

CITY OF LAKE STEVENS
Lake Stevens, Washington
ORDINANCE NO. 1118

AN ORDINANCE OF THE CITY OF LAKE STEVENS, WASHINGTON REVISING LSMC SECTION 16.04.050 TO ADOPT SEPA FLEXIBLE THRESHOLDS FOR MINOR NEW CONSTRUCTION; ADOPTING FINDINGS AND CONCLUSIONS RECOMMENDED BY THE PLANNING COMMISSION; AND PROVIDING FOR SEVERABILITY, AN EFFECTIVE DATE AND FOR SUMMARY PUBLICATION BY ORDINANCE TITLE ONLY.

WHEREAS, Chapter 16.04 of the Lake Stevens Municipal Code (LSMC) establishes the city's procedures and policies related to the State Environmental Policy Act (SEPA); and

WHEREAS, the city has adopted by reference the categorical exemption thresholds in Washington Administrative Code (WAC) Chapter 197-11-800, including the standard categorical exemption thresholds for minor new construction in WAC 197-11-800(1)(b); and

WHEREAS, WAC 197-11-800(1)(c) authorizes cities, towns or counties to raise the exemption levels for minor new construction to those identified in WAC 197-11-800(1)(d), subject to the requirements and process outlined in subsection (c); and

WHEREAS, the City of Lake Stevens is an incorporated city within a fully planning jurisdiction under the Growth Management Act (GMA), per RCW 36.70A.040; and

WHEREAS, on March 5, 2021, the city completed the procedural requirements of WAC 197-11-800(1)(c)(i-iv) and provided sixty days' notice of its analysis and findings to the Department of Ecology, agencies with expertise, affected tribes and jurisdictions, and the public, and did not receive any public comments during the comment period; and

WHEREAS, the city has determined that there are adequate existing local, state and federal environmental regulations in place to mitigate any potential impacts from newly exempt development; and

WHEREAS, on March 5, 2021, the City submitted the proposed amendment to the Washington State Department of Commerce for its 60-day review and received documentation of completion of the procedural requirement (Submittal ID 2021-S-2414); and

WHEREAS, the city issued a SEPA Determination of Nonsignificance (DNS) for the proposed amendment on April 1, 2021, and did not receive any public comments during the appeal period; and

WHEREAS, in taking the actions set forth in this ordinance, the City has complied with the requirements of the State Environmental Policy Act, Chapter 43.21C RCW; and

WHEREAS, the Lake Stevens Planning Commission, after review of the proposed amendment during several work sessions, held a duly noticed public hearing on April 21, 2021 and heard oral testimony; and

WHEREAS, at the conclusion of the April 21 public hearing, the Planning Commission made a recommendation to amend LSMC 16.04.050, as shown in Exhibit B; and

WHEREAS, the Lake Stevens City Council reviewed the Planning Commission's recommendation relating to the proposed amendment and held a duly noticed public hearing and considered all public testimony on May 11, 2021; and

WHEREAS, municipal code amendments are Type VI legislative decisions which require a recommendation from the Planning Commission to City Council, based on written findings and conclusions, supported by evidence from an open-record hearing; and

WHEREAS, the Planning Commission provided the City Council with a recommendation letter along with findings and conclusions to approve the code amendment request; and

WHEREAS, the City Council considered the Planning Commission's recommendation on May 11, 2021.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAKE STEVENS, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. The City Council hereby makes the following findings:

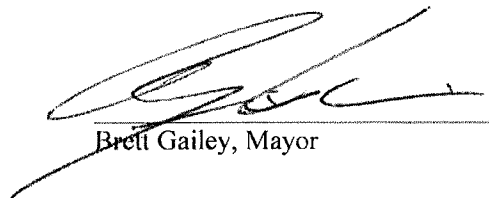
- A. This ordinance amending the City's municipal code to adopt SEPA flexible thresholds was sent to the Washington State Department of Commerce on March 5, 2021 as required by the Growth Management Act; no comments were received.
- B. The requirements of Chapter 14.16C.075 LSMC for land use code amendments have been met.
- C. As required by LSMC 14.16C.075(f), the adoption and amendment of codes are consistent with the Comprehensive Plan, comply with the Growth Management Act and advance the public health, safety and welfare.

