

**REGULAR MEETING  
OF THE NORTH BEND PLANNING COMMISSION  
Thursday, October 27, 2022, 6:30-8:30 PM**

**PLEASE NOTE: This meeting will be held at City Hall, 920 SE Cedar Falls Way, North Bend, WA.** Members of the public may choose to attend in person or by teleconference. As the in-person/teleconference hybrid meeting option is new technology to City Staff it is strongly encouraged that members of the public that are attending by teleconference provide comments in advance of the meeting.

**AGENDA**

- 1) Call to order and roll call**
- 2) Opportunity for public comment on non-agenda items (3 minutes per person)**
- 3) Approval of Minutes of October 13, 2022 Planning Commission Meeting**
- 4) Planning Commission Discussion for NBMC amendment Chapter 14.04 Environmental Policy**
- 5) Adjournment by 8:30 unless otherwise approved by Commission**

**Next Meeting: Potentially November 17 (instead of November 10) if that works for a majority of PC. November 24 is cancelled due to Thanksgiving holiday.**

The meeting is available online meeting via Zoom. Click the link below to join the meeting or dial in via telephone via the number below. You will be required to have a registered Zoom Account and display your full name to be admitted to the online meeting. See further instructions on Zoom meeting participation on the next page following the agenda. To sign up for a Zoom account: <https://zoom.us/join>

Join Zoom Meeting

<https://us02web.zoom.us/j/85009844678?pwd=aHprWGt1ZXhTdHB6VGhkQWNpbGtRZz09>

Meeting ID: 850 0984 4678

Passcode: 262149

Dial by your location +1 253 215 8782 US (Tacoma)

Find your local number: <https://us02web.zoom.us/u/kcrGtzNWfU>

Agenda & Package distribution by hard copy: Planning Commissioners requesting it, City Hall Front Desk.

Agenda & Package distribution by e-mail: Mayor, Council, Planning Commission, Administrator, City Clerk, City Attorney, CED Director, other relevant staff.

Agenda and packet are also available to the public from Notify Me via the City's website.

## **GUIDELINES FOR CITIZEN PARTICIPATION**

### **At Planning Commission Meetings**

#### **General Online Meeting Public Comment Instructions.**

1. **Written public comments** may be submitted by email to [rdeming@northbendwa.gov](mailto:rdeming@northbendwa.gov). Comments must be provided no later than 4:30pm the day of the meeting, so that a copy can be forwarded to the Planning Commission prior to the meeting.
2. **Spoken public comments using a computer or smartphone** will be accepted though the teleconference meeting. You will need to be logged into your Zoom account and display your full name to be admitted to the meeting.
  - a. You can download the Zoom client or connect to the meeting in-browser. If using your browser, make sure you are using a current up-to-date browser: Chrome 30+, Firefox 27+, Microsoft Edge 12+, Safari 7+. Certain functionality may be disabled in older browsers including Internet Explorer.
  - b. You can download the Zoom application onto your phone from the Apple App Store or Google Play Store and enter the meeting ID.
  - c. You will need to enter the Meeting ID and Password to join the meeting, listed on the meeting invite links.
  - d. You may be asked to enter an email address and name. We request that you identify yourself by name, as this will be visible online and will be used to notify you that it is your turn to speak.
  - e. Please use the "Chat Feature" to indicate you wish to speak. The Chat feature can be accessed by clicking on the chat button, typing your message with your name and address, and tapping send. You will then be called at the appropriate time. Please limit your remarks to the 3-minute time limit.
3. **Spoken public comments using a phone.** Use the telephone number listed on the meeting invite links. When you wish to speak on an agenda item hit \*9 on your phone so we know that you wish to speak. You will be asked to provide your first and last name along with your address before providing your comments. When called, please limit your remarks to the 3-minute time limit allotted.

**Citizen Participation and Contribution.** Citizens are welcome and encouraged to attend all Planning Commission meetings and are encouraged to participate and contribute to the deliberations of the Commission. Recognition of a speaker by the Planning Commission Chair is a prerequisite to speaking and is necessary for an orderly and effective meeting. It will be expected that all speakers will deliver their comments in a courteous and efficient manner. At any time during the meeting anyone making out-of-order comments or acting in an unruly manner will be subject to removal from the meeting.

**Right to Speak at Public Hearing.** Any person has the right to speak at any Public Hearing on the item on the agenda after the staff report and any clarifying questions of the Planning Commission, but before the Planning Commission has discussed the item and action is taken. Speakers are requested to supply their contact information requested on the sign-in sheet to assist the Clerk with the Minutes.

**Manner of Addressing Planning Commission.** Each person desiring to address the Planning Commission shall stand, state his/her name and address for the record, and unless further time is granted by a majority of the Planning Commission, must limit his/her remarks to three (3) minutes. All remarks shall be addressed to the Chair of the Planning Commission and not to any member individually. All speakers shall be courteous and shall not engage in, discuss or comment on personalities or indulge in derogatory remarks or insinuations.

**Spokesperson for Group of Persons.** In order to expedite matters and to avoid repetitious presentations, delay or interruption of the orderly business of the Planning Commission, whenever any group of persons

wishes to address the Planning Commission on the same subject matter, it shall be proper for the Chair of the Planning Commission to request that a spokesperson be chosen by the group to address the Planning Commission.

**Items Not on the Agenda (Citizen's Comments).** The Chair of the Planning Commission will provide an opportunity for Citizens to speak on any subject that is not part of the Planning Commission Agenda for that night's meeting. Each person desiring to address an item that is not on the Planning Commission Agenda shall stand, state his/her name and address for the record, state the subject he/she wishes to discuss, if he/she is representing a group or organization the name should be stated, and unless further time is granted by a majority of the Planning Commission, must limit his/her remarks to three (3) minutes. Speakers are requested to supply the contact information requested on the sign-in sheet to assist the Clerk with the Minutes.

**NORTH BEND PLANNING COMMISSION**  
**- ACTION MEETING MINUTES -**  
Thursday, October 13, 2022, 6:30 – 8:30 PM  
In Person & Virtual Online Meeting

**PLEASE NOTE: This meeting will be held at City Hall, 920 SE Cedar Falls Way, North Bend, WA.** Members of the public may choose to attend in person or by teleconference. As the in-person/teleconference hybrid meeting option is new technology to City Staff it is strongly encouraged that members of the public that are attending by teleconference provide comments in advance of the meeting.

*Also, Please Note: A complete video recording of this meeting is available on the City of North Bend YouTube website, at [www.youtube.com](http://www.youtube.com) under: City of North Bend*

**AGENDA ITEM #1: CALL TO ORDER**

The meeting was called to order at 6:30 PM.

**ROLL CALL**

Planning Commissioners present: James Boevers, Olivia Moe, Juliano Pereira, Hannah Thiel, and Coreen Wilson. Chair Torguson and Commissioner Aylward were absent. City Staff Present: Jamie Burrell, Senior Planner; Rebecca Deming, Community & Economic Development Director; and Bre Keveren, Communications Manager. Guests: Drew Heckathorn, City Consultant from Fehr & Peers

**AGENDA ITEM #2: Opportunity for Public Comment**

There were no public comments received

**AGENDA ITEM #3: Approval of September 8, 2022 Planning Commission Meeting Minutes**

Motion by Commissioner Boevers, seconded by Commissioner Thiel, to approve the September 8, 2022 Planning Commission Meeting Minutes. The motion passed unanimously.

**AGENDA ITEM #4: Planning Commission Recommendation on Transportation Element of the Comprehensive Plan**

There was discussion between the Planning Commission, city staff and Mr. Heckathorn concerning the Transportation Element of the Comprehensive Plan.

Kenneth Nero, 1161 Foster Blvd. SW, North Bend, made comment.

Commissioner Thiel made a Motion to Approve the Transportation Element of the Comprehensive Plan. Commissioner Pereira seconded the Motion. The motion passed unanimously. The Planning Commission suggested this plan should be re-evaluated after land use changes are made with the Comprehensive Plan Update.

