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Hearing Date: September 28, 2022 @ 10:30 a.m.					
Council Staff: Ryan Countryman			DPA: Brian Dorsey		
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1 Adopted:
2 Effective:

3
4 SNOHOMISH COUNTY COUNCIL
5 Snohomish County, Washington

6
7 ORDINANCE NO. 22-037
8

9 RELATING TO ENVIRONMENTAL REVIEW; INCREASING EXEMPTION
10 THRESHOLDS FOR MINOR NEW CONSTRUCTION AND ADOPTING NEW
11 CATEGORICAL EXEMPTIONS PER THE STATE ENVIRONMENTAL POLICY ACT TO
12 PROMOTE INFILL DEVELOPMENT IN URBAN GROWTH AREAS; AMENDING
13 EXISTING AND ADDING NEW SECTIONS IN CHAPTERS 30.43F, 30.61, 30.70 AND
14 30.91I OF SNOHOMISH COUNTY CODE
15

16
17 WHEREAS, the Washington State Legislature recently amended the State
18 Environmental Policy Act (SEPA), chapter 43.21C RCW, to promote infill development
19 in Urban Growth Areas (UGAs) by Substitute House Bill 2673 (SHB 2673); and
20

21 WHEREAS, SHB 2673 made specific amendments to RCW 43.21C.229 that
22 increased the potential categorical exemptions from SEPA for actions where the
23 “density and intensity of use is roughly equal to or lower than called for in the goals and
24 policies of the applicable comprehensive plan” with certain exceptions; and
25

26 WHEREAS, the term “infill development” was not specifically defined in SHB
27 2673 and is understood in this context to mean the type of development in UGAs that
28 are now potentially exempt from SEPA under SHB 2673; and
29

30 WHEREAS, RCW 43.21C.229 requires that counties complete an Environmental
31 Impact Statement (EIS) for their Growth Management Act (GMA) comprehensive plan
32 before they can make use of the categorical exemptions; and
33

34 WHEREAS, Snohomish County completed a programmatic EIS for its 2015
35 Update to the Snohomish County Growth Management Act Comprehensive Plan
36 (GMACP); and
37

38 WHEREAS, the Future Land Use Map in the GMACP General Policy Plan (GPP)
39 designates UGAs and land use plan designations that determine the density and
40 intensity of development in those plan designations; and
41

1 WHEREAS, the GPP also identifies implementing zones for each of the plan
2 designations and includes goals and policies that guide adoption of the development
3 regulations found in Title 30 of the Snohomish County Code (SCC); and
4

5 WHEREAS, SCC 30.61.030 describes use of existing exemptions but does not
6 describe use of the new categorical exemptions authorized by SHB 2673; and
7

8 WHEREAS, SCC 30.61.035 already provides for certain exemption thresholds
9 for minor new construction as allowed under WAC 197-11-800(1)(c) and (d); and
10

11 WHEREAS, the exemption thresholds in SCC 30.61.035 are, in some cases,
12 below what WAC 197-11-800(1)(c) and (d) allow; and
13

14 WHEREAS, GPP Goal ED-2 says that the County should “[p]rovide a planning
15 and regulatory environment which facilitates growth of the local economy”; and
16

17 WHEREAS, GPP Objective NE 1.A recognizes the need to “[b]alance the
18 protection of the natural environment with economic growth, housing needs and the
19 protection of property rights”; and
20

21 WHEREAS, Title 30 SCC already includes requirements to protect the natural
22 environment and property rights and where compliance with these requirements
23 constitutes adequate mitigation under SEPA; and
24

25 WHEREAS, GPP Policy ED 2.A.3 requires that to “ensure timeliness,
26 responsiveness, and increased efficiency, the county shall develop and maintain a
27 program of periodic review of the permitting process to eliminate unnecessary
28 administrative procedures that do not respond to legal requirements for public review
29 and citizen input”; and
30

31 WHEREAS, increasing the thresholds for minor new construction in SCC
32 30.61.035 to the level allowed under WAC 197-11-800 would eliminate unnecessary
33 administrative procedure for some development proposals; and
34

35 WHEREAS, adopting categorical exemptions for other development proposals
36 that propose a density or intensity of use roughly equal to or lower than called for in the
37 comprehensive plan and studied in the EIS for the GMACP would eliminate
38 unnecessary administrative procedures for these other development proposals; and
39

40 WHEREAS, if new categorical exemptions are adopted, certain development
41 proposals would no longer be subject to review under SEPA; and
42

43 WHEREAS, the current requirement that all applicants for a forest practice permit
44 provide a SEPA checklist should not apply to SEPA-exempt development proposals in

1 UGAs because logging for any such development proposal would have been assumed
2 in the programmatic SEPA review for the GMACP; and
3

4 WHEREAS, the public notice provisions in SCC 30.70.050 for building and land
5 disturbing activity permits rely, in part, on proposed development being subject to SEPA
6 before certain notice requirements apply; and
7

8 WHEREAS, even if a development is no longer subject to SEPA because of the
9 new categorical exemptions, the County Council finds that the public interest is served if
10 notice of application is provided for those projects meeting the categorical exemptions
11 for infill development; and
12

13 WHEREAS, chapter 30.22 SCC establishes uses allowed in zones and identifies
14 permitted uses, administrative conditional uses, conditional uses, and special uses; and
15

16 WHEREAS, the EIS for the 2015 Update to the GMACP assumed and identified
17 mitigation for typical development in UGAs which includes permitted uses and
18 administrative conditional uses; and
19

20 WHEREAS, conditional uses and special uses are relatively uncommon and the
21 EIS for the 2015 Update to the GMACP did not necessarily address them in a
22 comprehensive manner; and
23

24 WHEREAS, traffic modeling that assumed typical development in the
25 unincorporated UGAs was relied on in the EIS for the 2015 Update to the GMACP; and
26

27 WHEREAS, because future programmatic environmental review will need to
28 include the same types of analyses as used in the 2015 Update EIS for SEPA
29 compliance, future programmatic EIS's for periodic updates to the GMACP will have at
30 least the same degree of analysis relative to the proposed categorical exemptions for
31 infill as was performed in the EIS for the 2015 Update; and
32

33 WHEREAS, traffic often crosses jurisdictional lines and the traffic mitigation for
34 the 2015 Update EIS assumed that cities, neighboring counties and Washington State
35 would make certain improvements funded, in part, through reciprocal impact mitigation
36 adopted by interlocal agreements (ILAs) between the various agencies as provided in
37 SCC 30.66B.177, 30.66B.710 and 30.66B.720; and
38

39 WHEREAS, the ILAs that provide for reciprocal impact mitigation typically apply
40 to developments that are not exempt from SEPA as set forth in SCC 30.66B.710 and
41 30.66B.720 which impose such reciprocal mitigation measures as a condition of
42 approval under SCC 30.61.230(6); and
43

1 WHEREAS, eligibility for the exemption for infill development as allowed in SHB
2 2673 is predicated upon a determination that the probable adverse environmental
3 impacts of the proposed action are adequately addressed by development regulations
4 or other applicable requirements, of which those interlocal agreements for reciprocal
5 mitigation of traffic impacts per SCC 30.66B.710 or 30.66B.720 are necessary
6 components for adequate mitigation of traffic impacts of development; and
7

8 WHEREAS, county development regulations enacted pursuant to the GMA
9 (chapter 36.70C RCW) recognize that compliance with the requirements of said
10 development regulations constitute adequate analysis and mitigation of specific
11 significant probable adverse environmental impacts of development activity for
12 purposes of environmental review under SEPA including stormwater discharge (SCC
13 30.61.122); critical area protection (SCC 30.62A.030); geologically hazardous areas
14 (SCC 30.62B.030); critical aquifer recharge areas (SCC 30.62C.030); shoreline
15 ecological functions (SCC 30.67.040); transportation impacts (SCC 30.66B.010); school
16 impacts (SCC 30.66C.160); park facilities (SCC 30.66A.080); historic and cultural
17 resources (chapter 30.32D SCC); and additional requirements detailed in Exhibit A
18 attached to this ordinance; and
19

20 WHEREAS, as noted above the 2015 Update EIS assumed that traffic impacts
21 from county development impacting cities, neighboring counties and Washington State
22 would be mitigated through reciprocal impact mitigation fees as provided in SCC
23 30.66B.710 and 30.66B.720, and implemented as SEPA-based mitigation measures
24 imposed under SCC 30.61.230(6), which impacts would potentially cease to be
25 adequately addressed and mitigated for projects categorically exempt from SEPA; and
26

27 WHEREAS, to ensure that the specific probable adverse environmental impacts
28 of a proposed infill development are adequately addressed, any determination of
29 exemption as allowed under SHB 2673 shall be made subject to an applicant's
30 voluntary agreement to be subject to all reciprocal mitigation requirements imposed
31 under any interlocal agreement for reciprocal mitigation of traffic impacts which would
32 otherwise be applicable to the proposed infill development under SCC 30.66B.710
33 and/or 30.66B.720 if subject to SEPA review; and
34

35 WHEREAS, the County Council finds there is an opportunity to facilitate growth
36 in the local economy by updating the County's development regulations related to SEPA
37 to reflect the expanded categorical exemptions authorized by SHB 2673 and also by
38 revising exemptions for minor new construction to the levels allowed by WAC 197-11-
39 800; and
40

41 WHEREAS, except as described and provided for by the proposed revisions to
42 chapter 30.61 SCC, the County Council finds that the existing environmental and
43 property rights protections in title 30 SCC constitute adequate mitigation for permitted
44 uses in urban zones; and