Section 2. Section 16.04.050, entitled "Categorical Exemptions", of the Lake Stevens Municipal Code is hereby amended to read as shown in the attached Exhibit A, with additions shown by underline and deletions shown by strikethrough.

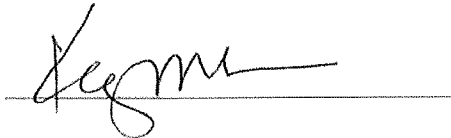
Section 3. Severability. If any section, clause, phrase, or term of this ordinance is held for any reason to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance, and the remaining portions shall be in full force and effect.

Section 4. Effective Date and Publication. A summary of this ordinance consisting of its title shall be published in the official newspaper of the City. This ordinance shall take effect and be in full force five days after the date of publication.

PASSED by the City Council of the City of Lake Stevens this 11th day of May 2021

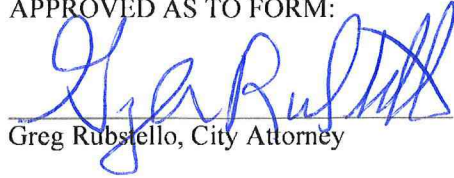

Brett Gailey, Mayor

ATTEST/AUTHENTICATION:



Kelly Chelin, City Clerk

APPROVED AS TO FORM:



Greg Rubstello, City Attorney

First and Final Reading: May 11, 2021

Published: 5/14/21

Effective Date: 5/19/21

EXHIBIT A

16.04.050 Categorical Exemptions.

(a) The City adopts by reference the following sections of Chapter [197-11](#) WAC regarding categorical exemptions:

[197-11-800](#) Categorical exemptions (except as otherwise established below)

[197-11-880](#) Emergencies.

[197-11-890](#) Petitioning Department of Ecology to change exemptions.

~~(b) Under WAC [197-11-800\(1\)\(a\)](#) and (c), the City may raise categorical exemption levels for certain types of minor new construction described in WAC [197-11-800\(1\)\(b\)](#). Local conditions, including zoning or other land use plans or regulations, implemented by ordinance, shall support any raised categorical exemption level. If the City increases any categorical exemptions levels, they shall send these to the Department of Ecology. The maximum level that any such category exemption may be raised is specified in WAC [197-11-800\(1\)\(c\)](#). (Ord. 870, Sec. 2 (Exh. 1), 2012)~~

(b) Flexible Thresholds for Minor New Construction Categorical Exemption

The City establishes the following exempt levels for minor new construction as allowed under WAC 197-11-800(1)(c) and (d), based upon local conditions:

(i) For single-family residential projects, up to thirty (30) dwelling units;

(ii) For multifamily residential projects, up to sixty (60) dwelling units;

(iii) For agricultural structures, up to ten thousand (10,000) square feet;

(iv) For office, school, commercial, recreational, service or storage buildings, up to thirty thousand (30,000) square feet;

(v) For parking facilities, up to ninety (90) parking spaces;

(vi) For fills or excavations, up to one thousand (1,000) cubic yards. All fill or excavation, of any quantity, necessary for an exempt project in subsections (i) through (v) of this section shall be exempt.

c) The exemptions in this subsection apply except when the project:

(i) Is undertaken wholly or partly on lands covered by water

(ii) Requires a license governing discharges to water that is not exempt under RCW 43.21C.0383

(iii) Requires a license governing emissions to air that is not exempt under RCW 43.21C.0381 or WAC 197-11-800 (7) or (8); or

(iv) Requires a land use decision that is not exempt under WAC 197-11-800(6).

d) Whenever the city establishes new exempt levels under this section, it shall send them to the Department of Ecology, Headquarters Office, Olympia, Washington, 98504 under WAC 197-11-800(1)(c).



One Community Around the Lake

April 22, 2021

Lake Stevens City Council
1812 Main Street
Lake Stevens, WA 98258

RE: Planning Commission Recommendation on Adoption of SEPA Flexible Thresholds (LUA2021-0033)

Dear Council Members:

The Lake Stevens Planning Commission held several work sessions to consider a code amendment to adopt SEPA flexible thresholds for minor new construction into LSMC 16.04.050. The Commission held a public hearing on April 21, 2021 and is now forwarding their recommendation to City Council to approve the code amendment following the May 11 Council hearing, review of testimony and deliberation.