**AGENDA ITEM #5 – Public Hearing for Bakes Marine Development Agreement**

The Public Hearing Was opened at 7:14 PM.

Kenneth Nero, 1161 Foster Blvd. SW, North Bend, made comment.

The Public Hearing was closed at 7:19 PM.

Bill Baker of Bakes Marine Consulting, who is the business and property owner provided a summary of the project and answered questions.

1 There was discussion between the Commissioners and city staff about the project and Developers Agreement.

2

3 Commissioner Boevers made a Motion to Approve the Developers Agreement with the allowance for removal of  
4 eastern 5-foot landscaping next to the adjacent building and access road in replacement for Type 1 to be required  
5 on the west side adjacent to homes in the NB zone. Commissioner Wilson seconded the Motion. The Motion was  
6 Approved, 4-1 (Thiel).

7

8 **AGENDA ITEM #6 – Adjournment by 8:30 PM unless otherwise approved by Commission**

9 The Meeting was adjourned at 8:01 PM.

10

11 **NEXT PLANNING COMMISSION MEETING:**

12 The next Planning Commission meeting is scheduled for October 27, 2022.



## **Memo to Discuss an Amendment to Municipal Code Chapter 14.04 Environmental Policy**

**Meeting Date:** October 27, 2022

**Proponent:** City of North Bend

**Staff Recommendation:** Discuss and make a recommendation for NBMC 14.04 Flexible Thresholds

### **I. Purpose of Proposed Municipal Code Amendments:**

The City of North Bend is proposing amendments to North Bend Municipal Code Chapter 14.04.050 Categorical exemptions by repealing that section and adopting by reference the state standards listed in WAC 197-11-800. The State Environmental Policy Act (SEPA) requires state and local governments to consider the environmental impacts of their decisions, such as issuing project permits and adopting development regulations.

In 2012, the Washington State Department of Ecology (DOE) updated the SEPA rules to account for the many local, state, and federal environmental regulations that have been adopted over the last several decades. The update included amendments to WAC 197-11-800(1) to create new flexible exemption thresholds for minor new construction. The City has not adopted amendments to this section of code since 1984.

### **II. Proposed Amendments**

#### **1. Repeal existing NBMC 14.04.050 and replace with a reference to WAC 197-11-800.**

The WAC includes a list of categorical exemptions that exempt certain small projects (“minor new construction”) from SEPA review. If changes are made by the state, the City code will then not be out of date like it is now.

#### **2. Adopt a Table for Standard and Flexible SEPA Categorical Exemption Thresholds.**

The update is proposed to include amendments to WAC 197-11-800(1) to create new flexible exemption thresholds for minor new construction. As shown in Table 1 below, local jurisdictions can maintain the standard exemption thresholds in Subsection (b) or raises exemption levels up to the maximums identified in Subsection (d). Given the increased environmental protection from the adoption of local, state and federal regulations over the years, city staff believes it is appropriate to increase exemption levels to simplify and streamline the SEPA regulatory process.

**Table 1 – Standard and Flexible SEPA Categorical Exemption Thresholds**

	Standard (Current City) Threshold	Maximum (Flexible) Threshold	Staff Initial Thoughts	Planning Commission Recommendation
Single-Family Residential	4 units	30 units	12 units	
Multi-Family Residential	4 units	60 units	20 units	
Agricultural Structures	10,000 sf	40,000 sf	20,000sf	
Office/School/Commercial	4,000 sf	30,000 sf	30,000sf	
Parking Facilities	20 spaces	90 spaces	40 spaces	
Fill/Excavation	500 cubic yards	1,000 cubic yards	500 cubic yards	

Staff detailed the procedural requirements for jurisdictions to raise their thresholds (Exhibit A). The city must document the potential impacts to all elements of the environment are adequately addressed by other regulations. Staff prepared a table identifying the current regulations in place that address the 16 SEPA elements (Exhibit B) to meet the requirements of Subsection C.

City staff also researched the exemption thresholds adopted by nearby jurisdictions. Table 2 shows that all have adopted at least some of the flexible thresholds.

**Table 2 – Flexible Thresholds in Nearby Jurisdictions**

	Snoqualmie	Duvall	King County
Single-Family Residential	12 units	4 units	20 units
Multi-Family Residential	12 units	4 units	60 units
Agricultural Structures	20,000 sf	10,000 sf	15,000 sf
Office/School/Commercial	10,000 sf	12,000 sf	12,000 sf
Parking Facilities	20 spaces	20 spaces	40 spaces
Fill/Excavation	100 cubic yards	500 cubic yards	500 cubic yards

See attached Exhibit C for the proposed Amendments to NBMC.

**Attachments:**

Exhibit A – Procedural Requirements

Exhibit B – SEPA Elements

Exhibit C - Proposed Amendments

**Exhibit A.**

WAC 197-11-800(1)(c) Requirements

At a minimum, the following process shall be met in order to raise the exempt levels.

**i. Documentation that the requirements for environmental analysis, protection and mitigation for impacts to elements of the environment (listed in WAC 197-11-444) have been adequately addressed for the development exempted. The requirements may be addressed in specific adopted development regulations, and applicable state and federal regulations.**

*The adopting ordinance will contain a section that addresses this requirement and the findings and conclusions from the adopting body will further describe how this requirement is met. Staff have prepared a table summarizing the environmental elements required by SEPA and the corresponding adopted development regulations that protect and mitigate impacts to the specific element.*

**ii. Description in the findings or other appropriate section of the adopting ordinance or resolution of the locally established notice and comment opportunities for the public, affected tribes, and agencies regarding permitting of development projects included in these increased exemption levels.**

*The adopting ordinance will contain a section that addresses the public notice and comment opportunities for the increased exemption levels.*

**iii. Before adopting the ordinance or resolution containing the proposed new exemption levels, the agency shall provide a minimum of sixty days notice to affected tribes, agencies with expertise, affected jurisdictions, the department of ecology, and the public and provide an opportunity for comment.**

*City staff will issue a notice of proposed code amendment simultaneously with the Notice of Intent to Adopt (Department of Commerce) and provide a minimum of sixty days' notice to the public and stakeholders listed above.*

**iv. The city, town, or county must document how specific adopted development regulations and applicable state and federal laws provide adequate protections for cultural and historic resources when exemption levels are raised. The requirements for notice and opportunity to comment for the public, affected tribes, and agencies in (c)(i) and (ii) of this subsection and**

the requirements for protection and mitigation in (c)(i) of this subsection must be specifically documented. The local ordinance or resolution shall include, but not be limited to, the following:

- Use of available data and other project review tools regarding known and likely cultural and historic resources, such as inventories and predictive models provided by the Washington department of archaeology and historic preservation, other agencies, and tribal governments.
- Planning and permitting processes that ensure compliance with applicable laws including chapters 27.44, 27.53, 68.50, and 68.60 RCW.
- Local development regulations that include at minimum pre-project cultural resource review where warranted, and standard inadvertent discovery language (SIDL) for all projects.

*The adopting ordinance will contain a section that describes how the city's regulations, in combination with the state and federal regulations, adequately protects cultural and historic resources. The ordinance will also address the notice and opportunity to comment for the public, affected tribes, and agencies on development projects.*



Summary of how City of North Bend (North Bend Municipal Code NBMC), state, and federal regulations address SEPA elements associated with minor new construction activities.