ORDINANCE NO. 22-037

RELATING TO ENVIRONMENTAL REVIEW; INCREASING EXEMPTION THRESHOLDS FOR MINOR NEW CONSTRUCTION AND
ADOPTING NEW CATEGORICAL EXEMPTIONS PER THE STATE ENVIRONMENTAL POLICY ACT TO PROMOTE INFILL
DEVELOPMENT IN URBAN GROWTH AREAS; AMENDING EXISTING AND ADDING NEW SECTIONS IN CHAPTERS 30.43F,
30.61, 30.70, AND 30.91I OF SNOHOMISH COUNTY CODE

1
2 WHEREAS, the County Council finds expanding SEPA exemption thresholds
3 should not exempt new infill development from providing mitigation to non-County
4 roads; and

5
6 WHEREAS, the County Council finds that adjusting SEPA exemptions is a
7 procedural change that does not materially impact governing land use controls; and

8
9 WHEREAS, on [Date, Month, Year], the County Council held a public hearing
10 after proper notice, and considered public comment and the entire record related to the
11 code amendments contained in this ordinance; and

12
13 WHEREAS, following the public hearing, the County Council deliberated on the
14 code amendments contained in this ordinance;

15
16 NOW, THEREFORE, BE IT ORDAINED:

17
18 **Section 1.** The County Council adopts the following findings in support of this
19 ordinance:

- 20
21 A. The foregoing recitals are adopted as findings as if set forth in full herein.
22
23 B. This ordinance will amend Title 30 SCC to update development regulations related
24 to SEPA exemptions. The proposed amendments seek to:
25
26 1. Increase exemption thresholds for minor new construction to match what WAC
27 197-11-800 allows;
28
29 2. Reflect changes in RCW 43.21C.229 related to categorical exemptions for infill
30 development;
31
32 3. Provide clarity on implementation of exceptions for retail development found in
33 RCW 43.21C.229;
34
35 4. Maintain environmental and property rights protections by continued reliance on
36 existing codes;
37
38 5. Clarify that the Director of Planning and Development Services may rely on local
39 conditions or the specifics of a development proposal to determine that a
40 development proposal does not qualify for exemption from SEPA;
41

- 1 6. Continue requiring SEPA-based reciprocal traffic impact mitigation as may be
2 applicable under any Interlocal agreement as provided in SCC 30.66B.710
3 and/or 30.66B.720 for developments that are now deemed categorically exempt
4 under the exemption for infill development as provided in RCW 43.21C.229. For
5 purposes of the proposed exemption language for infill development in SCC
6 30.61.035(2), it is recognized that certain impacts of development are mitigated
7 through interlocal agreements for reciprocal mitigation of impacts under SEPA
8 including, but not limited to, impacts to state highways per SCC 30.66B.710 and
9 impacts to city streets and roads per SCC 30.66B.720, which interlocal
10 agreements on their face may only apply to those development applications
11 subject to SEPA. A determination of exemption which has the effect of excluding
12 such infill development from mitigation of impacts where otherwise applicable
13 under the terms of an existing interlocal agreement for reciprocal mitigation of
14 impacts but for the exemption from SEPA would result in the potential adverse
15 environmental impacts of such infill development not being adequately
16 addressed by the county's development regulations, thus precluding a
17 determination of exemption under RCW 43.21C.229. Accordingly, the proposed
18 language in SCC 30.61.035(3) requires as a condition of eligibility for the
19 exemption for infill development that an applicant voluntarily agree, as a
20 condition of approval, to make all payments for reciprocal traffic impact mitigation
21 fees consistent with those interlocal agreements which would otherwise be
22 applicable if not exempt from SEPA review; and
23
- 24 7. Allow for new GMA-based reciprocal traffic impact mitigation interlocal
25 agreements to supplant SEPA-based agreements. If the terms of a GMA-based
26 interlocal agreement requires reciprocal traffic impact mitigation, then approval of
27 a project shall be conditioned accordingly.
28
- 29 C. In developing the proposed code amendments, the County considered the goals of
30 the GMA. This ordinance advances several GMA goals in a general sense and
31 maintains current implementation of two GMA goals through specific proposals
32 related to provision of notice.
33
- 34 1. Because it simplifies the process for infill development in established urban
35 growth areas where environmental regulations and protections are already in
36 place, this ordinance advances the following GMA goals:
37
- 38 a. GMA Goal 5: "Economic development. Encourage economic development
39 throughout the state that is consistent with adopted comprehensive plans."

- 1 b. GMA Goal 7: "Permits. Applications for both state and local government
2 permits should be processed in a timely and fair manner to ensure
3 predictability."
4
- 5 c. GMA Goal 10: "Environment. Protect the environment and enhance the
6 state's high quality of life, including air and water quality."
7
- 8 2. GMA goals maintained: This ordinance maintains current implementation of the
9 second part of GMA Goal 6: "Property Rights [...] The property rights of
10 landowners shall be protected from arbitrary and discriminatory actions," and
11 GMA Goal 11: "Citizen participation and coordination. Encourage the
12 involvement of citizens in the planning process and ensure coordination between
13 communities and jurisdictions to reconcile conflicts." This is because it includes
14 provisions to maintain the current practices related to notice of application.
15 Current practice is to provide notice of new development application and
16 associated comment periods to neighboring taxpayers of record. This
17 communicates an opportunity to participate in the planning process and to
18 protect their interests for potential conflicts with proposed development. Current
19 practice regarding provision of notice of application is sometimes contingent on a
20 development proposal being subject to SEPA. As this ordinance would exempt
21 such developments from SEPA, a secondary effect would be to potentially
22 deprive neighboring taxpayers of record from receiving notice of application.
23 Therefore, to maintain current levels of participation and protection of property
24 rights, this ordinance proposes revisions to noticing requirements to maintain the
25 same provision of notice but based on standards other than a development being
26 subject to SEPA.
27
- 28 D. In developing the proposed code amendments, the County considered the required
29 elements of SEPA as detailed in Exhibit A, which is attached to this ordinance. This
30 exhibit analyses how the County's compliance with GMA-based requirements
31 addresses required SEPA elements identified in WAC 197-11-444. Based on Exhibit
32 A, and consistent with RCW 43.21C.229 and WAC 197-11-800(1)(c)(i), the
33 additional findings are made:
34
- 35 1. The County has GMA-based development regulations and rules in place that,
36 combined with programmatic SEPA analysis done for GMA, including capital
37 facilities planning. These regulations and programmatic analysis address the
38 probable significant adverse environmental impacts and appropriate mitigation
39 for project-level development proposals in the UGA that are consistent with the
40 density and intensity of use allowed under the County's GMA based
41 Comprehensive Plan for purposes of SEPA.
42
- 43 2. The County has determined that the general probable adverse environmental
44 impacts of permitted development in a UGA have been adequately addressed by

1 programmatic environmental review, development regulations, administrative
2 rules, and capital facilities planning.

- 3
4 3. Except as provided for the proposed code amendments, the specific probable
5 adverse environmental impact of project-level development proposals will not
6 have impacts beyond what was previously studied in the environmental review
7 for the 2015 Update or subsequent periodic updates to the comprehensive plan.
8

9 E. In addition to the policies cited above, the proposed amendments will better achieve,
10 comply with, and implement the following goals, objectives, and policies contained in
11 the county's GMACP.
12

- 13 1. Land Use Policy LU 1.A.9: "Ensure the efficient use of urban land by adopting
14 reasonable measures to increase residential, commercial and industrial capacity
15 within urban growth areas [...]. The County Council will use the list of reasonable
16 measures in accordance with the guidelines for review contained in Appendix D
17 of the Countywide Planning Policies [...]" This ordinance promotes efficient use
18 of urban land by acting on one of the reasonable measures listed in Appendix D
19 of the Countywide Planning Policies which says to "encourage infill and
20 redevelopment."
21
22 2. Housing Policy HO 3.A.4: "Snohomish County shall endeavor to process
23 completed development applications within 120 days." This ordinance will help
24 streamline the permit process in support of this policy.
25
26 3. Transportation Objective TR 7.A: "Jointly plan, in cooperation with other
27 transportation providers (cities, WSDOT, transit agencies, and ferry system)
28 adequate transportation systems such that development can proceed with order
29 and according to the land use elements of local comprehensive plans." This
30 ordinance recognizes the importance of interlocal agreements for reciprocal
31 transportation mitigation in joint planning between transportation providers and it
32 maintains the mechanism for ensuring that new development continues to
33 contribute towards jointly planned improvements.
34
35 4. Natural Environment Policy NE 1.A.1: "Regulatory programs developed for the
36 protection of the natural environment shall provide certainty, clarity, flexibility,
37 efficiency, public outreach and education so that citizens understand the
38 requirements, permits are processed quickly, and alternative approaches that
39 provide equal or greater protection to the environment may be considered." This
40 ordinance recognizes that existing codes and administrative rules provide for
41 equal or greater protection of the natural environment than SEPA-based
42 mitigation. By reducing redundant SEPA processes, this ordinance also clarifies
43 expectations regarding environmental review.
44

1 F. Procedural requirements.

- 2
- 3 1. Amendments to chapter 30.61 SCC do not constitute amendments to GMA
- 4 development regulations under SCC 30.10.080. Because amendments to
- 5 chapter 30.70 are included in this ordinance, it is being processed as a Type 3
- 6 legislative action pursuant to SCC 30.73.010. Planning Commission review is not
- 7 required under SCC 30.73.040(2).
- 8
- 9 2. Pursuant to WAC 197-11-800(d)(iii), a notice of intent to adopt this ordinance
- 10 was transmitted to the Washington State Department of Commerce for
- 11 distribution to state agencies on July 11, 2022, and assigned Material ID No.
- 12 2022-S-4157.
- 13
- 14 3. State Environmental Policy Act (SEPA) requirements with respect to this non-
- 15 project action have been satisfied through the completion of an environmental
- 16 checklist and the issuance of a Determination of Nonsignificance (DNS) on
- 17 August 1, 2022.
- 18
- 19 4. The public participation process used in the adoption of this ordinance has
- 20 complied with all applicable requirements of the GMA and the SCC.
- 21
- 22 5. The Washington State Attorney General last issued an advisory memorandum,
- 23 as required by RCW 36.70A.370, in September of 2018 entitled "Advisory
- 24 Memorandum: Avoiding Unconstitutional Takings of Private Property" to help
- 25 local governments avoid the unconstitutional taking of private property. The
- 26 process outlined in the State Attorney General's 2018 advisory memorandum
- 27 was used by the County in objectively evaluating the regulatory changes
- 28 proposed by this ordinance.
- 29

30 **Section 2.** The Snohomish County Council makes the following conclusions:

31

- 32 A. The proposal is consistent with the goals, objectives, and policies of the GPP.
- 33
- 34 B. The proposal is consistent with Washington State law and the SCC.
- 35
- 36 C. The County has complied with all SEPA requirements in respect to this non-project
- 37 action.
- 38
- 39 D. The regulations proposed by this ordinance do not result in an unconstitutional
- 40 taking of private property for a public purpose.
- 41

42 **Section 3.** The Snohomish County Council bases its findings and conclusions on

43 the entire record of the county council, including all testimony and exhibits. Any finding,

1 which should be deemed a conclusion, and any conclusion which should be deemed a
2 finding, is hereby adopted as such.

