible official determines that public notice is required.

C. The city shall give public notice by using at least one of the following methods:

1. Posting the property, for site-specific proposals;

2. Publishing notice in the official city ~~a~~ newspaper and, optionally, a newspaper of general circulation in the ~~county, city, or general~~ area ~~where the proposal is located~~;

3. Mailing notice to owners of property within 300 ft. of the proposal and other known interested individuals;

~~3~~4. Any other method reasonably calculated to inform the public and other agencies or required by statute or ordinance, including posting notice on the city's website.

D. Notice of public hearings shall be published no later than ten days before the hearing in the city's official newspaper and, optionally, a newspaper of general circulation in the city.~~. Notice of public hearings on nonproject proposals shall be published in a newspaper of general circulation in the city.~~

E. The city may require an applicant to compensate the city for the costs of compliance with the public notice requirements for the applicant's proposal or provide services and materials to assist.

19.04.250 Appeals.

A. Any aggrieved person may appeal a threshold determination, adequacy of a final EIS and the conditions or denials of a requested action made by a nonelected city official pursuant to the procedures set forth in this section. No other SEPA appeal shall be allowed. No person may seek judicial review of a SEPA decision without first exhausting the administrative appeal process set forth herein.

B. All appeals filed pursuant to this section must be filed in writing with the community development director within fourteen calendar days of the date of the decision appealed. The written appeal shall state concisely the basis or bases for the appeal, and the specific relief or remedy sought.

C. A fee of $250.00 shall accompany each appeal.

D. On receipt of a timely written notice of appeal, the director shall advise the hearing examiner of the appeal and request that a date for considering the appeal be established. Provided that, if there is a concurrent land use application requiring a hearing examiner public hearing, then the two hearings shall be combined. The hearing examiner shall make the final decision on a SEPA appeal.

E. All relevant evidence shall be received during the hearing of the appeal and the decision shall be made de novo. The procedural determination by the city's responsible official shall carry substantial weight in any appeal proceeding. The burden of proof shall be on the appellant, to demonstrate error by a preponderance of the evidence.

F. For any appeal under this section, the hearing examiner shall provide a record that shall consist of the following:

1. Findings and conclusions;

2. Testimony under oath; and

3. A taped or written transcript.

G. The city may require the applicant to provide an electronic transcript.

H. The city shall give official notice whenever it issues a permit or approval for which a statute or ordinance establishes a time limit for commencing judicial appeal. Appeal from the hearing examiner's decision on a SEPA appeal is to superior court. The judicial appeal must be filed within 21 days after the hearing examiner renders a decision, unless the SEPA appeal is consolidated with the underlying governmental action, such as a permit application. If there is consolidation, judicial appeal of the hearing examiner's decision on the SEPA appeal must be filed within 21 days after the city's final decision on the underlying governmental action.

I. This chapter constitutes the exhaustive administrative process to appeal a SEPA decision. Notwithstanding any other provision of the Municipal Code, the provisions of this chapter shall apply. This provision shall be construed in conjunction with BDMC 18.98, RCW 36.70B, and WAC 197-11-680 (3)(a)(v).

19.04.300 Fees.

The city shall require the following fees for its activities in accordance with the provisions of this chapter:

A. Threshold Determination. For every environmental checklist the city will review when it is lead agency, the city shall collect a fee ~~of sixty dollars~~as established in the city's fee schedule from the proponent of the proposal prior to undertaking the threshold determination. The time periods provided by this chapter for making a threshold determination shall not begin to run until payment of fees. When the city assists the applicant or completes the environmental checklist at the applicant's request or under Section 19.04.120 of this chapter, an additional ~~thirty dollars~~fee, as established in the fee schedule, shall be collected.

B. Environmental Impact Statement.

1. When the city is the lead agency for a proposal requiring an EIS and the responsible official determines that the EIS shall be prepared by employees of the city, the city may charge and collect a reasonable fee from any applicant to cover costs incurred, including overhead, ~~by the city~~ in preparing the EIS. The responsible official shall advise the applicant of the projected costs for the EIS prior to actual preparation.

2. The responsible official may determine that the city will contract directly with a consultant for preparation of an EIS, or a portion of the EIS, for activities initiated by some persons or entity other than the city and may bill such costs and expenses (plus an administrative fee) directly to the applicant. Such consultants shall be selected by the city.

3. The applicant shall pay at least 50% of the total projected amount to prepare the EIS to the city prior to ~~commencing~~ work commencing. Additional funds shall be provided when so requested by the city. The city will refund the excess, if any, at the completion of the EIS. If the city's costs exceed the projected costs, the applicant shall immediately pay the excess. If a proposal is modified so that an EIS is no longer required, the responsible official shall refund any fees collected under subdivisions 1 and 2 of this subsection which remain after incurred costs, including overhead, are paid.

C. The city may collect a reasonable administrative fee from an applicant to cover the cost of meeting the public notice requirements of this chapter ~~relating to the applicant's proposal.~~ and its overhead expenses for overseeing preparation of the EIS.

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 RCW Chapter 42.17.