SEPA ELEMENT	CITY, STATE or FEDERAL REGULATION AUTHORITY
EARTH	Chapter 14.16 NBMC (Stormwater Management) regulates stormwater discharges from all new development and redevelopment to prevent and control adverse impacts of drainage and stormwater on the public health, safety, and general welfare; Chapter 19.10 NBMC (Land Disturbance) regulates clearing and grading; and Chapter 14.11 (Environmental Protection) regulates development on geologically hazardous areas.
AIR	Many chapters of the NBMC including Chapter 14.04 Environmental Policy, Chapter 15.18 International Fire Code, Chapter 18.10.050 Performance Standards for land uses regulate air pollution from manufacturing and processing uses; and construction and demolition must comply with the Puget Sound Clean Air Agency requirements.
WATER	Chapter 14.06 and 14.09 NBMC (Wetland Critical Areas and Stream and Other Fish and Wildlife Habitat Areas) regulates development in and around wetlands and fish and wildlife habitat; Chapter 14.16 (Stormwater Management) regulates stormwater discharges from all new development and redevelopment to prevent and control adverse impacts of drainage and stormwater on the public health, safety, and general welfare; Chapter 18.50 NBMC addresses low impact development (LID) techniques; Chapter 14.12 NBMC (Special Flood Hazard Areas) regulates impacts to floodplains and associated habitat functions, flood protection, and flood damage; and Chapter 14.20 NBMC (Shoreline Management) regulates development in and around designated shoreline areas within the city; and Title 13 NBMC (Water and Sewers) regulates water supply and sewage disposal systems. The King County Department of Health in conjunction with the Washington Department of Health, oversees the regulation of septic systems within the city, implementing WAC 246-270 through 246-274. The Department of Ecology regulates the use of water wells and groundwater protection via RCW 90.36 and 90.44.
PLANTS/ANIMALS	Title 14 NBMC (Environmental Protection) regulates development in and around designated critical areas including wetlands and fish and wildlife conservation areas as well as requiring preservation of critical areas as Native Growth Protection Areas during development and demonstrating compliance with state and federal government lists of endangered, threatened or candidate species; Multiple NBMC Chapters mention Forest Practices which regulates certain forest practices assumed under DNR within the city; Chapter 19.10 (Retention and Protection of Trees) requires retention of existing trees and/or replanting of trees removed. The City’s Comprehensive Plan contains policies regarding wildlife habitat areas and corridors.
ENERGY AND NATURAL RESOURCES	Title 15 NBMC (Building and Construction) adopts the International Energy Conservation Code of the State of Washington.

ENVIRONMENTAL HEALTH	Chapter 14.16 NBMC (Stormwater Management) regulates stormwater discharges from all new development and redevelopment to prevent and control adverse impacts of drainage and stormwater on the public health, safety, and general welfare; Chapter 8.30 (Hazardous Materials Incident), Chapter 14.07 Critical Aquifer Recharge Area (CARA), and other municipal code chapters regulates waste from manufacturing and processing uses; Chapter 16.04.020 LSMC (SEPA General Requirements) adopts WAC 197-11-250 through 258 related to the SEPA/Model Toxics Control Act.
NOISE	Chapter 8.26 (Noise Abatement and Control) regulates exposure of citizens to the physiological and psychological dangers of excessive noise and to protect, promote and preserve the public health, safety and welfare and regulates noise associated with manufacturing and processing uses and construction activity.
LAND/SHORELINE USE	Chapter 18.10.030 (Permissible Uses) in conjunction with Chapter 18.13 (Special Districts) establishes which uses or types of uses are permitted, which require special approvals, and which are prohibited in the zones; Chapter 14.20 NBMC (Shoreline Management) implements the goals of the Shoreline Management Act (SMA) (chapter 90.58 RCW) and the state Department of Ecology's implementing guidelines (chapter 173-26 WAC) and provides a uniform basis for applying North Bend Shoreline Management Program (SMP) policies and development regulations within distinctive shoreline areas.
HOUSING	Chapter 18.10.040 (Density and Dimensional Regulations) and 18.13 NBMC (Special Districts) establish setback, lot coverage, building height, and lot dimension regulations for all zoning districts in North Bend; Chapter 17.36 NBMC (Park Impact Mitigation Fees) requires that new growth and development pay its proportionate share of the costs of new park land and park facilities identified in the capital facilities plan element of the comprehensive plan that are reasonably related to the new development; Chapter 17.38 (Traffic Impact Fees) and Chapter 20.12 NBMC (Concurrency) ensure that public health, safety and welfare will be preserved by having safe and efficient services such as utility capacity to serve new development; and Chapter 17.32 NBMC (School Impact Mitigation) ensure that adequate school facilities are available to serve new growth and development and to require that new growth and development pay its proportionate share of the costs of new school facilities. RCW 59.18.440 provides for relocation assistance for low-income tenants when required.
AESTHETICS	Chapter 18.34 NBMC (Design Review) provides design standards for commercial, industrial, multifamily, and innovative housing development; Chapter 18.18 (Landscaping Regulations)

	provides screening and tree requirements for new development; Chapter 18.11 NBMC (Cottage Residential) and Chapter 18.12 (Downtown Commercial Zone Form Based Codes) regulates innovative housing, cottage housing, and infill projects; and Chapter 18.13 (Special Districts) provides design standards for development within the subareas.
LIGHT/GLARE	Chapter 14.38.080 (Lighting) regulates light for development within the subareas; Chapter 14.68.110 LSMC (Sign Illumination and Signs Containing Lights) regulates artificial lighting from signs; Chapter 14.60 (Utilities) contains lighting requirements for public streets and sidewalks, buildings, and outdoor areas as well as addresses excessive lighting; 14.38 LSMC (Subarea Plans) provides design standards including lighting for development within the subareas.
RECREATION	Chapter 17.25 NBMC (Residential Recreation and Common Space Requirements) requires open space for housing and infill development; Chapter 18.34 (Design Review) provides design standards including required open space for development subject to the design standards; Chapter 17.36 NBMC (Park Impact Fees) requires that new growth and development pay its proportionate share of the costs of new park land and park facilities identified in the capital facilities plan element of the comprehensive plan that are reasonably related to the new development; and Chapter 14.20 NBMC (Shoreline Management) implements the goals of the Shoreline Management Act (SMA). The city's Comprehensive Plan contains policies regarding the level of service for parks and trails. The city has a Trails Master Plan and Parks Plan to implement recreational level of service goals within the city.
HISTORICAL/CULTURAL PRESERVATION	Chapter 19.10 NBMC (Clearing, Grading, Filling and Drainage) addresses archaeological and historic resources within North Bend; additionally, RCW's 27.34 (historic sites), 27.44. (Indian graves and records), & 27.53 (archaeological sites and resources) and WAC 25.48 (permits) apply to cultural resources and historic properties within the state.
TRANSPORTATION	Title 12 (Streets and sidewalks) in combination with the city's Public Works Standards (PWS) regulates the design of streets and sidewalks in the city; Chapter 18.16 (Parking) regulates off-street parking within city limits; Chapter 14.112 LSMC (Traffic Impact Mitigation Fees) and Chapter 17.38 (Transportation Impact Fee) ensure that public health, safety and welfare will be preserved by having safe and efficient roads serving new and existing developments. Public transit is addressed in the city's transportation element of the Comprehensive Plan.
PUBLIC SERVICES	Chapter 17.36 NBMC (Park Impact Fees) requires that new growth and development pay its proportionate share of the costs of new park land and park facilities identified in the capital facilities plan element of the comprehensive plan that are reasonably related to the new development; Chapter 17.38 NBMC (Traffic Impact Fees) and Chapter 20.12

	<p>(Concurrency) ensure that public health, safety and welfare will be preserved by having safe and efficient roads serving new and existing developments; and Chapter 17.32 NBMC (School Impact Fees) ensure that adequate school facilities are available to serve new growth and development and to require that new growth and development pay its proportionate share of the costs of new school facilities. Fire impact fees are also collected per Chapter 17.36 NBMC.</p>
<p>UTILITIES</p>	<p>Chapter 13.40 (Utility Billing and Collection) regulates water supply, sewage disposal systems, electric power, natural gas services, and telephone; Title 13 (Water and Sewers) regulates extensions of sewer and water inside and outside city limits; Chapter 8.36 (Solid Waste Disposal) regulates solid waste disposal in the city; Title 15 (Building and Construction) addresses franchises with certain utilities including telecommunications, gas, and cable.</p>

**14.04.050 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) 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 XX (XX) dwelling units;

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

(iii) For agricultural structures, up to XX (XX) square feet;

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

(v) For parking facilities, up to XX (XX) parking spaces;

(vi) For fills or excavations, up to XX (XX) 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).