3
4 **Section 4.** Snohomish County Code Section 30.43F.100, last amended by
5 Amended Ordinance No. 16-004 on March 16, 2016, is amended to read:

6
7 **30.43F.100 Class IV-General forest practices - permit required.**

8 (1) *Permit required for Class IV-General forest practices.* An approved Class IV-
9 General forest practices permit shall be obtained from the department prior to
10 conducting any forest practices described in SCC 30.43F.030(1).

11 (2) *Procedure.* The department shall process a Class IV-General forest practices
12 permit application according to the procedures for a Type 1 administrative decision
13 under chapter 30.71 SCC unless submitted concurrently with a Type 2 application under
14 chapter 30.72 SCC, in which case the Class IV-General forest practices permit
15 application shall be consolidated and processed as a Type 2 permit application.
16 Applications for Class IV-General forest practices permits shall be submitted in
17 compliance with the requirements in SCC 30.70.030, and may be processed
18 concurrently with other development applications.

19 (3) *General requirements.* The department shall not issue a Class IV-General
20 forest practices permit unless the following requirements are met:

21 (a) The applicant submits a completed State Environmental Policy Act
22 checklist if the development proposal is subject to SEPA;

23 (b) The applicant has either obtained a land disturbing activity (LDA) permit
24 under chapter 30.63B SCC, or has obtained a determination from the department that
25 an LDA permit is not required; and

26 (c) The applicant provides verification from the Washington State Department
27 of Natural Resources that the subject site is not and has not been subject to a notice of
28 conversion to nonforestry use under RCW 76.09.060 during the six-year period prior to
29 the submission of the permit application.

30 (4) *Time limitation of application.* An application for a Class IV-General forest
31 practices permit shall expire pursuant to SCC 30.70.140.

32 (5) *Compliance with other conditions.* If a Class IV-General forest practices
33 permit is issued in association with any other development permits or approvals, the
34 applicant shall comply with any conditions of approval established in those associated
35 development permits or approvals.

36 (6) ~~(Permit expiration and extension.~~

1 ~~A Class IV-General forest practices permit approval shall expire pursuant to SCC~~
2 ~~30.70.140-))~~ Permit expiration and extension. A Class IV-General forest practices permit
3 approval shall expire pursuant to SCC 30.70.140.
4

5 **Section 5.** Snohomish County Code Section 30.61.030, added by Amended
6 Ordinance No. 02-064 on December 9, 2002, is amended to read:
7

8 **30.61.030 Use of exemptions.**

9 (1) Use of categorical exemptions is subject to WAC 197-11-305(1)(a)-(b). Each
10 department that receives an application for a license or, in the case of governmental
11 proposals, the department initiating the proposal shall determine whether the license
12 and/or the proposal is exempt. The department's determination that a proposal is
13 exempt shall be final and not subject to administrative review. If a proposal is exempt,
14 the procedural requirements of this chapter shall not apply. The county shall not require
15 completion of an environmental checklist for an exempt action.

16 (2) In determining whether or not a proposal is exempt, the department shall
17 make certain the proposal is properly defined and will not require phased review (WAC
18 197-11-060) and shall identify the governmental licenses required. If a proposal
19 includes exempt and nonexempt actions, the department shall determine the lead
20 agency, even if the license application that triggers the department's consideration is
21 exempt.

22 (3) If a proposal includes both exempt and nonexempt actions, the county may
23 authorize exempt actions prior to compliance with the procedural requirements of this
24 chapter, except that:

25 (a) The county shall not give authorization for:

26 (i) any nonexempt action;

27 (ii) any action that would have an adverse environmental impact; or

28 (iii) any action that would limit the choice of reasonable alternatives;

29 (b) A department may withhold approval of an exempt action linked to a
30 nonexempt action that would lead to modification of the physical environment, when
31 such modification would have no purpose if nonexempt action(s) were not approved;
32 and

33 (c) A department may withhold approval of exempt actions linked to a
34 nonexempt action that would lead to substantial financial expenditures by a private
35 applicant when the expenditures would serve no purpose if nonexempt action(s) were
36 not approved.

37 (4) The department has the option to withdraw a determination that a proposal is
38 exempt based on new information or further review of existing information.

Section 6. Snohomish County Code Section 30.61.035, last amended by Amended Ordinance No. 15-064 on March 30, 2016, is amended to read:

30.61.035 Exemption thresholds for minor new construction and infill development.

Subject to SCC 30.61.030, a proposal is exempt if it meets either the thresholds for minor new construction in SCC 30.61.035(1) or the criteria to be categorically exempt as infill development in SCC 30.61.035(2). While proposals may be potentially exempt under both subsections (1) and (2), these exemptions are not automatic. SCC 30.61.035(3) requires that development projects that are categorically exempt under subsection (2) as infill development must still provide mitigation to other jurisdictions.

(1) As allowed under WAC 197-11-800(1)(c) and (d), the exempt levels for minor new construction are based upon local conditions and are as follows:

(a) The construction or location of any single family residential structures of ~~((20))~~ 30 dwelling units or less ~~((within))~~ in an urban growth area (UGA) and 20 dwelling units or less outside of ~~((an urban growth area))~~ a UGA;

(b) The construction or location of any multifamily residential structures of 60 dwelling units or less ~~((within an urban growth area))~~ in a UGA and 25 dwelling units or less outside of ~~((an urban growth area))~~ a UGA;

(c) The construction of a barn, loafing shed, farm equipment storage building, produce storage or parking structure, or similar agricultural structure covering 40,000 square feet or less;

(d) The construction of an office, school, commercial, recreational, service, or storage building of ~~((25,000))~~ 30,000 square feet or less and associated parking facilities designed for 90 or fewer automobiles ~~((within an urban growth area))~~ in a UGA and 12,000 square feet or less and associated parking facilities designed for 40 or fewer automobiles outside of ~~((an urban growth area))~~ a UGA;

(e) The construction of a parking lot designed for 40 or fewer parking spaces; and

(f) Any landfill or excavation of 1,000 cubic yards or less throughout the total lifetime of the fill or excavation.

(2) ~~((The exempt levels established in subsection (1) of this section are based upon local conditions.))~~ Infill development as defined in SCC 30.911.037 sited in a UGA shall be presumed to be categorically exempt when it meets the following criteria:

(a) The proposed uses are among those listed as permitted uses in Ch. 30.22 SCC for the zone in question; and

1 **(b) The applicant agrees to payment of any reciprocal traffic impact mitigation**
2 **fee that otherwise would have been due and owing under any applicable interlocal**
3 **agreement adopted pursuant to SCC 30.66B.710 or 30.66B.720 as described in**
4 **subsection (3) of this section but for this categorical exemption.**

5 **(3) To ensure the specific probable adverse environmental impacts of a proposed**
6 **infill development are adequately addressed, any determination of exemption under**
7 **subsection (2) of this section shall be made only when the applicant voluntarily agrees**
8 **to be subject to all reciprocal traffic impact mitigation fees imposed under any interlocal**
9 **agreement for reciprocal mitigation of traffic impacts which would otherwise be**
10 **applicable to the proposed infill development pursuant to SCC 30.66B.710 or**
11 **30.66B.720 if subject to SEPA review. Such agreement shall be made a condition of**
12 **any approval of an application deemed exempt under subsection (2) and is assumed to**
13 **be agreed to by the applicant at time of application unless otherwise indicated by the**
14 **applicant in their submittal materials. Applicants not consenting to reciprocal mitigation**
15 **requirements for purposes of exemption under subsection (2) may elect to forego such**
16 **a determination and have their application processed subject to SEPA.**

17
18 **Section 7.** Snohomish County Code Section 30.70.015, last amended by
19 Amended Ordinance No. 21-008 on April 7, 2021, is amended to read:

20
21 **30.70.015 Exemptions.**

22 The following permit types are exempt from the requirements of this chapter, except the
23 consistency determination required by SCC 30.70.100 and the expiration and vesting
24 provisions of SCC 30.70.140, 30.70.300, and 30.70.310 shall apply:

25 (1) Building permits exempt from the State Environmental Policy Act (SEPA) as
26 minor new construction under SCC 30.61.035(1);

27 (2) Land disturbing activity permits exempt from SEPA;

28 (3) All other construction permits under subtitle 30.5 SCC that are exempt from
29 SEPA; and

30 (4) Project permits for which a SEPA review and threshold determination were
31 completed in connection with other project permits for the same proposal, to the extent
32 the proposal has not substantively changed in a manner requiring further review under
33 chapter 30.61 SCC.

