AN ORDINANCE of the City of Kent, Washington, establishing guidelines for compliance with the State Environmental Policy Act.

THE CITY COUNCIL OF THE CITY OF KENT, WASHINGTON, DO HEREBY ORDAIN AS FOLLOWS:

Section 1. POLICIES AND AUTHORITY. The City of Kent hereby adopts by reference the policies of the State Environmental Policy Act as expressed in RCW 43.21C.010 and RCW 43.21C.020.

Section 2. ADOPTION BY REFERENCE. The City of Kent hereby adopts by reference the following sections or subsections of Chapter 197-10 of the Washington Administrative Code (the "SEPA Guidelines" adopted by the State of Washington, council on environmental policy):

WAC 197-10-040: Definitions.
-060: Scope of a Proposal and its Impacts.
-160: No Presumption of Significance for Non-Exempt Actions.
-170: Categorical Exemptions.
-175: Exemptions and Non-Exemptions Applicable to Specific State Agencies.
-180: Exemptions for Emergency Actions.
-200: Lead Agency - Responsibilities.
-203: Determination of Lead Agency - Procedures.
-205: Lead Agency Designation - Governmental Proposals.
-215: Lead Agency Designation - Private Projects for Which There is Only One Agency.
-220: Lead Agency Designation - Private Projects, Licenses From More than One Agency When One is City/County.
-230: Lead Agency Designation - Specific Proposals.
-235: Local Agency Transfer of Lead Agency Status to a State Agency.
-240: Agreements as to Lead Agency Status.
-245: Agreements Between Agencies as to Division of Lead Agency Duties.
-260: Dispute as to Lead Agency Determination - Resolution by CEP.
-270: Assumption of Lead Agency by Another Agency with Jurisdiction.
-300: Threshold Determination Requirement.
-305: Recommended Timing for Threshold Determination.
-310: Threshold Determination Procedures - Environmental Checklist.
-345: Assumption of Lead Agency Status by Another Agency with Jurisdiction - Prerequisites, Effect and Form of Notice.
-350: Affirmative Threshold Determinations.
-355: Form of Declaration of Significance/Non-Significance.
-365: Environmental Checklist.
-370: Withdrawal of Affirmative Threshold Determination.
-375: Withdrawal of Negative Threshold Determination.
-390: Effect of Threshold Determination by Lead Agency.
-400: Duty to Begin Preparation of a Draft EIS.
-410: Pre-Draft Consultation Procedures.
-425: Organization and Style of a Draft EIS.
-440: Contents of a Draft EIS.
-442: Special Considerations Regarding Contents of an EIS.
-444: List of Elements of the Environment.
-450: Public Awareness of Availability of Draft EIS.
-460: Specific Agencies to which Draft EIS shall be sent.
-465: Agencies possessing Environmental Expertise.
-470: Costs to the Public for Reproduction of Environmental Documents.
-480: Public Hearing on a Proposal - When Required.
Notice of Public Hearing on Environmental Impact of the Proposal.


Preparation of Amended or New Draft EIS.

Responsibilities of Consulted Agencies - Local Agencies.

Responsibilities of Consulted Agencies - State Agencies with Jurisdiction.

Responsibilities of Consulted Agencies - State Agencies with Environmental Expertise.

Responsibilities of Consulted Agencies - When Pre-Draft Consultation has Occurred.

Cost of Performance of Consulted Agency Responsibilities.

Limitations on Responses to Consultation.

Effect of No Written Comment.

Preparation of the Final EIS - Time Period Allowed.

Preparation of Final EIS - When no Critical Comments Received on the Draft EIS.

Preparation of the Final EIS - Contents - When Critical Comments Received on Draft EIS.

Circulation of the Final EIS.

Effect of an Adequate Final EIS Prepared Pursuant to NEPA.

Supplementation of a Lead Agency of an Inadequate Final NEPA EIS.

Use of Previously Prepared EIS for a Different Proposed Action.

Use of a Lead Agency's EIS by Other Acting Agencies for the Same Proposal.

Draft and Final Supplements to a Revised EIS.

No Action for Seven Days after Publication of the Final EIS.

EIS Combined with Existing Planning and Review Processes.

Responsibilities of Agencies - SEPA Public Information Center.

Regional SEPA Public Information Centers.

Applications of Agency Guidelines to Ongoing Actions.