A. A proposal that is deemed categorically exempt shall be exempt from the threshold determination requirements except in the following cases:

1. The proposal involves land wholly or partially classified as an environmentally sensitive area;
2. The proposal involves lands underwater;
3. The proposal is a segment of a proposal that includes:

a. A series of actions, physically or functionally related to each other, some of which are categorically exempt and some of which are not, or

b. A series of exempt actions that are physically or functionally related to each other, and that together may have a probable significant adverse environmental impact in the judgment of an agency with jurisdiction.

B. An agency is not required to document that a proposal is categorically exempt. Agencies may note on an application that a proposal is categorically exempt or place such a determination in agency files.

C. Minor New Construction—Flexible Thresholds.

1. The exemptions in this subsection apply to all licenses required to undertake the construction in question, except when a rezone or any license governing emissions to the air or discharges to water is required. To be exempt under this subsection, the project must be equal to or smaller than the exempt level. If the proposal involves lands located in another jurisdiction, then the threshold of the jurisdiction with the lowest threshold shall control, regardless of which agency is the lead agency.

2. The following types of construction shall be exempt:

a. The construction or location of any residential structure up to four dwelling units;

b. The construction of a barn, loafing shed, farm equipment storage building, produce storage or packing structure, similar agricultural structure, covering up to 10,000 square feet, and to be used only by the property owner or his or her agent in the conduct of farming the property. This exemption shall not apply to feed lots;

c. The construction of an office, school, commercial, recreational, service or storage building with up to 4,000 square feet of gross floor area and with associated parking facilities designed for that number of off street parking spaces required by the zoning ordinance, not to exceed 20 parking spaces;

d. The construction of a parking lot designed for 20 parking spaces;

e. Any landfill or excavation of 500 cubic yards throughout the total lifetime of the fill or excavation; and any fill or excavation classified as a class I, II, or III forest practice under RCW 76.09.050 or regulations thereunder.

D. Other Minor New Construction. The following types of construction shall be exempt and shall apply to all licenses required to undertake the construction in question, except where a rezone or any license governing admissions to the air or discharges to water is required:

1. The construction or designation of bus stops, loading zones, shelters, access facilities and pull-out lanes for taxicabs, transit and school vehicles;
2. The construction and/or installation of commercial on-premises signs, and public signs and signals;
3. The construction or installation of minor road and street improvements such as pavement marking, freeway surveillance and control systems, railroad protective devices (not including grade-separated crossings), grooving, glare screen, safety barriers, energy attenuators, transportation corridor landscaping (including the application of Washington State Department of Agriculture approved herbicides by licensed personnel for right-of-way weed control as long as this is not within watersheds controlled for the purpose of drinking water quality in accordance with WAC 248-54-660), temporary traffic controls and detours, correction of substandard curves and intersections within existing rights-of-way, widening of a highway by less than a single lane width where capacity is not significantly increased and no new right-of-way is required, adding auxiliary lanes for localized purposes, (weaving, climbing, speed change, etc.), where capacity is not significantly increased and no new right-of-way is required, channelization and elimination of sight restrictions at intersections, street lighting, guard rails and barricade installation, installation of catch basins and culverts, and reconstruction of existing roadbed (existing curb to curb in urban locations), including adding or widening of shoulders, addition of bicycle lanes, paths and facilities, and pedestrian walks and paths, but not including additional automobile lanes;
4. Grading, excavating, filling, septic tank installations, and landscaping necessary for any buildings or facility exempted by subsections C and D of this section, as well as fencing and the construction of small structures and minor facilities accessory thereto;
5. Additions or modifications to or replacement of any building or facility exempted by subsections C and D of this section when such addition, modification or replacement will not change the character of the building or facility in a way that would remove it from an exempt class;
6. The demolition of any structure or facility, the construction of which would be exempted by subsections C and D of this section, except for structures or facilities with recognized historical significance;
7. The installation of impervious underground tanks, having a capacity of ten thousand (10,000) gallons or less;
8. The vacation of streets or roads;
9. The installation of hydrological measuring devices, regardless of whether or not on lands covered by water;
10. The installation of any property, boundary or survey marker, other than fences, regardless of whether or not on lands covered by water.

E. Repair, Remodeling and Maintenance Activities. The following activities shall be categorically exempt: The repair, remodeling, maintenance, or minor alteration of existing private or public structures, facilities or equipment, including utilities, involving no material expansions or changes in use beyond that previously existing; except that, where undertaken wholly or in part on lands covered by water, only minor repair or replacement of structures may be exempt (examples include repair or replacement

of piling, ramps, floats, or mooring buoys, or minor repair, alteration, or maintenance of docks). The following maintenance activities shall not be considered exempt under this subsection:

1. Dredging;
2. Reconstruction/maintenance of groins and similar shoreline protection structures; or
3. Replacement of utility cables that must be buried under the surface of the bedlands.

Repair/rebuilding of major dams, dikes, and reservoirs shall also not be considered exempt under this subsection.

F. Water Rights. The following appropriations of water shall be exempt, the exemption covering not only the permit to appropriate water, but also any hydraulics permit, shoreline permit or building permit required for a normal diversion or intake structure, well and pumphouse reasonably necessary to accomplish the exempted appropriation, and including any activities relating to construction of a distribution system solely for any exempted appropriation:

1. Appropriations of fifty (50) cubic feet per second or less of surface water for irrigation purposes, when done without a government subsidy;
2. Appropriations of one cubic foot per second or less of surface water, or of two thousand two hundred fifty (2250) gallons per minute or less of ground water, for any purpose.

G. Purchase or Sale of Real Property. The following real property transactions by an agency shall be exempt:

1. The purchase or acquisition of any right to real property;
2. The sale, transfer or exchange of any publicly owned real property, but only if the property is not subject to an authorized public use;
3. The lease of real property when the use of the property for the term of the lease will remain essentially the same as the existing use, or when the use under the lease is otherwise exempted by this chapter.

H. Minor Land Use Decisions. The following land use decisions shall be exempt:

1. Except upon lands covered by water, the approval of short plats or short subdivisions pursuant to the procedures required by RCW 58.17.060, but not including further short subdivisions or short platting within a plat or subdivision previously exempted under this subsection.
2. Granting of variances based on special circumstances, not including economic hardship, applicable to the subject property, such as size, shape, topography, location or surroundings and not resulting in any change in land use or density.
3. Classifications of land for current use taxation under chapter 84.34 RCW, and classification and grading of forest land under chapter 84.33 RCW.

I. School Closures. The adoption and implementation of a plan, program, or decision for the closure of a school or schools shall be exempt. Demolition, physical modification or change of a facility from a school use shall not be exempt under this subsection.

J. ~~Open Burning.~~ Open burning and the issuance of any license for open burning shall be exempt. The adoption of plans, programs, objectives or regulations by any agency incorporating general standards respecting open burning shall not be exempt.

K. ~~Variances under Clean Air Act.~~ The granting of variances under RCW 70.94.181 extending applicable air pollution control requirements for one year or less shall be exempt.

L. ~~Water Quality Certifications.~~ The granting or denial of water quality certifications under the Federal Clean Water Act (Federal Water Pollution Control Act Amendments of 1972, [33 USC 1341](#)) shall be exempt.