34
35 **Section 8.** Snohomish County Code Section 30.70.050, last amended by
36 Amended Ordinance No. 20-080 on December 16, 2020, is amended to read:

1 **30.70.050 Notice of application - timing and method.**

2 (1) The department shall provide notice of application within 10 days after a
3 determination that the application is complete as specified in SCC Table 30.70.050(5).
4 Required notice shall be given in accordance with SCC 30.70.045.

5 (2) A notice of application posted or published in the official county newspaper
6 or provided by mail on a letter/legal size publication shall include the following
7 information:

8 (a) Date of application, date of completeness determination, and date of
9 notice of application;

10 (b) Project description, list of permits requested, assigned county file
11 number, and county contact person;

12 (c) Any information or studies requested by the department;

13 (d) Any other required permits not included in the application, to the extent
14 known by the department;

15 (e) Any existing environmental documents that evaluate the proposed
16 project, including where they can be inspected;

17 (f) The date, time, place, and type of public hearing, if applicable and if
18 scheduled at the time of the notice;

19 (g) When notice is for a rezone action or development in a performance
20 standard zone, a statement indicating where the full text and/or map of the rezone
21 action may be inspected;

22 (h) A statement of when the comment period ends and the right of any
23 person to comment on the application, receive notice of and participate in any hearings,
24 request a copy of the decision once made, and any appeal procedures;

25 (i) If determined at the time of notice, those development regulations that will
26 be used for project mitigation or to review consistency; and

27 (j) Any other information determined appropriate by the department.

28 (3) Mailed notice of application may be provided on a post card.

29 (4) A post card notice shall contain the following information:

30 (a) project description;

31 (b) project file number;

32 (c) project location;

33 (d) type of project;

34 (e) applicable comment dates and notice of where to submit comments;

35 (f) date the notice of application was published in the official county
36 newspaper;

37 (g) website address providing access to project information; and

38 (h) a department contact.

1
2

Table 30.70.050(5) Notice of Application Requirements

Application Type	Post	Publish	Mail
Administrative Conditional Use	X	X	X
Binding Site Plan	X	X	X
Building and land disturbing activity permits ((subject to SEPA)) <u>unless exempt from SEPA as minor new construction under SCC 30.61.035(1)</u>	X	X	X
Code interpretation not related to a specific project		X	
Code interpretation related to a specific project	X	X	X
Final Subdivision	[see SCC 30.41A.600 through 30.41A.730]		
Flood Hazard Permit - except as provided in SCC 30.43C.020			X
Flood Hazard Variance	X	X	X
Free-standing sign in the RFS zone	X	X	X
SEPA threshold determination and EIS adequacy associated with project permit	X	X	X
Shoreline variance, conditional use, or substantial development permit or permit rescission	X	X	X
Short subdivision and rural cluster short subdivision	X	X	X

Application Type	Post	Publish	Mail
Variance	X	X	X
Conditional use and major revision	X	X	X
Preliminary subdivision and rural cluster subdivision, and major revision	X	X	X
Planned Residential Development and major revision	X	X	X
Official site plan or preliminary plan approval in performance standard zones (BP, PCB, IP, GC, T, RB, CRC, RFS, and RI)	X	X	X
Rezone - site specific	X	X	X
Review or revocation of a permit or approval pursuant to SCC 30.71.027	X	X	X
Preapplication Concurrency Decision	X	X	X
Any non-listed Type 1 or Type 2 permit application except Boundary Line Adjustments pursuant to SCC 30.41E.020(1)(c)	X	X	X

Section 9. A new section is added to Chapter 30.91I of the Snohomish County Code to read:

30.91I.037 Infill Development.

“Infill development” means residential, commercial, or mixed-use development in an urban growth area that is categorically exempt from the State Environmental Policy Act under RCW 43.21C.229.

1 (1) "Residential infill development" means any permitted type of dwellings and
2 may include incidental non-residential components of a residential development
3 proposal such as amenity buildings in apartment complexes;

4 (2) "Commercial infill development" means any permitted non-residential use
5 other than general retail as defined in SCC 30.91R.143; and

6 (3) "Mixed-use infill development" means any mix of permitted non-residential
7 use up to 65,000 square feet and residential development of any amount, provided that
8 any non-residential use meeting the definition of general retail in SCC 30.91R.143 is
9 limited to 30,000 square feet.

10
11 *This definition only applies to SCC 30.61.035.*

12
13 **Section 10.** Severability and Savings. If any section, sentence, clause or phrase
14 of this ordinance shall be held to be invalid by the Growth Management Hearings Board
15 (Board), or unconstitutional by a court of competent jurisdiction, such invalidity or
16 unconstitutionality shall not affect the validity or constitutionality of any other section,
17 sentence, clause or phrase of this ordinance. Provided, however, that if any section,
18 sentence, clause or phrase of this ordinance is held to be invalid by the Board or court
19 of competent jurisdiction, then the section, sentence, clause or phrase in effect prior to
20 the effective date of this ordinance shall be in full force and effect for that individual
21 section, sentence, clause or phrase as if this ordinance had never been adopted.

1 PASSED this _____ day of _____, 20__.

2
3
4 SNOHOMISH COUNCIL
5 Snohomish, Washington
6
7

8
9 _____
Council Chair

10 ATTEST:

11
12 _____
13
14 Asst. Clerk of the Council
15
16

17 () APPROVED
18 () EMERGENCY
19 () VETOED

20 DATE:

21
22 _____
23 County Executive

24 ATTEST:

25
26 _____
27
28 Approved as to form only:
29


30 
31 _____
Deputy Prosecuting Attorney

Exhibit A

Analysis of How Existing Codes and Rules Address SEPA Authority by Element

Washington Administrative Code (WAC) 197-11-444 identifies the elements of the environment that local jurisdictions must address under SEPA. These are broadly:

1. Natural Environment
 - a. Earth
 - b. Air
 - c. Water
 - d. Plants and Animals
 - e. Energy and Natural Resources
2. Built Environment
 - a. Environmental Health
 - b. Land and Shoreline Use
 - c. Transportation
 - d. Public Services and Utilities

Snohomish County has existing codes and rules that address the required elements of the environment. These provisions typically will provide adequate mitigation for individual development projects. For developments proposing uses in an Urban Growth Area (UGA) that chapter 30.22 of Snohomish County Code (SCC) identifies as permitted, the density and intensity of the use will be roughly equal to or lower than called for in the goals and policies in the Snohomish County Growth Management Act Comprehensive Plan (GMACP). Such projects therefore meet a requirement of the “infill development” criteria for categorical exemptions in RCW 43.21C.229. This is because the programmatic Environmental Impact Statement (EIS) performed for the 2015 update to the GMACP relied on assumptions that most new development would be of the “permitted” type in chapter 30.22 SCC. The EIS further assumed that new development would need to adhere to the codes and rules detailed below. The EIS addresses uses that chapter 30.22 SCC identifies as “Conditional Uses,” “Administrative Conditional Uses,” or “Special Uses,” but not necessarily to the degree that they should be categorically exempt in the ordinance to which this exhibit is attached. Similarly, there are some rare limitations on categorical exemptions provided for in the ordinance that will apply to permitted uses. These limitations ensure that mitigation for the probable impacts of such uses is adequate and within the range of impacts and mitigation addressed by the EIS.

Natural Environment, Earth: The earth element requires provisions to address: (i) geology, (ii) soils, (iii) topography, (iv) unique physical features, and (v) erosion/enlargement of land area through accretion.

- Chapter 30.62B SCC addresses geologically hazardous areas. This includes standards for landslide and erosion hazard areas that are common in UGAs. Standards for less common geologic hazards are also in this chapter, including channel migration zones, and seismic and tsunami hazard requirements.
- Chapters 30.63A (Drainage) and 30.63B SCC (Land Disturbing Activity) collectively address soils. These include minimum requirements to comply with the Phase I Municipal Stormwater Permit issued by the Washington State Department of Ecology under the Clean Water Act National Pollutant Discharge and Elimination System and standards for engineering reports and work in different types of soils, topography, and natural features.
- The Snohomish County Engineering Design and Development Standards (EDDS) are a set of administrative rules that establish specific requirements for construction plans affecting the earth element. Examples include specifications for retaining walls, underground stormwater vaults, and erosion control measures.
- Best Management Practices (BMPs) from the Snohomish County Drainage Manual provide stormwater pollution prevention measures to address both the erosion aspects of the earth element and other aspects of the natural environment discussed further below.
- The combination of these and other related requirements ensure that the earth element of the natural environment will be adequately addressed, and impacts mitigated during project-level review and construction.

Natural Environment, Air: The air element requires provisions to address: (i) air quality, (ii) odor, and (iii) climate.

- The Drainage Manual includes provisions that address dust control and other sources of particulates that can lower air quality. Examples include requirements for fugitive dust control plans and use of water sprays or other non-toxic dust control methods on unpaved roadways.
- Chapter 30.25 SCC (Landscaping) has requirements to provide tree canopy and other landscaping measures that both help improve local air quality and address

climate change. Tree canopy provisions in SCC 30.25.016 require development to maintain existing tree canopy or provide new trees expected to provide as much as 30% tree canopy cover in new subdivisions.

- Chapter 30.28 SCC (General Development Standards) includes provisions that address odor prevention in general and for specific uses and activities. A requirement that facilities “shall comply with the no detectable odor emission standard” in SCC 30.28.093(4)(b) applies to hydrogen sulfide or ammonia emissions. Other sections address other odors and make provisions for review by the Puget Sound Clean Air Agency for conformance with requirements not otherwise addressed in county code.
- The Future Land Use Map (FLUM) and associated growth targets adopted as parts of the GMACP mitigate long-term climate impacts on air by concentrating growth in compact urban center locations and along transit emphasis corridors, helping reduce vehicle emissions that affect both air quality and climate change.
- The combination of these and other related requirements ensure that the air element of the natural environment will be adequately addressed, and impacts mitigated during project-level review and construction.