Section 3. ADDITIONAL DEFINITIONS. In addition to those definitions contained within WAC 197-10-040, the following terms shall have the following meanings, unless the context in-
Section 4. **TIME LIMITS APPLICABLE TO THE SEPA PROCESS.** The following time limits (expressed in calendar days) shall apply to the processing of all private projects and to those governmental proposals submitted to this City by other agencies:

1. **Categorical Exemptions.** Identification of categorically exempt actions shall occur within seven (7) days of submission of an adequate application;

2. **Threshold Determinations.**
   a. Threshold determinations which can be made based upon review of the environmental checklist submitted by applicant should be completed within fifteen (15) days of submission of an adequate application and the completed checklist.
   b. Threshold determinations requiring further information from the applicant or consultation with other agencies with jurisdiction should be completed within fifteen (15) days of receiving the requested information from the applicant or the consulted agency; requests by the City for such further information should be made within fifteen (15) days of the submission of an adequate application and completed checklist; when a request for further information is submitted to a consulted agency, the City shall wait a maximum of thirty (30) days for the consulted agency to respond.
   c. Threshold determinations which require that further studies, including field investigations, be initiated by the City should be completed within thirty (30) days of submission of an adequate application and the completed checklist.
   d. Threshold determinations on actions where the applicant recommends in writing that an EIS be prepared because of the significant impact asserted and described in the application shall be completed within fifteen (15) days of submission of an adequate application and the completed checklist.
   e. The time limits set forth in this subsection shall not apply to withdrawals of affirmative and neg-
ative threshold determinations where such withdrawals are made in accordance with section WAC 197-10-370 and WAC 197-10-375.

(f) When a threshold determination is expected to require more than fifteen (15) days to complete and a private applicant requests notification of the date when a threshold determination will be made, the lead agency shall transmit to the private applicant a written statement as to the expected date of decision.

Section 5. USE OF EXEMPTIONS.

(1) The applicability of the exemptions shall be determined by the first city department which receives an application for a license, or in the case of governmental proposals, by that department initiating the proposal. A determination by any such department that a proposal is exempt shall be final and not subject to administrative review.

(2) If a proposal includes a series of actions, physically or functionally related to each other, some of which are exempt and some of which are not, the proposal is not exempt.

(3) If the proposal includes a series of exempt actions which are physically or functionally related to each other, but which together may have a significant environmental impact, the proposal is not exempt.

(4) If it is determined that a proposal is exempt, none of the procedural requirements of these guidelines apply to the proposal. No environmental checklist shall be required for an exempt proposal.

(5) A department which is determining whether or not a proposal is exempt shall ascertain the total scope of the proposal and the governmental licenses required. If a proposal includes a series of actions, physically or functionally related to each other, some of which are exempt and some which are not, the proposal is not exempt. For any such proposal, the lead agency shall be determined, even if the license application which triggers the department's consideration is otherwise exempt. If the lead agency is the City, then the responsible official shall be designated.

(6) If a proposal includes both exempt and non-exempt actions, exempt actions may be authorized with respect to the proposal prior to compliance with the procedural requirements of these guidelines subject to the following limitations:

(a) No major action (nonexempt action) shall be
authorized;
(b) No action shall be authorized which will irrevocably commit the City to approve or authorize a major action;
(c) A department may withhold approval of an exempt action which would lead to modification of the physical environment, when such modifications would serve no purpose of later approval of a major action is not secured; and
(d) A department may withhold approval of exempt actions which would lead to substantial financial expenditures by a private applicant which would serve no purpose if later approval of a major action is not secured.

Section 6. LEAD AGENCY DETERMINATION AND RESPONSIBILITIES.

(1) Any department within Kent receiving or initiating a proposal any portion of which involves a major action, shall determine the lead agency for that proposal pursuant to the criteria set forth in section WAC 197-10-205 through -270, using the procedures of WAC 197-10-203. This determination shall be made for each proposal involving a major action 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. NOTE: A lead agency must be an agency with jurisdiction.

(2) In those instances in which the City is the lead agency, the responsible official of the City shall supervise compliance with the threshold determination, and if an EIS is necessary, shall supervise preparation of the draft and final EIS.

(3) In those instances in which the City is not the lead agency under the criteria of WAC-197-10-205 through -270, all departments of the City, subject to the limitations of WAC 197-10-390, -660, and -690 shall utilize and consider as appropriate either the declaration of nonsignificance or the final EIS of the lead agency in conjunction with the decisions of the City on the proposal. In such instances, no City department shall prepare or require preparation of a declaration of nonsignificance or EIS in addition to that prepared by the lead agency.

(4) In the event that the City or any department thereof receives a lead agency determination made by another
agency which does not appear to be in accord with the criteria of WAC 197-10-205 through -245 it may object thereto. Any such objection must be made and resolved within fifteen (15) days of receipt of the determination, or the City must petition CEP for a lead agency determination pursuant to WAC 197-10-260 with the fifteen (15) day time period. Any such petition on behalf of the City shall be initiated by the Planning Department.

(5) The Planning Department is authorized to make agreements as to lead agency status pursuant to WAC 197-10-240 and WAC 197-10-245: PROVIDED, that any such agreement involving assumption of lead agency status by the City will first be approved by the responsible official for the City and that any department which will incur responsibilities as a result of any such agreement will approve the agreement.

(6) When making lead agency determination for a private project the Planning Department shall require sufficient information from the applicant to ascertain which other agencies have jurisdiction over the proposal.

Section 7. ENVIRONMENTAL CHECKLIST.

(1) Except as provided in WAC 197-10-300(2), a completed environmental checklist, or a copy thereof, substantially in the form provided in WAC 197-10-365 shall be filed at the same time as an application for a permit, license, certificate, or other entitlement for use not specifically exempted herein. This checklist shall be the basis for a determination by the Planning Department as to lead agency status and if the City is determined to be the lead agency, then for the threshold determination.