M. ~~Enforcement and Inspections.~~ The following enforcement and inspection activities shall be exempt:

1. ~~All actions, including administrative orders and penalties, undertaken to enforce a statute, regulation, ordinance, resolution or prior decision. No license shall be considered exempt by virtue of this subsection; nor shall the adoption of any ordinance, regulation or resolution be considered exempt by virtue of this subsection;~~
2. ~~All inspections conducted by an agency of either private or public property for any purpose;~~
3. ~~All activities of fire departments and law enforcement agencies except physical construction activity;~~
4. ~~Any action undertaken by an agency to abate a nuisance or to abate, remove or otherwise cure any hazard to public health or safety. The application of pesticides and chemicals is not exempted by this subsection but may be exempted elsewhere in these guidelines. No license or adoption of any ordinance, regulation or resolution shall be considered exempt by virtue of this subsection;~~
5. ~~Any suspension or revocation of a license for any purpose.~~

N. ~~Business and Other Regulatory Licenses.~~ The following business and other regulatory licenses are exempt:

1. ~~All licenses to undertake an occupation, trade or profession;~~
2. ~~All licenses required under electrical, fire, plumbing, heating, mechanical, and safety codes and regulations, but not including building permits;~~
3. ~~All licenses to operate or engage in amusement devices and rides and entertainment activities, including but not limited to cabarets, carnivals, circuses and other traveling shows, dances, music machines, golf courses, and theaters, including approval of the use of public facilities for temporary civic celebrations, but not including licenses or permits required for permanent construction of any of the above;~~
4. ~~All licenses to operate or engage in charitable or retail sales and service activities, including but not limited to peddlers, solicitors, second hand shops, pawnbrokers, vehicle and housing rental agencies, tobacco sellers, close out and special sales, fireworks, massage parlors, public garages and parking lots, and used automobile dealers;~~
5. ~~All licenses for private security services, including but not limited to detective agencies, merchant and/or residential patrol agencies, burglar and/or fire alarm dealers, guard dogs, locksmiths, and bail bond services;~~

6. All licenses for vehicles for hire and other vehicle related activities, including but not limited to taxicabs, ambulances, and tow trucks; provided, that regulation of common carriers by the utilities and transportation commission shall not be considered exempt under this subsection;

7. All licenses for food or drink services, sales, and distribution, including but not limited to restaurants, liquor, and meat;

8. All animal control licenses, including but not limited to pets, kennels, and pet shops. Establishment or construction of such a facility shall not be considered exempt by this subsection;

9. The renewal or reissuance of a license regulating any present activity or structure so long as no material changes are involved.

O. Financial Assistance Grants. The approval of grants or loans by one agency to another shall be exempt, although an agency may at its option require compliance with SEPA prior to making a grant or loan for design or construction of a project. This exemption includes agencies taking nonproject actions that are necessary to apply for federal or other financial assistance.

P. Local Improvement Districts. The formation of local improvement districts, unless such formation constitutes a final agency decision to undertake construction of a structure or facility not otherwise exempt hereunder.

Q. Information Collection and Research. Basic data collection, research, resource evaluation, requests for proposals (RFPs), and the conceptual planning of proposals shall be exempt. These may be strictly for information gathering, or as part of a study leading to a proposal that has not yet been approved, adopted or funded; this exemption does not include any agency action that commits the agency to proceed with such proposal.

R. Acceptance of Filings. The acceptance by an agency of any document or thing required or authorized by law to be filed with the agency and for which the agency has no discretionary power to refuse acceptance shall be exempt. No license shall be considered exempt by virtue of this subsection.

S. Procedural Actions. The proposal or adoption of legislation, rules, regulations, resolutions or ordinances, or of any plan or program relating solely to governmental procedures, and containing no substantive standards respecting use or modification of the environment shall be exempt. Agency SEPA procedures shall be exempt.

T. Building Codes. The adoption by ordinance of all codes as required by the state building code act (Chapter 19.27 RCW).

U. Adoption of Noise Ordinances. The adoption by cities of resolutions, ordinances, rules or regulations concerned with the control of noise which do not differ from regulations adopted by the Department of Ecology under Chapter 70.107 RCW. When a city proposes a noise resolution, ordinance, rule or regulation, a portion of which differs from the applicable state regulations (and thus required approval of the Department of Ecology under RCW 70.107.060(4)), SEPA compliance may be limited to those items which differ from state regulations.

V. Review and Comment Actions. Any activity where one agency reviews or comments upon the actions of another agency or another department within an agency shall be exempt.

W. Utilities. The utility related actions listed below shall be exempt, except for installation, construction, or alteration on lands covered by water. The exemption includes installation and construction, relocation when required by other governmental bodies, repair, replacement, maintenance, operation or alteration that does not change the action from an exempt class:

1. All communications lines, including cable TV, but not including communication towers or relay stations;
2. All stormwater, water and sewer facilities, lines, equipment, hookups or appurtenances including, utilizing or related to lines eight inches or less in diameter;
3. All electric facilities, lines, equipment or appurtenances, not including substations, with an associated voltage of 55,000 volts or less; and the overbuilding of existing distribution lines (55,000 volts or less) with transmission lines (more than 55,000 volts); and the undergrounding of all electric facilities, lines, equipment or appurtenances;
4. All natural gas distribution (as opposed to transmission) lines and necessary appurtenant facilities and hookups;
5. All developments within the confines of any existing electric substation, reservoir, pump station or well; provided, that additional appropriations of water are not exempted by this subsection;
6. Periodic use of chemical or mechanical means to maintain a utility or transportation right-of-way in its design conditions; provided, that chemicals used are approved by the Washington State Department of Agriculture and applied by licensed personnel. This exemption shall not apply to the use of chemicals within watersheds that are controlled for the purpose of drinking water quality in accordance with WAC 248-54-660;
7. All grants of rights of way by agencies to utilities for use for distribution (as opposed to transmission) purposes;
8. All grants of franchises by agencies to utilities;
9. All disposals of rights of way by utilities.

X. Natural Resources Management. In addition to the other exemption contained in this section, the following natural resources management activities shall be exempt:

1. All class I, II, III forest practices as defined by RCW 76.09.050 or regulations thereunder;
2. Issuance of new grazing leases covering a section of land or less; and issuance of all grazing leases for land that has been subject to a grazing lease within the previous ten years;
3. Licenses or approvals to remove firewood;
4. Issuance of agricultural leases covering 160 continuous acres or less;
5. Issuance of leases for Christmas tree harvesting or brush picking;
6. Issuance of leases for school sites;
7. Issuance of leases for, and placement of, mooring buoys designed to serve pleasure craft;

~~8. Development of recreational sites not specifically designed for all terrain vehicles and not including more than 12 campsites;~~

~~9. Periodic use of chemical or mechanical means to maintain public park and recreational land; provided, that chemicals used are approved by the Washington State Department of Agriculture and applied by licensed personnel. This exemption shall not apply to the use of chemicals within watersheds that are controlled for the purpose of drinking water quality in accordance with WAC 248-54-660;~~

~~10. Issuance of rights of way, easements and use permits to use existing roads in nonresidential areas;~~

~~11. Establishment of natural area preserves to be used for scientific research and education and for the protection of rare flora and fauna, under the procedures of Chapter 79.70 RCW.~~

~~Y. Emergencies. Action that must be undertaken immediately or within a time too short to allow full compliance with this chapter, to avoid an imminent threat to public health or safety, to prevent an imminent danger to public or private property, or to prevent an imminent threat of serious environmental degradation, shall be exempt. Agencies may specify these emergency actions in their procedures.~~

~~Z. Individual Battery Charging or Battery Exchange Stations. The construction of an individual battery charging station or an individual battery exchange station (as defined in Chapter 18.06 NBMC), that is otherwise categorically exempt pursuant to RCW 43.21C.410, shall continue to be categorically exempt even if part of a larger proposal that includes other battery charging stations, other battery exchange stations, or other related utility networks. (Ord. 1435 § 1 (Ex. A (part)), 2011; Ord. 622 § 6, 1984).~~

**WAC 197-11-800 Categorical exemptions.** The proposed actions contained in Part Nine are categorically exempt from threshold determination and EIS requirements, subject to the rules and limitations on categorical exemptions contained in WAC 197-11-305.

Note: The statutory exemptions contained in chapter 43.21C RCW are not included in Part Nine. Chapter 43.21C RCW should be reviewed in determining whether a proposed action not listed as categorically exempt in Part Nine is exempt by statute from threshold determination and EIS requirements.

**(1) Minor new construction - Flexible thresholds.**

(a) The exemptions in this subsection apply to all licenses required to undertake the construction in question. To be exempt under this subsection, the project must be equal to or smaller than the exempt level. For a specific proposal, the exempt level in (b) of this subsection shall control, unless the city/county in which the project is located establishes an exempt level under (c) of this subsection. If the proposal is located in more than one city/county, the lower of the agencies' adopted levels shall control, regardless of which agency is the lead agency. 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).