Natural Environment, Water: The water element requires provisions to address: (i) surface water movement/quantity/quality, (ii) runoff/absorption, (iii) floods, (iv) groundwater movement/quantity/quality, and (v) public water supplies.

- Chapter 30.63A SCC (Drainage) addresses requirements for handling surface water, including engineering requirements where applicants must demonstrate how their project will address quantity, quality, and infiltration of stormwater runoff. This chapter includes cross references to minimum requirements in the Drainage Manual that maintain water resources within a single threshold discharge area so that as surface water becomes groundwater it stays in the same drainage basin, rather than moving between basins.
- Chapter 30.65 SCC (Special Flood Hazard Areas) addresses flooding aspects of the water element and incorporates the minimum flood plain management standards and regulations of the National Flood Insurance Program. This includes prohibitions against some activities in the floodplain and requirements for others, such as elevating buildings, when it is necessary or appropriate to place buildings in the floodplain.

- Chapter 30.62C SCC (Critical Aquifer Recharge Areas) designates and protects critical aquifer recharge areas per the Growth Management Act. This addresses public health, safety, and welfare of groundwater resources.
- All new development in urban growth areas must connect to a public water system. Confirmation of water availability occurs by requiring applicants to demonstrate consistency with approval criteria that require plans to connect to the public water system and that the water provider has sufficient capacity to serve the new development. Although specific code citations vary depending on the type of development, all urban development must have adequate public water provisions..
- The combination of these and other related requirements ensure that the water element of the natural environment will be adequately addressed, and impacts mitigated during project-level review and construction.

Natural Environment, Plants and Animals: The plants and animals element requires provisions to address: (i) habitat for and number or diversity of plants, fish, or other wildlife, (ii) unique species, and (iii) fish or wildlife migration routes.

- Chapter 30.62A SCC (Wetlands and Fish & Wildlife Habitat Conservation Areas) provides protections for wetlands, streams, marine waters, and other protected water bodies. These protections include the establishment of Critical Area Protection Area (CAPA) buffers that preserve both native vegetation and habitat areas depended on by wildlife, including protected and endangered wildlife such as salmon and bull trout.
- Chapters 30.44 (Shoreline Permits) and 30.67 SCC (Shoreline Management Program) combine to protect rivers, lakes, Puget Sound, and other waterbodies of the state in a manner that satisfies the Shoreline Management Act, and which complements the protections in chapter 30.62A SCC.
- Wildlife migration routes in urban areas are protected by a combination of chapters 30.44 and 30.62A SCC which protect migratory areas and adjacent habitat for fish and shoreline mammals. These chapters also help protect migratory routes for birds by protecting important habitat and resting areas in urban portions of the Pacific Flyway. Other wildlife migration routes, such as for elk, do not pass through urban areas affected by this ordinance.

- The combination of these and other related requirements ensure that the plants and animals element of the natural environment will be adequately addressed, and impacts mitigated during project-level review and construction.

Natural Environment, Energy and Natural Resources: This element requires provisions to address: (i) amount required/rate of use/efficiency, (ii) source/availability, (iii) nonrenewable resources, and (iv) conservation and renewable resources.

- Chapter 30.52D SCC (Energy Code) requires that new construction and major remodels meet the efficiency requirements of the Washington State Energy Code. Enforcement of these requirements is by the building official, who under chapter 30.50 SCC is responsible for ensuring that all building permits meet state standards.
- The EIS for the GMACP addresses energy efficiency on a programmatic basis by showing how increasing urban densities reduces both energy requirements for buildings and for the transportation system. For example, dense multifamily housing uses less electricity per capita than detached single-family homes for the same number of people. Thus, the strategy to promote denser infill along transit emphasis corridors in the GMACP serves to use energy efficiently which also helps conserve energy generated from non-renewable sources.
- All new development in UGAs connect to appropriate energy providers, such as Snohomish County PUD for electricity. The permit review process ensures that energy sources are available. Each project must submit materials showing compliance with approval criteria which include requirements that applicants demonstrate plans to connect. For instance, SCC 30.41A.630(3) includes a requirement that new subdivisions provide easements for utility services such as electricity. Additionally, energy providers must maintain capital facilities plans, consistent with GMA and other state requirements.
- Promotion of conservation and renewable energy occurs in a programmatic sense and in code as described above. Other examples include a bonus for proving rooftop solar in Urban Center zoning that results in an increase to the maximum building size (SCC 30.34A.035). Solar panels help generate electricity; while larger buildings are generally more efficient on a per square foot basis. Other regulations in title 30 SCC, especially in chapters 30.23 (Bulk Regulations) and 30.23A SCC (Urban Residential Design Standards), help ensure building massing that does not preclude or harm installation of rooftop solar capacity on development sites or adjoining properties.

- Protection of scenic resources in the urban environment occurs primarily in three ways. First, the FLUM designates certain publicly-owned scenic areas as Public/Institutional to help preserve them. The FLUM also includes some high-intensity uses such as Urban Center in places of high elevation along SR-99 to make maximum use of scenic vistas from those locations. Second, building height and massing requirements in chapter 30.23 SCC (Bulk Regulations) and stepback requirements in chapter 30.34A SCC (Urban Center) help preserve scenic resources available to sites adjoining new development. Third, restrictions on building heights in shoreline areas under chapter 30.67 SCC (Shoreline Management Program) serve in part to protect scenic vistas of Puget Sound, rivers, and other water bodies.
- The combination of these and other related requirements ensure that the energy and natural resources element of the natural environment will be adequately addressed, and impacts mitigated during project-level review and construction.

Built Environment, Environmental Health: This element requires provisions that address: (i) noise, (ii) risk of explosion, and (iii) releases or potential releases to the environment affecting public health, such as toxic or hazardous materials.

- Chapter 10.01 SCC (Noise Control) provides for protection from noise and mitigation of common sources of noise, including by limiting hours of activity at construction sites and by establishing decibel limits for noise from business operations and uses like school stadiums. Conditions can be placed on permits for noise-generating activities, creating restrictions beyond the basic standards in chapter 10.01 SCC to address and mitigate for noise impacts. SCC 30.42C.100(2)(f) allows placement of specific conditions on conditional use permits to mitigate noise impacts. SCC 30.71.030 and SCC 30.72.060(3) allow conditions on other permit types to mitigate noise impacts.
- Chapter 30.53A SCC adopts the International Fire Code and addresses the risks of explosion and potential release many toxic or hazardous materials in urban areas. Applicants proposing uses that risk explosion or release of materials must demonstrate compliance with appropriate safety measures according to international standards. For rare and unusual uses posing such risks, SCC 30.43A.174 allows the Fire Marshal to require research reports from approved sources to help establish appropriate conditions of approval to mitigate said risks.
- On a programmatic level, requirements such as those in SCC 30.63B SCC(Drainage) and the Drainage Manual mitigate for release of non-point

sources of toxins including oil runoff from roadways. These requirements rely on best management practices to provide treatment of contaminated runoff before it enters the groundwater.

- To protect public health, safety, and welfare from potential release of toxic or hazardous materials (or similar concerns), SCC 30.63B.060 gives the PDS director authority to require more stringent standards and impose mitigation beyond standard code compliance. To determine what those standards and mitigation measures should be, SCC 30.63B.210 authorizes PDS to require the applicant to submit engineering reports, as appropriate, to characterize the risk and propose mitigation. PDS then reviews the reports and ensures that appropriate recommendations are reflected in the land disturbing activity construction plans. These requirements result in the same types of reports and outcomes as would occur if an EIS had been required and engineering reports prepared based on county SEPA regulations.
- The combination of these and other related non-SEPA requirements ensure that the environmental health element of the built environment will be adequately addressed and impacts mitigated during project-level review and construction.

Built Environment, Land and Shoreline Use: This element requires provisions that address: (i) relationship to existing land use plans and to estimated population, (ii) housing, (iii) light and glare, (iv) aesthetics, (v) recreation, (vii) historic and cultural preservation, and (vii) agricultural crops.

- Snohomish County codes and rules regulating development must be consistent with its land use plans (RCW 36.70A.040(4)(d)). The review and evaluation program required by RCW 36.70A.215 monitors growth in a programmatic manner to ensure that capacity exists for the 20-year population targets for urban areas adopted in the Countywide Planning Policies. The land use plans adopted during periodic updates include a land capacity analysis to demonstrate the adopted land use plan can provide for the estimated population growth.
- Snohomish County addresses housing programmatically in the GMACP through its Future Land Use Map (FLUM) and adopted growth targets. By designating a variety of densities on the FLUM and through provisions in code, Snohomish County provides diversity of housing types and housing at different price points. The Residential Land Use Needs Analysis (RLUNA) model evaluates the adequacy of this approach. The results of RLUNA modeling are incorporated into the EIS for the periodic plan updates, including the EIS for the 2015 Update.