Commissioners Present: Jennifer Davis, Janice Huxford, Vicki Oslund, Linda Hoult, Todd Welch and Michael Duerr

Commissioners Absent: John Cronin

PLANNING COMMISSION PUBLIC HEARING

City staff presented the proposed code amendment, summarized the code amendment process and answered the Commission's questions related to the proposal. Testimony from the public included one comment from a representative from Master Builders Association supporting the adoption of SEPA flexible thresholds for minor new construction but requesting that the Commission recommend adoption of the maximum thresholds for single family residential development (30 units) and multifamily residential development (60 units), which is double the thresholds recommended by staff (15 single family and 30 multifamily units). Commissioners considered a motion to recommend adoption of LUA2021-0033 with the maximum thresholds for residential development, but ultimately recommended the thresholds identified in Ordinance 1118.

FINDINGS AND CONCLUSIONS

The Planning Commission hereby adopts staff's findings and conclusions described in the April 21 staff report and concludes that the proposed amendment meets the following requirements:

1. The code amendment is consistent with the adopted Lake Stevens Comprehensive Plan;
2. The code amendment is compliant with the State Environmental Policy Act (SEPA); and
3. The code amendment complies with the Growth Management Act.

PLANNING COMMISSION RECOMMENDATION

Commissioner Duerr made a motion to forward a recommendation to the City Council to approve the adoption of SEPA flexible thresholds for minor new construction, as identified in the April 21 Commission staff report and Ordinance 1118.

Commissioner Davis seconded the motion.

Motion passed 6-0-0 (Cronin absent).

Respectfully Submitted,

Lake Stevens Planning Commission



April 21, 2021

Lake Stevens Planning Commission
1812 Main Street
Lake Stevens, WA 98258

RE: Proposed Increases to SEPA Exemptions

Dear Lake Stevens Planning Commission:

The Master Builders Association of King and Snohomish Counties appreciates the commission's work on the proposed State Environmental Policy Act (SEPA) flexible threshold increases for minor new construction. We commend and support increasing the SEPA exemptions and believe this gives much-needed flexibility as we face our region's housing crisis. The SEPA threshold increases will save time and money for Lake Stevens as well as help to decrease homebuilding costs.

We respectfully ask you, the planning commission, to consider providing even more flexibility by adopting the maximum thresholds the state allows for residential units (30 single-family and 60 multifamily) similar to the nearby cities of Everett, Marysville, Snohomish, as well as Snohomish County.

The Washington Legislature enacted SEPA in 1971. SEPA was adopted to provide a tool to help state and local agencies identify environmental impacts resulting from projects and policy decisions. However, SEPA predates many of the local regulations that are now required (i.e. stormwater, critical areas, wetlands, permitted uses, etc.). Unfortunately, SEPA is often used as a method to simply delay development, which was never the law's intent. Requiring SEPA review is now often an unnecessary and redundant process that is purely administrative. Increasing the thresholds will streamline regulatory processes for minor construction projects while maintaining environmental protection.

As the city looks at actions and ways to approach the housing crisis in our region, we want to provide some statistics showing the depth of need:

- The Puget Sound Regional Council (PSRC) recently released its Draft Regional Housing Needs Assessment analyzing conditions, trends, and gaps in housing choices in our region. According to the report, 810,000 more homes are needed in the central Puget Sound region by 2050 for there to be enough housing options for current residents, newcomers, and future generations.
- Supply continues to be severely constrained: as of January 2021, Snohomish County had only 0.41 months' supply of inventory (down from 1.24 a year ago). The standard for a healthy market is a four-to-six-month level.
- The median single-family home price in Snohomish County rose 17.66%, from \$509,950 to \$599,990. According to the National Association of Home Builders (NAHB)'s, Priced-Out data, for every \$1,000 increase in the price of a home in Washington, 2,524 people are priced out.

Thank you for the opportunity to comment on these important issues. Please let me know if you have any questions.