(b) The following types of construction shall be exempt:

- (i) The construction or location of four detached single family residential units.
- (ii) The construction or location of four multifamily residential units.
- (iii) The construction of a barn, loafing shed, farm equipment storage building, produce storage or packing structure, or similar agricultural structure, covering 10,000 square feet, and to be used only by the property owner or his or her agent in the conduct of farming the property. This exemption shall not apply to feed lots.
- (iv) The construction of an office, school, commercial, recreational, service or storage building with 4,000 square feet of gross floor area, and with associated parking facilities designed for twenty automobiles. This exemption includes parking lots for twenty or fewer automobiles not associated with a structure.

(v) Any fill or excavation of 100 cubic yards throughout the total lifetime of the fill or excavation and any excavation, fill or grading necessary for an exempt project in (i), (ii), (iii), or (iv) of this subsection shall be exempt.

(c) Cities, towns or counties may raise the exempt levels up to the maximum specified in (d) of this subsection by implementing ordinance or resolution. Such levels shall be specified in the agency's SEPA procedures (WAC 197-11-904). Separate maximum optional thresholds are established in (d) of this subsection applying to both incorporated areas and unincorporated urban growth areas in fully planning jurisdictions under RCW 36.70A.040; other unincorporated areas in fully planning counties; and jurisdictions in all other counties. Agencies may adopt the maximum level or a level between the minimum and maximum level. An agency may adopt a system of several exempt levels, such as different levels for different geographic areas, and mixed use projects.

At a minimum, the following process shall be met in order to raise the exempt levels.

(i) Documentation that the requirements for environmental analysis, protection and mitigation for impacts to elements of the environment (listed in WAC 197-11-444) have been adequately addressed for the development exempted. The requirements may be addressed in specific adopted development regulations, and applicable state and federal regulations.

(ii) Description in the findings or other appropriate section of the adopting ordinance or resolution of the locally established notice and comment opportunities for the public, affected tribes, and agencies regarding permitting of development projects included in these increased exemption levels.

(iii) Before adopting the ordinance or resolution containing the proposed new exemption levels, the agency shall provide a minimum of sixty days notice to affected tribes, agencies with expertise, affected jurisdictions, the department of ecology, and the public and provide an opportunity for comment.

(iv) The city, town, or county must document how specific adopted development regulations and applicable state and federal laws provide adequate protections for cultural and historic resources when exemption levels are raised. The requirements for notice and opportunity to comment for the public, affected tribes, and agencies in (c)(i) and (ii) of this subsection and the requirements for protection and mitigation in (c)(i) of this subsection must be specifically documented. The local ordinance or resolution shall include, but not be limited to, the following:

- Use of available data and other project review tools regarding known and likely cultural and historic resources, such as inventories and predictive models provided by the Washington department of archaeology and historic preservation, other agencies, and tribal governments.

- Planning and permitting processes that ensure compliance with applicable laws including chapters 27.44, 27.53, 68.50, and 68.60 RCW.

- Local development regulations that include at minimum preproject cultural resource review where warranted, and standard inadvertent discovery language (SIDL) for all projects.

(d) The maximum exemption levels applicable to (c) of this subsection are:

Project types	Fully planning GMA counties		All other counties
	Incorporated and unincorporated UGA	Other unincorporated areas	Incorporated and unincorporated areas
Single family residential	30 units	20 units	20 units
Multifamily residential	60 units	25 units	25 units
Barn, loafing shed, farm equipment storage, produce storage or packing structure	40,000 square feet	40,000 square feet	40,000 square feet
Office, school, commercial, recreational, service, storage building, parking facilities	30,000 square feet and 90 parking spaces	12,000 square feet and 40 parking spaces	12,000 square feet and 40 parking spaces
Fill or excavation	1,000 cubic yards	1,000 cubic yards	1,000 cubic yards

(2) **Other minor new construction.**

(a) The exemptions in this subsection apply to all licenses required to undertake the following types of proposals 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).
- (b) The construction or designation of bus stops, loading zones, shelters, access facilities, pull-out lanes for taxicabs, transit and school vehicles, and designation of transit only lanes.
- (c) The construction or installation of commercial on-premise signs, and public signs and signals, including those for traffic control and wayfinding.
- (d) The construction or installation of minor road and street improvements by any agency or private party that include the following:
- (i) Safety structures and equipment: Such as pavement marking, adding or removing turn restrictions, speed limit designation, physical measures to reduce motor vehicle traffic speed or volume, freeway surveillance and control systems, railroad protective devices (not including grade-separated crossings), grooving, glare screen, safety barriers, energy attenuators;
  - (ii) Transportation corridor landscaping (including the application of state of Washington approved herbicides by licensed personnel for right of way weed control as long as this is not within watersheds controlled for the purpose of drinking water quality;
  - (iii) Temporary traffic controls and detours;
  - (iv) Correction of substandard curves and intersections within existing rights of way, widening of a highway by less than a single lane width where capacity is not significantly increased and no new right of way is required;
  - (v) Adding auxiliary lanes for localized purposes, (weaving, climbing, speed change, etc.), where capacity is not significantly increased and no new right of way is required;
  - (vi) Channelization, rechannelization, elimination of sight restrictions at intersections, street lighting, guard rails and barricade installation;
  - (vii) Installation of catch basins and culverts for the purposes of road and street improvements;
  - (viii) Reconstruction of existing roadbed (existing curb-to-curb in urban locations), including adding or widening of shoulders where capacity is not increased and no new right of way is required;
  - (ix) Addition of bicycle lanes, paths and facilities, and pedestrian walks and paths including sidewalk extensions, but not including additional automobile lanes.
- (e) Grading, excavating, filling, septic tank installations, and landscaping necessary for any building or facility exempted by subsections (1) and (2) of this section, as well as fencing and the construction of small structures and minor facilities accessory thereto.
- (f) Additions or modifications to or replacement of any building or facility exempted by subsections (1) and (2) of this section when such addition, modification or replacement will not change the character of the building or facility in a way that would remove it from an exempt class.
- (g) The demolition of any structure or facility, the construction of which would be exempted by subsections (1) and (2) of this section, except for structures or facilities with recognized historical significance such as listing in a historic register.

(h) The installation or removal of impervious underground or above-ground tanks, having a total capacity of 10,000 gallons or less except on agricultural and industrial lands. On agricultural and industrial lands, the installation or removal of impervious underground or above-ground tanks, having a total capacity of 60,000 gallons or less.

(i) The vacation of streets or roads, converting public right of way, and other changes in motor vehicle access.

(j) The installation of hydrological measuring devices, regardless of whether or not on lands covered by water.

(k) The installation of any property, boundary or survey marker, other than fences, regardless of whether or not on lands covered by water.

(l) The installation of accessory solar energy generation equipment on or attached to existing structures and facilities whereby the existing footprint and size of the building is not increased.

(3) **Repair, remodeling and maintenance activities.** The following activities shall be categorically exempt: The repair, remodeling, maintenance, or minor alteration of existing private or public structures, facilities or equipment, including utilities, recreation, and transportation facilities involving no material expansions or changes in use beyond that previously existing; except that, where undertaken wholly or in part on lands covered by water, only minor repair or replacement of structures may be exempt (examples include repair or replacement of piling, ramps, floats, or mooring buoys, or minor repair, alteration, or maintenance of docks). The following maintenance activities shall not be considered exempt under this subsection:

(a) Dredging of over fifty cubic yards of material;

(b) Reconstruction or maintenance of groins and similar shoreline protection structures;

(c) Replacement of utility cables that must be buried under the surface of the bedlands; or

(d) Repair/rebuilding of major dams, dikes, and reservoirs shall also not be considered exempt under this subsection.