- Existing codes address potential light and glare impacts. In a general sense, the building code requires provision of adequate lighting for all buildings (SCC 30.50.304). The bulk regulations in chapter 30.22 SCC create adequate separation of buildings to mitigate light and glare impacts for most uses. The urban residential design standards in chapter 30.23A SCC result in new residential development that is compatible with adjacent housing and other uses. Specific code provisions address mitigation of special potential sources of light and glare. These include provisions in chapter 30.27 SCC that contain standards for different types of illuminated signs and chapter 30.34A SCC which addresses lighting design requirements for larger buildings in the Urban Center zone.
- Snohomish County Code handles mitigation of aesthetic impacts in a manner analogous to that of light and glare. Chapter 30.23A SCC provides urban residential design standards that ensure new housing in most urban zones provide aesthetic appeal and, as appropriate to the context of adjoining uses, also provide adequate compatibility measures. Chapter 30.34A SCC includes detailed design standards for Urban Center zoning that apply to both residential development and non-residential uses. Mitigation for aesthetic impacts of non-residential buildings occurs mainly through compliance with bulk regulations in chapter 30.23 SCC and zone-specific requirements in chapters 30.31A and 30.31B SCC. Chapter 30.25 SCC also contributes to mitigating aesthetic impacts by providing landscaping requirements for new development, including tree canopy requirements for residential development and landscaping requirements for parking lots, drainage facilities, and aspects of the built environment.
- Mitigation of recreation impacts occurs both programmatically and in code. The GMACP includes a Parks and Recreation Element (PRE). The PRE establishes levels of service (LOS) for different types of parks, including community parks located in urban areas. The Park Improvement Plan (PIP) is part of the Capital Facilities Plan (CFP) element of the comprehensive plan, and the PIP identifies maintenance and capacity improvements planned over a six-year horizon to maintain adequate LOS for parks in urban areas. Chapter 30.66A SCC (Park and Recreation Facility Impact Mitigation) ensures that adequate park land and park facilities are available in urban areas by assessing impact fees on new development to help pay for the projects identified in the PIP. In addition to publicly owned parks, SCC 30.23A.080 establishes on-site recreation requirements applicable to most new urban housing projects that result in provision of private recreation outside of Urban Center zoning. The private open space and recreation requirements for Urban Center zoning are in SCC

30.34A.070. Finally, the combination of the Future Land Use Map which designates commercial areas serving residential areas and the use matrix in SCC 30.22.100 provide for other types of recreational needs such as entertainment activities at bowling alleys and wineries.

- Chapter 30.32D SCC (Historic and Archaeological Resources) provides adequate mitigation for historic and cultural impacts. This chapter establishes the process for identifying, designating, and protecting historic places. It also includes protections for archeological resources, including those that are already known and those where discovery is inadvertent such as during construction. These protections are consistent with state and federal requirements as detailed in SCC 30.32D.010.
- There are no lands designated on the FLUM for agricultural crop production in urban areas. By concentrating growth in the UGAs, the GMACP helps preserve agricultural production in rural and resources lands outside UGAs.
- Urban shorelines in Snohomish County have protections under chapters 30.44 (Shoreline Permits) and 30.67 SCC (Shoreline Management Program) that meet the standards set forth in the Shoreline Management Act (chapter 90.58 RCW). These standards, combined with other projections such as chapter 30.62A SCC (Wetlands and Fish & Wildlife Habitat Conservation Areas), ensure adequate protections for shoreline and near shoreline areas.
- The combination of these and other related requirements ensure that the land and shoreline use element of the built environment will be adequately addressed and impacts mitigated during project-level review and construction.

Built Environment, Transportation: This element requires provisions that address: (i) transportation systems, (ii) vehicular traffic, (iii) waterborne, rail, and air traffic, (iv) parking, (v) movement/circulation of people or goods, and (vi) traffic hazards.

- Mitigation of major transportation system and vehicular traffic impacts occurs both programmatically and in code. The GMACP includes a Transportation Element (TE). The TE establishes LOS standards for vehicular movement along roads and through intersections. The Transportation Improvement Plan (TIP) is part of the CFP element of the comprehensive plan, and the TIP identifies maintenance and capacity improvements planned over a six-year horizon to maintain adequate LOS for roads. Chapter 30.66B SCC (Concurrency and Road Impact Mitigation) ensures that adequate road facilities are available by

assessing impact fees on new development to help pay for projects identified in the TIP.

- Although waterborne traffic passes the shoreline areas of unincorporated Snohomish County, the operating terminal areas are in cities and subject to facilities planning conducted by the ports of Edmonds and Everett. Mitigation measures for unincorporated urban development would therefore be unnecessary.
- The heavy rail network which moves both freight and commuter routes on the same lines has long established rights-of-way in unincorporated areas. Sound Transit is planning extensions of its light rail lines into unincorporated UGA areas. Sound Transit is the SEPA lead agency for programmatic review of impacts and mitigation for the light rail system expansion. Project specific review by Snohomish County for line extensions and stations will ensure compliance with codes including chapters 30.62A (Wetlands and Fish & Wildlife Habitat Conservation Areas), 30.63A (Drainage), and 30.63B SCC (Land Disturbing Activity) to ensure adequate mitigation for impacts during construction and operation.
- Snohomish County has several airports in unincorporated areas. Development in and around all airports must comply with chapter 30.32E SCC (Airport Compatibility) which ensures compliance with state and federal aviation regulations..
- Chapter 30.26 SCC (Parking) ensures that all uses provide adequate parking to prevent parking impacts on adjoining property. Several sections in this chapter detail design requirements to ensure safety and adequate circulation within parking lots. SCC 30.25.022 contains landscaping requirements to adequately mitigate visual impacts of parking. Mitigation of potential stormwater and contamination occurs through compliance with Chapters 30.63A (Drainage) and 30.63B SCC (Land Disturbing Activity), and through administrative rules regarding construction standards in EDDS and the Drainage Manual during construction plan review.
- Movement and circulation of people and goods are addressed programmatically in the TE and on a project level during compliance with applicable codes and EDDS. Chapter 30.24 SCC (Access and Road Network) establishes the basic standards for roads and utilities in rights-of-way. EDDS provides requirements for construction-level details. SCC 30.24.080 (pedestrian facility requirements) ensures sidewalks to allow movement of people on foot. The Countywide Bicycle

Facilities Map, which is part of the Transportation Element of the GMACP, addresses cyclist needs programmatically. Project level developments with frontage lacking in sidewalks or bike lanes must install these features during construction to mitigate their proportionate share of demand.

- The Transportation Element identifies known traffic hazards as Inadequate Road Conditions (IRCs). The TIP prioritizes IRCs for planned changes to address the problems with constructed solutions in the next six years. New development expected to generate traffic affecting an IRC, or that might create a new IRC, must address the issue consistent with Chapter 30.66B SCC (Concurrency and Road Impact Mitigation). The design of new development must also ensure adequate sight triangles at intersections (see for example SCC 30.23.100 and 30.25.023(4)). Details for road designs, driveway and intersection spacing, and similar hazard prevention measures appear throughout EDDS to minimize and mitigate safety concerns.
- The combination of these and other related requirements ensure that the transportation element of the built environment will be adequately addressed, and impacts mitigated during project-level review and construction.

Built Environment, Public Services and Utilities: This element requires provisions that address: (i) fire, (2) police, (3) schools, (4) parks and other recreational facilities, (5) maintenance, (vi) communications, (vii) water/stormwater, (viii) sewer/solid waste, and (ix) other governmental services or utilities.

- Fire service is addressed programmatically in the facilities and service planning performed by the various independent fire districts and city fire departments that serve unincorporated urban areas. At a project level, sections in title 30 SCC require applicants demonstrate adequate water availability for fire flow. All new buildings must comply with chapter 30.53A SCC (Fire Code) which ensures that buildings meet the standards of the International Fire Code. Circulation within sites must include adequate provision of fire apparatus access roads (SCC 30.53A.512).
- The Snohomish County Sheriff provides most of the police service in unincorporated UGAs. Additional support comes from other agencies by interlocal agreement. Impacts to demand on sheriff services from new development are mitigated through increased property and sales taxes that support these services. Planning for precinct buildings and fleet occurs programmatically as part of the CFP and capital improvement program.

- School districts address impacts from new development programmatically by adopting their own biennial capital facilities plans. Those districts which choose to request impacts fees from new development under chapter 30.66C SCC (School Impact Mitigation) must submit their plans to the Snohomish County Council for review and adoption.
- Project-level impacts of schools on neighboring uses is addressed through a Conditional Use Permit (CUP) process before the school is approved. Since the subject ordinance does not create categorical exemptions for CUPs, there is no need to address mitigation for this aspect of schools further.
- Impact assessment and mitigation related to parks and other recreational facilities have been described above under the recreation aspect of the land use.
- Maintenance of public services and utilities is addressed in the capital facilities planning for the appropriate agency as described in several places above.
- Private service providers are responsible for planning for most communications facilities. Construction of new personal wireless service facilities (cell towers) requires a CUP in most urban zones; therefore, such permits would not be categorically exempt under this ordinance. In urban industrial zones where cell towers do not require a CUP, the requirements of chapter 30.28A SCC (Development Standards and Siting Process for Personal Wireless Service Facilities) would apply, and thereby provide adequate mitigation for cell towers in industrial areas.
- Description of the requirements and mitigation of impacts to public water supplies is in the section above on public water supplies.
- Discussion of smaller stormwater systems is above in the water element of the natural environment. Contemporary requirements for handling surface and groundwater through drainage and infiltration requirements means that utility-scale stormwater systems are necessary with less frequency than when this requirement became part of SEPA and WAC 197-11-444. However, some larger systems are still necessary. These are addressed programmatically in the Drainage Needs Report (DNR) which is incorporated by reference in the CFP element of the GMACP. Among other things, the DNR identifies maintenance and new facilities needed to respond to cumulative stormwater impacts of development.
- Chapter 30.29 SCC (Sewer Connection Regulations) requires that all new development in UGAs must connect to sanitary sewer unless the development is

in an unsewerable enclave as determined by the sewer provider. A combination of special purpose districts and municipal systems provide sewer service. These agencies anticipate and mitigate for new development programmatically in their capital facilities plans. Before approval of new development, the applicant must demonstrate that the sewer provider has capacity to serve the development and that the provider has approved the detailed construction plans for the connection.