(2) For all proposals for which the City is the lead agency, the responsible official of the City shall make the threshold determination pursuant to the criteria and procedures of WAC 197-10-300 through -365.

Section 8. PREPARATION OF EIS.

(1) The draft and final EIS shall be prepared either by the responsible official or his designee, or by a private applicant or a consultant retained by the private applicant. In the event the responsible official determines that the applicant will be required to prepare an EIS, the applicant shall be so notified immediately after completion of the threshold determination.

(2) In the event that an EIS is to be prepared by a private applicant or a consultant retained by the private appli-
cant, 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.

(3) In the event that the responsible official or his designee is preparing an EIS, the responsible official may require a private applicant to provide data and information which is not in the possession of the City relevant to any or all areas to be covered by the EIS.

(4) No matter who participates in the preparation of an EIS, it must be approved by the responsible official prior to distribution.

Section 9. DESIGNATION OF OFFICIAL TO PERFORM CONSULTED AGENCY RESPONSIBILITIES FOR THE CITY.

(1) The Planning Department shall be responsible for the preparation of the written comments for the City in response to a consultation request prior to a threshold determination, participation in predraft consultation, or reviewing a draft EIS.

(2) The official designated in paragraph (1) hereof shall be responsible for compliance by the City with WAC 197-10-500 through -540 wherever the City is a consulted agency and is hereby authorized to develop operating procedures which will ensure that responses to consultation requests are prepared in a timely fashion and include data from all appropriate departments of the City.

Section 10. DESIGNATION OF RESPONSIBLE OFFICIAL.

(1) For those proposals for which the City is the lead agency, the responsible official shall be the Planning Director.

(2) The responsible official shall make the threshold determination, supervise preparation of any required EIS, and perform any other functions assigned to the "lead agency" or "responsible official" by those sections of the SEPA guidelines which were adopted by reference in WAC 173-805-020 hereof, for all proposals for which the City is the lead agency.

Section 11. SEPA PUBLIC INFORMATION CENTER.

(1) The following location constitutes the Kent's SEPA public information center:
City Clerk's Office
Kent City Hall
4th and Gowe Street

Telephone: (206) 872-3371

(2) All reasonable means will be used to make the existence and location of the City's SEPA public information center known to both the public generally and the employees of the City.

(3) The SEPA public information center shall contain the documents and provide the services required by WAC 197-10-830.

Section 12. FEES. The following fees shall be required for actions by the City in accordance with the provisions of this Ordinance:

(1) Environmental Impact Statements.

(a) For all proposals requiring an EIS for which the City is the 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 any 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 statement prior to actual preparation and shall post bond or otherwise insure payment of such costs.

(b) The responsible official may determine that the City will contract directly with a 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. Such consultants shall be selected by the City after a call for bid and in consultation with the applicant. Applicants may be required to post bond or otherwise insure payment of such costs.

(c) In the event that a proposal is modified so that an EIS is no longer required, the responsible official shall refund any costs collected under (a) and (b) of this subsection which were collected for costs not incurred.

(2) No fee shall be collected by the City for performing its duties as a consulted agency.

[NOTE: The SEPA guidelines prohibit fees by consulted agencies.]

(3) The SEPA public information center of the City is hereby authorized to charge periodic fees for the service of mailing registers and register updates. Such fees shall be
reasonably related to the costs of reproduction and mailing of
registers and updates.

(4) The City may charge any person for copies of any
document prepared pursuant to the requirements of this Ordinance,
and for mailing thereof, in a manner provided by Chapter 42.17,
RCW.

Section 13. NOTICE/STATUTE OF LIMITATIONS.
(1) The City, applicant for, or proponent of an
action may publish notice of action pursuant to RCW 43.21C.080
for any action.

(2) The form of the notice shall be as prescribed
by the department of ecology and/or substantially in the form and
manner set forth in RCW 43.21C.080. The notice shall be published
by the City Clerk, applicant or proponent pursuant to RCW 43.21C.
080.

Section 14. SEVERABILITY. If any provision of this
Ordinance or its application to any person or circumstance is
held invalid, the remainder of this Ordinance, or the application
of the provision to other persons or circumstances, shall not be
affected.

Section 15. This Ordinance shall take effect and be
in force five (5) days from and after its passage, approval and
publication as provided by law.

ISABEL HOGAN, MAYOR

ATTEST:

MARIE JENSEN, CITY CLERK

APPROVED AS TO FORM:

DONALD E. MINK, CITY ATTORNEY
PASSED the 6 day of July, 1976.
APPROVED the 7 day of July, 1976.
PUBLISHED the 7 day of July, 1976.

I hereby certify that this is a true copy of Ordinance No. 1925, passed by the City Council of the City of Kent, Washington, and approved by the Mayor of the City of Kent as hereon indicated.

[Signature]
MARIE JENSEN, CITY CLERK