(4) **Water rights.** Appropriations of one cubic foot per second or less of surface water, or of 2,250 gallons per minute or less of groundwater, for any purpose. The exemption covering not only the permit to appropriate water, but also any hydraulics permit, shoreline permit or building permit required for a normal diversion or intake structure, well and pumphouse reasonably necessary to accomplish the exempted appropriation, and including any activities relating to construction of a distribution system solely for any exempted appropriation.

(5) **Purchase or sale of real property.** The following real property transactions by an agency shall be exempt:

(a) The purchase or acquisition of any right to real property.

(b) The sale, transfer or exchange of any publicly owned real property, but only if the property is not subject to a specifically designated and authorized public use established by the public landowner and used by the public for that purpose.

(c) Leasing, granting an easement for, or otherwise authorizing the use of real property when the property use will remain essentially the same as the existing use for the term of the agreement, or when the use under the lease, easement or other authorization is otherwise exempted by this chapter.

(6) **Land use decisions.** The following land use decisions shall be exempt:

- (a) Land use decisions for exempt projects, except that rezones must comply with (c) of this subsection.
- (b) Other land use decisions not qualified for exemption under subsection (a) (such as a home occupation or change of use) are exempt provided:
- (i) The authorized activities will be conducted within an existing building or facility qualifying for exemption under WAC 197-11-800 (1) and (2); and
- (ii) The activities will not change the character of the building or facility in a way that would remove it from an exempt class.
- (c) Where an exempt project requires a rezone, the rezone is exempt only if:
- (i) The project is in an urban growth area in a city or county planning under RCW 36.70A.040;
- (ii) The proposed rezone is consistent with and does not require an amendment to the comprehensive plan; and
- (iii) The applicable comprehensive plan was previously subjected to environmental review and analysis through an EIS under the requirements of this chapter prior to adoption; and the EIS adequately addressed the environmental impacts of the rezone.
- (d) Except upon lands covered by water, the approval of short plats or short subdivisions pursuant to the procedures required by RCW 58.17.060, and short plats or short subdivisions within the original short subdivision boundaries provided the cumulative divisions do not exceed the total lots allowed to be created under RCW 58.17.020. This exemption includes binding site plans authorized by RCW 58.17.035 up to the same number of lots allowed by the jurisdiction as a short subdivision.
- (e) Granting of variance based on special circumstances, not including economic hardship, applicable to the subject property, such as size, shape, topography, location or surroundings and not resulting in any change in land use or density.
- (f) Alteration of property lines as authorized by RCW 58.17.040(6).
- (7) **Open burning.** Opening burning and the issuance of any license for open burning shall be exempt. The adoption of plans, programs, objectives or regulations by any agency incorporating general standards respecting open burning shall not be exempt.
- (8) **Clean Air Act.** The granting of variances under RCW 70.94.181 extending applicable air pollution control requirements for one year or less shall be exempt.
- (9) **Water quality certifications.** The granting or denial of water quality certifications under the Federal Clean Water Act (Federal Water Pollution Control Act amendments of 1972, 33 U.S.C. 1341) shall be exempt.
- (10) **Activities of the state legislature.** All actions of the state legislature are exempted.
- (11) **Judicial activity.** The following shall be exempt:
- (a) All adjudicatory actions of the judicial branch.
- (b) Any quasi-judicial action of any agency if such action consists of the review of a prior administrative or legislative decision. Decisions resulting from contested cases or other hearing processes conducted prior to the first decision on a proposal or upon any application for a rezone, conditional use permit or other similar permit not otherwise exempted by this chapter, are not exempted by this subsection.

(12) **Enforcement and inspections.** The following enforcement and inspection activities shall be exempt:

(a) All actions, including administrative orders and penalties, undertaken to enforce a statute, regulation, ordinance, resolution or prior decision. No license shall be considered exempt by virtue of this subsection; nor shall the adoption of any ordinance, regulation or resolution be considered exempt by virtue of this subsection.

(b) All inspections conducted by an agency of either private or public property for any purpose.

(c) All activities of fire departments and law enforcement agencies except physical construction activity.

(d) Any action undertaken by an agency to abate a nuisance or to abate, remove or otherwise cure any hazard to public health or safety. The application of pesticides and chemicals is not exempted by this subsection but may be exempted elsewhere in these guidelines. No license or adoption of any ordinance, regulation or resolution shall be considered exempt by virtue of this subsection.

(e) Any suspension or revocation of a license for any purpose.

(13) **Business and other regulatory licenses.** The following business and other regulatory licenses are exempt:

(a) All licenses to undertake an occupation, trade or profession.

(b) All licenses required under electrical, fire, plumbing, heating, mechanical, and safety codes and regulations, but not including building permits.

(c) All licenses to operate or engage in amusement devices and rides and entertainment activities including, but not limited to, cabarets, carnivals, circuses and other traveling shows, dances, music machines, golf courses, and theaters, including approval of the use of public facilities for temporary civic celebrations, but not including licenses or permits required for permanent construction of any of the above.

(d) All licenses to operate or engage in charitable or retail sales and service activities including, but not limited to, peddlers, solicitors, second hand shops, pawnbrokers, vehicle and housing rental agencies, tobacco sellers, close out and special sales, fireworks, massage parlors, public garages and parking lots, and used automobile dealers.

(e) All licenses for private security services including, but not limited to, detective agencies, merchant and/or residential patrol agencies, burglar and/or fire alarm dealers, guard dogs, locksmiths, and bail bond services.

(f) All licenses for vehicles for-hire and other vehicle related activities including, but not limited to, taxicabs, ambulances, and tow trucks: Provided, That regulation of common carriers by the utilities and transportation commission shall not be considered exempt under this subsection.

(g) All licenses for food or drink services, sales, and distribution including, but not limited to, restaurants, liquor, and meat.

(h) All animal control licenses including, but not limited to, pets, kennels, and pet shops. Establishment or construction of such a facility shall not be considered exempt by this subsection.

(i) The renewal or reissuance of a license regulating any present activity or structure so long as no material changes are involved.

(14) **Activities of agencies.** The following administrative, fiscal and personnel activities of agencies shall be exempt:

(a) The procurement and distribution of general supplies, equipment and services authorized or necessitated by previously approved functions or programs.

(b) The assessment and collection of taxes.

(c) The adoption of all budgets and agency requests for appropriation: Provided, That if such adoption includes a final agency decision to undertake a major action, that portion of the budget is not exempted by this subsection.

(d) The borrowing of funds, issuance of bonds, or applying for a grant and related financing agreements and approvals.

(e) The review and payment of vouchers and claims.

(f) The establishment and collection of liens and service billings.

(g) All personnel actions, including hiring, terminations, appointments, promotions, allocations of positions, and expansions or reductions in force.

(h) All agency organization, reorganization, internal operational planning or coordination of plans or functions.

(i) Adoptions or approvals of utility, transportation and solid waste disposal rates.

(j) The activities of school districts pursuant to desegregation plans or programs; however, construction of real property transactions or the adoption of any policy, plan or program for such construction of real property transaction shall not be considered exempt under this subsection.

(k) Classification of land for current use taxation under chapter 84.34 RCW, and classification and grading of forest land under chapter 84.33 RCW.

(15) **Financial assistance grants.** The approval of grants or loans by one agency to another shall be exempt, although an agency may at its option require compliance with SEPA prior to making a grant or loan for design or construction of a project. This exemption includes agencies taking nonproject actions that are necessary to apply for federal or other financial assistance.

(16) **Local improvement districts and special purpose districts.** The formation of local improvement districts and special purpose districts, unless such formation constitutes a final agency decision to undertake construction of a structure or facility not exempted under WAC 197-11-800 and 197-11-880. A special district or special purpose district is a local government entity designated by the Revised Code of Washington (RCW) and is not a city, town, township, or county.

(17) **Information collection and research.** Basic data collection, research, resource evaluation, requests for proposals (RFPs), and the conceptual planning of proposals shall be exempt. These may be strictly for information-gathering, or as part of a study leading to a proposal that has not yet been approved, adopted or funded; this exemption does not include any agency action that commits the agency to proceed with such a proposal. (Also see WAC 197-11-070.)