- Snohomish County operates the countywide program for solid waste handling and solid waste recovery and reclamation to prevent land, air, and water pollution to conserve the natural, economic and energy resources of the county (SCC 7.35.010). The county Solid Waste division of the Department of Public Works maintains capital facilities planning that programmatically addresses solid waste needs and this planning is adopted as part of the CFP element of the GMACP. During project level review, applicants must demonstrate adequate accommodation for solid waste handling and pickup. Applicants for activities of special concern, such as those generating industrial waste, must comply with appropriate special regulations such as SCC 30.28.110 for material recovery facilities.
- Impacts to other governmental facilities and utilities from new development are addressed programmatically through capital facilities planning. For instance, as general growth increases demand for county administrative functions, the county CFP and six-year CIP include details on plans to improve the physical space required for county operations.
- The combination of these and other related requirements ensure that the public services and utilities element of the built environment will be adequately addressed, and impacts mitigated during project-level review and construction.

**AMENDMENT SHEET 1
ORDINANCE NO. 22-037**

Amendment Name: Clarifying Reciprocal Impact Agreement Requirements

Brief Description: This amendment revises Finding 1.B.6 and proposed language in SCC 30.61.035 to reflect that reciprocal traffic impact mitigation under existing interlocal agreements can involve more than just payment of fees.

Affected Ordinance Sections: Section 1 and Section 6

Affected Code Sections: SCC 30.61.035

Existing Ordinance Recitals, Findings, Conclusions or Sections to Delete or Modify:

Section 1

On page 6, line 20, after “to” delete “make all payments for reciprocal traffic impact mitigation fees” and replace with “provide all mitigation”

Section 6

On page 13, line 1, after “agrees to” delete “payment of any reciprocal traffic impact mitigation fees” and replace with “provide all mitigation”

On page 13, line 8, after “all reciprocal” delete “traffic impact mitigation fees” and replace with “mitigation measures”

Council Disposition: _____ **Date:** _____

Executive/Council Action Form (ECAF)

EXHIBIT # 3.1.001FILE ORD 22-037**ITEM TITLE:****..Title**

Ordinance 22-037, relating to environmental review; Increasing exemption thresholds for minor new construction and adopting new categorical exemptions per the State Environmental Policy Act to Promote Infill Development in Urban Growth Areas; Amending existing and adding new sections in chapters 30.43F, 30.61, 30.70 and 30.91I of Snohomish County Code

..body**DEPARTMENT:** Council**ORIGINATOR:** Ryan Countryman for Nate Nehring**EXECUTIVE RECOMMENDATION:** TBD

PURPOSE: This ordinance would adopt new State Environmental Policy Act (SEPA) exemptions for infill development in Urban Growth Areas in Title 30.

BACKGROUND: Sponsored by Councilmember Nehring, this ordinance would implement changes authorized by the Washington State Legislature in 2021 with enactment of Substitute House Bill 2673 (SHB 2673) authorizing new categorical exemptions from SEPA for infill development in UGAs. It would also increase exemption thresholds for minor new construction as allowed in Washington Administrative Code (WAC) 197-11-800.

FISCAL IMPLICATIONS:

EXPEND: FUND, AGY, ORG, ACTY, OBJ, AU	CURRENT YR	2ND YR	1ST 6 YRS
None			
TOTAL			

REVENUE: FUND, AGY, ORG, REV, SOURCE	CURRENT YR	2ND YR	1ST 6 YRS
None			
TOTAL			

DEPARTMENT FISCAL IMPACT NOTES: Click or tap here to enter text.**OTHER DEPARTMENTAL REVIEW/COMMENTS:** Click or tap here to enter text.

**ORDINANCE
INTRODUCTION SLIP**

SNOHOMISH COUNTY COUNCIL

TO: Clerk of the Council

EXHIBIT # 3.1.003

FILE ORD 22-037

TITLE OF PROPOSED ORDINANCE:

RELATING TO ENVIRONMENTAL REVIEW; INCREASING EXEMPTION THRESHOLDS FOR MINOR NEW
CONSTRUCTION AND ADOPTING NEW CATEGORICAL EXEMPTIONS PER THE STATE ENVIRONMENTAL POLICY
ACT TO PROMOTE INFILL DEVELOPMENT IN URBAN GROWTH AREAS; AMENDING EXISTING AND ADDING
NEW SECTIONS IN CHAPTERS 30.43F, 30.61, 30.70 AND 30.91I OF SNOHOMISH COUNTY CODE
~~~~~

N. Neh 08/30/22  
Councilmember Date  
~~~~~