Sincerely,



Dylan Sluder
Snohomish County Manager
Master Builders Association of King and Snohomish Counties

Encl.

cc: Mayor Brett Gailey
Community Development Director Russ Wright
Senior Planner David Levitan



Staff Report Lake Stevens Planning Commission Planning Commission Public Hearing

Date: **April 21, 2021**

Subject: **Public Hearing for Adoption of SEPA Flexible Thresholds (LUA2021-0033)**

Contact Person/Department: David Levitan, Senior Planner

SUMMARY:

The city is proposing amendments to Lake Stevens Municipal Code (LSMC) 16.04.045 to adopt flexible thresholds for exempt minor new construction, as permitted by WAC 197-11-800(1)(c).

ACTION REQUESTED OF PLANNING COMMISSION:

Planning Commission is asked to hold a public hearing and forward a recommendation to City Council on the proposed adoption of SEPA flexible thresholds for minor new construction.

BACKGROUND

The State Environmental Policy Act (SEPA) evaluates potential environmental impacts associated with governmental decisions such as building permits, land use applications, and code amendments. Certain projects and processes are exempt from SEPA environmental review under adopted statutory exemptions (listed in [RCW 43.21c](#)) and categorical exemptions (listed in [WAC 197-11-800](#)). WAC 197-11-800(1)(b) establishes the standard categorical exemption thresholds for minor new construction, while WAC 197-11-800(1)(d) establishes maximum flexible thresholds that cities and unincorporated areas may adopt for minor new construction through a local ordinance so long as they meet the procedural requirements of WAC 197-11-800(1)(c). The City of Lake Stevens is an incorporated city within Snohomish County, which is a fully planning Growth Management Act (GMA) county.

On [October 21, 2020](#), Planning Commission held its first work session to discuss the potential adoption of flexible categorical exemption thresholds for minor new construction. The Commission held additional work sessions on [December 2, 2020](#), [January 20, 2021](#), and [March 3, 2021](#), while the City Council held a separate work session on [February 16, 2021](#). At the conclusion of their March 3, 2021 meeting, commissioners recommended that the city amend LSMC 16.04.045 to adopt the flexible thresholds identified in the right column of Table 1 and directed staff to schedule a public hearing. The proposed amendments to LSMC 16.04.045 are shown as track changes in Attachment 1.

Table 1 – SEPA Thresholds for Minor New Construction

Development Type	Current Thresholds	Maximum Thresholds	Proposed Flexible Thresholds
Single-Family	4 units	30 units	15 units
Multi-Family	4 units	60 units	30 units
Agricultural	10,000 sf	40,000 sf	10,000 sf
Commercial	4,000 sf	30,000 sf	30,000 sf
Parking	20 spaces	90 spaces	90 spaces
Grading	100 cubic yards	1,000 cubic yards	1,000 cubic yards

FINDINGS AND CONCLUSIONS

1. Compliance with elements of the Comprehensive Plan

- Land Use Element Policy 2.3.3 – Encourage infill development on suitable vacant parcels and redevelopment of underutilized parcels. Ensure that the height, bulk and design of infill and redevelopment projects are compatible with their surroundings.
- Land Use Element Policy 2.3.4 – Maintain development regulations to promote compatibility between uses; retain desired neighborhood character; ensure adequate light, air and open space; protect and improve environmental quality; and manage potential impacts on public facilities and services.

Conclusions – Adoption of the proposed SEPA flexible thresholds is consistent with the goals and policies of the city’s Comprehensive Plan. The flexible thresholds will encourage additional infill development by providing additional exemptions for minor new construction, while the required documentation shows that adequate local, state and federal environmental regulations are in place to mitigate any potential impacts for newly exempt development.

2. Compliance with the State Environmental Policy Act (SEPA) (Chapter 97-11 WAC and Title 16 LSMC)

- Consistent with WAC 197-11-800(c)(1), the city provided documentation that the requirements for environmental analysis, protection and mitigation for impacts to elements of the environment listed in WAC 197-11-444 for newly exempt projects are adequately addressed in existing local, state and federal environmental regulations. This documentation and a copy of the proposed flexible thresholds were provided to the Department of Ecology, affected tribes, and agencies with expertise on March 5, 2021, as well as made available for public review. No comments have been received.
- The city prepared a SEPA Environmental Checklist on March 31, 2021.
- The city issued a Determination of Nonsignificance (DNS) on April 1, 2021, which was sent to the Department of Ecology, affected tribes, and agencies with expertise. Notice of the DNS was issued jointly with the Notice of Public Hearing. The deadline for public comments is April 19, 2021.
- As of April 15, no comments or appeals from agencies or the public have been received on the SEPA determination.