Clerk's Action: Proposed Ordinance No. 22-037

Assigned to: Administrative Session Committee of the Whole Date: 09/06/22
~~~~~

**STANDING COMMITTEE RECOMMENDATION FORM**

The following action item was considered by Committee of the Whole  
(name of Committee)

on 09/06/22. By a vote of 4 Yeas and 0 Nays, the (four members present)  
(date)

Committee makes the following recommendation:

X Move to Council to schedule public hearing Scheduled a public hearing for September 28th at  
10:30 a.m.  
       Move to Council as amended to schedule public hearing  
       Move to Council with no recommendation

**This item should/should not be placed on the Consent Agenda.**

(Consent agenda may be used for routine items that do not require public hearing and do not need  
discussion at General Legislative Session)

**This item should/should not be placed on the Administrative Matters Agenda**

(Administrative Matters agenda may be used for routine action to set time and date for public hearings)

M. D.  
Committee Chair



## Snohomish County Council

**Committee:** Planning & Community Development

**Analyst:** Ryan Countryman

**ECAF:** 2022-0855

**Proposal:** Proposed Ordinance 22-037

**Date:** September 6, 2022

### **Consideration**

Ordinance 22-037 would adopt new State Environmental Policy Act (SEPA) exemptions for infill development in Urban Growth Areas (UGAs) in Title 30 of Snohomish County Code (SCC).

### **Background**

Councilmember Nehring sponsored the development of Ordinance 22-037. This ordinance would implement changes authorized by the Washington State Legislature in 2021 with enactment of Substitute House Bill 2673 (SHB 2673) authorizing new categorical exemptions from SEPA for infill development in UGAs. It would also increase exemption thresholds for minor new construction as allowed in Washington Administrative Code (WAC) 197-11-800. The County Council discussed an earlier version of this ordinance as Motion 21-334 on September 21, 2021, in Planning and Community Development committee. Motion 21-334 passed on September 29, 2021, referring the earlier version to Planning and Development Services (PDS) and other departments for review and input. Ordinance 22-037 is the conclusion of that process.<sup>1</sup>

SEPA requires that impacts of new development have appropriate mitigation. It allows for reliance on existing plans and regulations to provide adequate mitigation for many types of projects instead of requiring additional analysis and review. For example, the administrative rules adopted by the Washington State Department of Commerce allow local jurisdictions to consider single-family development with up to 30 units in UGAs to be “minor new construction” that are exempt from additional review. This requires that the jurisdiction already have regulations addressing common potential impacts such as to wetlands and traffic in place. Snohomish County has the required regulations. The County has also adopted thresholds for minor new construction in the categories allowed,

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<sup>1</sup> On June 21, 2022, an earlier iteration of the ordinance was assigned to committee as proposed Ordinance 22-027 / ECAF 2022-0646. Feedback regarding implementation resulted in that ordinance never making it to committee for discussion. Instead, there was further work to address implementation issues, and these resulted in the current proposal.

although some thresholds are lower than the maximum. This includes the threshold that would apply to urban single-family development which is currently set at 20 dwelling units.

SHB 2673 amended SEPA to promote infill development in UGAs. SHB 2673 made specific changes to RCW 43.21C.229 that increased the potential categorical exemptions from SEPA. Now actions where the “density and intensity of use is roughly equal to or lower than called for in the goals and policies of the applicable comprehensive plan” may be exempt with certain exceptions. Categorical exemptions are different from exemptions for minor new construction discussed above. Some projects may be exempt both as minor new construction and under the new categorical exemptions. Use of categorical exemptions requires completion an Environmental Impact Statement (EIS) for the comprehensive plan. Snohomish County completed a programmatic EIS for the 2015 Update to the comprehensive plan and is thus eligible to make use of the categorical exemptions.

## **Analysis**

Ordinance 22-037 would increase certain thresholds for minor new construction to match existing upper limits in WAC 197-11-800. It would also adopt new categorical exemptions as authorized by the State Legislature in 2021. Use of categorical exemptions would be a significant change to the permitting process for many types of permits in UGAs.

Using categorical exemptions in the permitting process would reduce submittal requirements for applicants and may help reduce review timeframes overall. SEPA-related procedural steps for permitted uses such as townhomes in residential zones and warehouses in industrial zones would no longer be necessary. The programmatic EIS for the comprehensive plan already studied the overall impact for these uses. Site-specific mitigation would come from compliance with existing regulations such as protections for critical areas and drainage. Long-standing SEPA requirements are in many ways redundant to more recent development regulations. Hence, in the interest of efficiency, the action by the State Legislature to allow most development in UGAs to be exempt.

Adoption of the proposed categorical exemptions from SEPA could have had unintended procedural effects where certain procedural actions currently use SEPA eligibility to trigger other actions. Ordinance 22-037 addresses these scenarios by making changes to these processes. The result is to keep outcomes the same, even as the phrasing of the relevant procedural requirements change.

Ordinance 22-037 maintains current levels of public involvement in two ways. First, it makes changes to notice of application requirements to keep similar the levels of notice provided to the public. The September 12, 2021, staff report for Motion 21-334 identified this as a potential issue, but no code provisions had been proposed at that time. This secondary effect of making more projects categorically exempt from SEPA on noticing has now been adequately address by new proposed in changes to SCC 30.070.050.

A second and perhaps more important effect of Ordinance 22-037 on public involvement relates to appeals. If a project is categorically exempt, there is no SEPA threshold determination to make. The importance of this change is arguably an issue of perception. Functionally, by making a project categorically exempt, the lack of a threshold determination (and notice thereof) means that the public cannot appeal a project under SEPA. If categorical exemptions are applied correctly, then there would be little to no merit in a SEPA-based appeal. Appeal rights per RCW 36.70C, the Land Use Petition Act (LUPA), would be unaffected. A non-trivial share of appeals nominally based on SEPA and received by the Snohomish County Hearing Examiner have been dismissed whole or in part because the arguments were insufficiently based on SEPA concerns. Use of categorical exemptions would thus take away a theoretical opportunity for the public to file SEPA appeals on those projects. However, the opportunity to successfully appeal on such grounds is often illusory. Use of categorical exemptions may therefore appear to reduce the public's opportunity to appeal a project, but it would also mean that appeals could be more often LUPA-based, which may be a more appropriate mechanism.

Ordinance 22-037 also makes changes to maintain current practice related to interlocal agreements (ILAs) for reciprocal traffic mitigation with other agencies. Most ILAs current in effect use SEPA eligibility as a trigger for whether the ILA is applicable to the project. The proposed new subsection SCC 30.61.035(3) would address applicability of such ILAs by making categorical exemption subject to an applicant's voluntary agreement to be subject to all reciprocal mitigation imposed under applicable ILAs. Absent such a provision, the adoption of categorical exemptions could have unintended adverse impacts on city and state roads. Ordinance 22-037 avoids that potential scenario by using voluntary agreements.

### **Current Proposal**

*Summary:* Ordinance 22-037 would increase exemption thresholds for minor new construction and adopt new categorical exemptions under SEPA by amending existing sections in Chapters 30.43F, 30.61, 30.70, and 30.91I SCC.

*Fiscal Implications:* None

**Handling:** NORMAL

**Approved-as-to-form:** YES

**Executive Recommendation:** TBD

**Request:** Move to General Legislative Session on September 14 to set time and date for a hearing.

EXHIBIT 3.2.002

Administrative Session Meeting Minutes –  
09/06/22

[Minutes](#) and [Video](#)

**From:** Countryman, Ryan  
**Sent:** Thursday, September 1, 2022 2:35 PM  
**To:** Campfield, Lisa  
**Subject:** FW: DNS Issued for Proposed Ordinance Related to Residential Development

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Hi Lisa,

Please add this comment to the record for Ord. 22-037 and make Bruce Barnbaum a party of record.

Thank you!

Ryan

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**From:** Moore, Megan <Megan.Moore@co.snohomish.wa.us>  
**Sent:** Thursday, September 1, 2022 2:32 PM  
**To:** Countryman, Ryan <Ryan.Countryman@co.snohomish.wa.us>  
**Subject:** Fw: DNS Issued for Proposed Ordinance Related to Residential Development

Hi Ryan,  
Forwarding this email from Bruce Barnbaum in response to your DNS.

Megan Moore | Administrative Assistant, Office of the Director

[Snohomish County Planning and Development Services](#)

(425) 262-2891 | she/her

NOTICE: All emails, and attachments, sent to and from Snohomish County are public records and may be subject to disclosure pursuant to the Public Records Act (RCW 42.56)

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**From:** [barnbaum@aol.com](mailto:barnbaum@aol.com) <[barnbaum@aol.com](mailto:barnbaum@aol.com)>  
**Sent:** Tuesday, August 30, 2022 11:30 AM  
**To:** Moore, Megan <[Megan.Moore@co.snohomish.wa.us](mailto:Megan.Moore@co.snohomish.wa.us)>  
**Subject:** Re: DNS Issued for Proposed Ordinance Related to Residential Development

**CAUTION :** This email originated from outside of this organization. Please exercise caution with links and attachments.

Megan,

Thank you for this email and its notice of a DNS.



I do not have time at the moment to thoroughly study the DNS, but it does not surprise me. Rarely is any action taken in Snohomish County determined to be "significant." I would like to point out to you, and to all staff members of Snohomish County PDS that in Snohomish County, there is only one thing that is fully protected: it is not forests, it is not farmlands, it is not waterways. It is sand and gravel deposits, which are 100% protected to allow access to the material to maintain growth and development at all time, often at the expense of forests or farms or all other land that is not federally owned.

This, more than anything else, shows the direction of Snohomish County. It is toward maximum growth, not toward maximum livability, nor toward any real protection of the natural environment.

Bruce Barnbaum  
31417 Mountain Loop Highway  
Granite Falls, WA 98252  
(360) 691-4105

-----Original Message-----

From: Moore, Megan <[Megan.Moore@co.snohomish.wa.us](mailto:Megan.Moore@co.snohomish.wa.us)>

Sent: Mon, Aug 1, 2022 8:13 am

Subject: DNS Issued for Proposed Ordinance Related to Residential Development

## SEPA NOTIFICATION

**Notice is Hereby Given** that SNOHOMISH COUNTY PLANNING AND DEVELOPMENT SERVICES (PDS) has issued a Determination of Non-significance (DNS) for a non-project action.

**Description of Proposal:** This is a non-project proposal to amend Snohomish County Code (SCC) Title 30 to increase SEPA exemption thresholds for minor new construction and adopt new categorical exemptions to promote infill development in Urban Growth Areas. It would also revise notice of application requirements to continue providing the current levels of notice to neighbors. (Notice for some project types is currently provided because the project is subject to SEPA; if these projects become exempt, then the trigger for providing notices needs to change).

**Project Proponent:** Snohomish County PDS. PDS determined that this non-project proposal will not have a probable significant adverse impact on the environment.

**Date of Issuance:** August 1, 2022

**Contact:** Ryan Countryman, Snohomish County Council (425) 388-3209, or [ryan.countryman@snoco.org](mailto:ryan.countryman@snoco.org).

**SEPA Comments Due:** This DNS is issued under WAC 197-11-340(2). The lead agency will not act on this proposal for 14 days from the issue date above. Comments must be submitted by 5:00 p.m., August 15, 2022 to the responsible official at the address listed on the DNS.

Additional information regarding the proposed legislation is available at the County's website at:  
<https://snohomishcountywa.gov/1603/Environmental-SEPADocuments>

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Copies are available at Snohomish County Planning and Development Services  
3000 Rockefeller Ave. M/S 604, Everett, WA 98201

Megan Moore | Administrative Assistant  
Snohomish County Planning and Development Services  
(425) 262-2891  
she/her

NOTICE: All emails and attachments sent to and from Snohomish County are public records and may be subject to disclosure pursuant to the Public Records Act (RCW 42.56).

**From:** Mike Pattison <mpattison@MBAKS.COM>  
**Sent:** Tuesday, September 20, 2022 8:04 AM  
**To:** Contact Council  
**Subject:** Comment Letter for Ordinance 22-037  
**Attachments:** Ordinance 22-037 Comment Letter.docx

**CAUTION :** This email originated from outside of this organization. Please exercise caution with links and attachments.  
Dear Clerk and Council,

Attached please find a comment letter from the Master Builders Association of King and Snohomish Counties related to your public hearing on Ordinance 22-037.

Thank you for your consideration.

Mike Pattison



**Mike Pattison** | Senior Snohomish County Manager

**p** 425.460.8203  
335 116<sup>th</sup> Ave. SE, Bellevue, WA 98004

[mbaks.com](http://mbaks.com) Find us on [f](#) [t](#) [in](#) [i](#)

We aspire to be the most trusted and respected housing experts  
in the Puget Sound region.



September 19, 2022

Snohomish County Council  
3000 Rockefeller Avenue  
Everett, WA 98201

Re: Ordinance 22-037 – SEPA Exemptions

Dear Councilmembers,

On behalf Master Builders Association of King and Snohomish Counties (MBAKS) membership I am writing to urge your support of Ordinance 22-037 related to SEPA exemptions.

In 2020 the State Legislature and Governor Inslee authorized the exemptions contemplated in the ordinance. The State House voted unanimously in favor and the State Senate nearly unanimously. Clearly there was strong, bipartisan support for the measure.

Since the adoption of the Growth Management Act nearly 30 years ago environmental regulations such as Critical Areas Regulations, shoreline regulations, stormwater regulations and others have developed and evolved to a point where SEPA for infill development is obsolete. Such regulations are regularly updated to reflect the latest Best Available Science as adopted by the Washington State Department of Ecology.

Today, after three decades of environmental regulation implementation, SEPA related to infill development is a duplicative and unnecessary process.

As our community struggles to provide affordable and attainable housing adopting efficiencies allowed by passage of this ordinance is crucial. Many of the factors that make housing so expensive are outside of local government's influence such as land costs, labor and materials costs and escalating interest rates. What local government can influence is process and efficiency – this ordinance helps achieve those things.

Efficiencies gained are not limited to the applicant. As you are likely aware, it is exceeding difficult to recruit and retain planning staff at Snohomish County and other jurisdictions. And where new staff can be added, it takes time to train that staff. In an era of lack of staff and less experienced staff, eliminating duplicative procedures on the planner side of the counter becomes important.

We strongly believe that persons with legitimate concerns related to infill development have the channels they need to question or oppose a land use application.



The Hearing Examiner and County Council appeal option remain vibrant processes to put forward appeals. Further, because the exemptions allowed under this ordinance relate to projects that are compliant with the Comprehensive Plan, the EIS performed for the existing and upcoming Comprehensive Plan provide protections and input opportunities for citizens.

As recognized by the Legislature and the Governor, it is time to move forward and adopt the proposed SEPA exemptions called for in Ordinance 22-037.

The efficiencies and cost savings the Ordinance will bring are needed now more than ever as our community continues to struggle providing needed housing.

Citizens will continue to have the appeal options they need to air legitimate concerns. For these reasons we urge you pass this ordinance.

Thank you for your consideration.

Sincerely,

Mike Pattison  
Snohomish County Manager