Conclusions – The proposed code amendment has met all local and state SEPA requirements.

3. Compliance with the Growth Management Act (RCW 36.70A.106)

- Code amendments are subject to review by the Washington State Department of Commerce, and the adoption of SEPA flexible thresholds must also meet the procedural requirements of [WAC 197-11-800\(c\)\(i-v\)](#).
- The city provided a 60-day notice to the Department of Commerce on March 5, 2021 of its intent to amend LSMC 16.04.045, with a proposed adoption date of May 11, 2021. The city received an acknowledgement letter from Commerce on March 8, 2021.
- If approved by the City Council, staff will file the final ordinance with the Department of Commerce within 10 days of its adoption.

Conclusions – The proposed code amendment has met all Growth Management Act requirements.

4. Public Notice and Comments

- Amendments to LSMC Title 16 (SEPA Procedures and Policies) are reviewed through the city's Type VI legislative review process identified in [LSMC 14.16B.605-660](#), which requires the Planning Commission to hold a public hearing and make a recommendation to City Council.
- The city published a joint Notice of Public Hearing and SEPA Threshold Determination in the Everett Herald on April 5 and April 12, 2021. The notice was also posted at City Hall and on the city's website on or around April 1, 2021.
- No public comments have been received to date. If comments are received prior to the hearing, the comments will be distributed on the night of the hearing.

Conclusions – The city has met all public notice requirements per Chapter 14.16B LSMC.

RECOMMENDATION: Staff recommends that Planning Commission forward a recommendation to City Council to APPROVE the proposed amendments to LSMC 16.04.045 to adopt SEPA flexible thresholds for minor new construction (LUA2021-0033). City Council is tentatively scheduled to hold their public hearing for LUA 2021-0033 on May 11, 2021.

ATTACHMENTS

Attachment 1 – Proposed Amendments to LSMC 16.04.045 to Adopt SEPA Flexible Thresholds

16.04.050 Categorical Exemptions.

(a) The City adopts by reference the following sections of Chapter [197-11](#) WAC regarding categorical exemptions:

[197-11-800](#) Categorical exemptions (except as otherwise established below)

[197-11-880](#) Emergencies.

[197-11-890](#) Petitioning Department of Ecology to change exemptions.

~~(b) Under WAC [197-11-800\(1\)\(a\)](#) and (c), the City may raise categorical exemption levels for certain types of minor new construction described in WAC [197-11-800\(1\)\(b\)](#). Local conditions, including zoning or other land use plans or regulations, implemented by ordinance, shall support any raised categorical exemption level. If the City increases any categorical exemptions levels, they shall send these to the Department of Ecology. The maximum level that any such category exemption may be raised is specified in WAC [197-11-800\(1\)\(c\)](#). (Ord. 870, Sec. 2 (Exh. 1), 2012)~~

(b) Flexible Thresholds for Minor New Construction Categorical Exemption

The City establishes the following exempt levels for minor new construction as allowed under WAC 197-11-800(1)(c) and (d), based upon local conditions:

(i) For single-family residential projects, up to fifteen (15) dwelling units;

(ii) For multifamily residential projects, up to thirty (30) dwelling units;

(iii) For agricultural structures, up to ten thousand (10,000) square feet;

(iv) For office, school, commercial, recreational, service or storage buildings, up to thirty thousand (30,000) square feet;

(v) For parking facilities, up to ninety (90) parking spaces;

(vi) For fills or excavations, up to one thousand (1,000) cubic yards. All fill or excavation, of any quantity, necessary for an exempt project in subsections (i) through (v) of this section shall be exempt.

c) The exemptions in this subsection apply except when the project:

(i) Is undertaken wholly or partly on lands covered by water

(ii) Requires a license governing discharges to water that is not exempt under RCW 43.21C.0383

(iii) Requires a license governing emissions to air that is not exempt under RCW 43.21C.0381 or WAC 197-11-800 (7) or (8); or

(iv) Requires a land use decision that is not exempt under WAC 197-11-800(6).

d) Whenever the city establishes new exempt levels under this section, it shall send them to the Department of Ecology, Headquarters Office, Olympia, Washington, 98504 under WAC 197-11-800(1)(c).