(18) **Acceptance of filings.** The acceptance by an agency of any document or thing required or authorized by law to be filed with the agency and for which the agency has no discretionary power to refuse acceptance shall be exempt. No license shall be considered exempt by virtue of this subsection.

(19) **Procedural actions.** The proposal, amendment or adoption of legislation, rules, regulations, resolutions or ordinances, or of any plan or program shall be exempt if they are:

(a) Relating solely to governmental procedures, and containing no substantive standards respecting use or modification of the environment.

(b) Text amendments resulting in no substantive changes respecting use or modification of the environment.

(c) Agency SEPA procedures.

(20) **Reserved.**

(21) **Adoption of noise ordinances.** The adoption by counties/cities of resolutions, ordinances, rules or regulations concerned with the control of noise which do not differ from regulations adopted by the department of ecology under chapter 70.107 RCW. When a county/city proposes a noise resolution, ordinance, rule or regulation, a portion of which differs from the applicable state regulations, SEPA compliance may be limited to those items which differ from state regulations.

(22) **Review and comment actions.** Any activity where one agency reviews or comments upon the actions of another agency or another department within an agency shall be exempt.

(23) **Utilities.** The utility-related actions listed below shall be exempt, except for installation, construction, or alteration on lands covered by water. The exemption includes installation and construction, relocation when required by other governmental bodies, repair, replacement, maintenance, operation or alteration that does not change the action from an exempt class.

(a) All communications lines, including cable TV, but not including communication towers or relay stations.

(b) All stormwater, water and sewer facilities, lines, equipment, hookups or appurtenances including, utilizing or related to lines twelve inches or less in diameter.

(c) All electric facilities, lines, equipment or appurtenances, not including substations, with an associated voltage of 55,000 volts or less; the overbuilding of existing distribution lines (55,000 volts or less) with transmission lines (up to and including 115,000 volts); within existing rights of way or developed utility corridors, all electric facilities, lines, equipment or appurtenances, not including substations, with an associated voltage of 115,000 volts or less; and the undergrounding of all electric facilities, lines, equipment or appurtenances.

(d) All natural gas distribution (as opposed to transmission) lines and necessary appurtenant facilities and hookups.

(e) All developments within the confines of any existing electric substation, reservoir, pump station vault, pipe, or well: Additional appropriations of water are not exempted by this subsection.

(f) Periodic use of chemical or mechanical means to maintain a utility or transportation right of way in its design condition: Provided, the chemicals used are approved by Washington state and applied by licensed personnel. This exemption shall not apply to the use of chemicals within watersheds that are controlled for the purpose of drinking water quality.

(g) All grants of rights of way by agencies to utilities for use for distribution (as opposed to transmission) purposes.

(h) All grants of franchises by agencies to utilities.

(i) All disposals of rights of way by utilities.

(24) **Natural resources management.** In addition to the other exemptions contained in this section, the following natural resources management activities shall be exempt:

(a) Issuance of new grazing leases covering a section of land or less; and issuance of all grazing leases for land that has been subject to a grazing lease within the previous ten years.

(b) Licenses or approvals to remove firewood.

(c) Issuance of agricultural leases covering one hundred sixty contiguous acres or less.

(d) Issuance of leases for Christmas tree harvesting or brush picking.

(e) Issuance of leases for school sites.

(f) Issuance of leases for, and placement of, mooring buoys designed to serve pleasure craft.

(g) Development of recreational sites not specifically designed for all-terrain vehicles and not including more than twelve campsites.

(h) Periodic use of chemical or mechanical means to maintain public park and recreational land: Provided, That chemicals used are approved by the Washington state department of agriculture and applied by licensed personnel. This exemption shall not apply to the use of chemicals within watersheds that are controlled for the purpose of drinking water quality.

(i) Issuance of rights of way, easements and use permits to use existing roads in nonresidential areas.

(j) Establishment of natural area preserves to be used for scientific research and education and for the protection of rare flora and fauna, under the procedures of chapter 79.70 RCW.

**(25) Wireless service facilities.**

(a) The siting of wireless service facilities are exempt if:

(i) The collocation of new equipment, removal of equipment, or replacement of existing equipment on existing or replacement structures that does not substantially change the physical dimensions of such structures; or

(ii) The siting project involves constructing a wireless service tower less than sixty feet in height that is located in a commercial, industrial, manufacturing, forest, or agricultural zone.

(b) For the purposes of this subsection:

(i) "Wireless services" means wireless data and telecommunications services, including commercial mobile services, commercial mobile data services, unlicensed wireless services, and common carrier wireless exchange access services, as defined by federal laws and regulations.

(ii) "Wireless service facilities" means facilities for the provision of wireless services.

(iii) "Collocation" means the mounting or installation of equipment on an existing tower, building, structure for the purposes of either transmitting or receiving, or both, radio frequency signals for communication purposes.

(iv) "Existing structure" means any existing tower, pole, building, or other structure capable of supporting wireless service facilities.

(v) "Substantially change the physical dimensions" means:

(A) The mounting of equipment on a structure that would increase the height of the structure by more than ten percent, or twenty feet, whichever is greater; or

(B) The mounting of equipment that would involve adding an appurtenance to the body of the structure that would protrude from the edge of the structure more than twenty feet, or more than the width of the structure at the level of the appurtenance, whichever is greater.

(c) This exemption does not apply to projects within a critical area designated under GMA (RCW 36.70A.060).

(26) **State transportation project.** The following Washington department of transportation projects and activities shall be exempt: The repair, reconstruction, restoration, retrofitting, or replacement of any road, highway, bridge, tunnel, or transit facility (such as a ferry dock or bus transfer station), including ancillary transportation facilities (such as pedestrian/bicycle paths and bike lanes), that is in operation, as long as the action:

(a) Occurs within the existing right of way and in a manner that substantially conforms to the preexisting design, function, and location as the original except to meet current engineering standards or environmental permit requirements; and

(b) The action does not result in addition of automobile lanes, a change in capacity, or a change in functional use of the facility.

(27) **Structurally deficient city, town and county bridges.** The repair, reconstruction, restoration, retrofitting, or replacement of a structurally deficient city, town or county bridge shall be exempt as long as the action:

(a) Occurs within the existing right of way and in a manner that substantially conforms to the preexisting design, function, and location as the original except to meet current engineering standards or environmental permit requirements; and

(b) The action does not result in addition of automobile lanes, a change in capacity, or a change in functional use of the facility.

"Structurally deficient" means a bridge that is classified as in poor condition under the state bridge condition rating system and is reported by the state to the national bridge inventory as having a deck, superstructure, or substructure rating of four or below. Structurally deficient bridges are characterized by deteriorated conditions of significant bridge elements and potentially reduced load-carrying capacity. Bridges deemed structurally deficient typically require significant maintenance and repair to remain in service, and require major rehabilitation or replacement to address the underlying deficiency.

[Statutory Authority: RCW 43.21C.110. WSR 16-13-012 (Order 15-09), § 197-11-800, filed 6/2/16, effective 7/3/16. Statutory Authority: RCW 43.21C.110 and 43.21C.100 [43.21C.170]. WSR 14-09-026 (Order 13-01), § 197-11-800, filed 4/9/14, effective 5/10/14. Statutory Authority: RCW 43.21C.110. WSR 13-02-065 (Order 12-01), § 197-11-800, filed 12/28/12, effective 1/28/13. Statutory Authority: RCW 43.21A.090, chapter 43.21C RCW, RCW 43.21C.035, 43.21C.037, 43.21C.038, 43.21C.0381, 43.21C.0382, 43.21C.0383, 43.21C.110, 43.21C.222. WSR 03-16-067 (Order 02-12), § 197-11-800, filed 8/1/03, effective 9/1/03. Statutory Authority: 1995 c 347 (ESHB 1724) and RCW 43.21C.110. WSR 97-21-030 (Order 95-16), § 197-11-800, filed 10/10/97, effective 11/10/97. Statutory Authority: RCW 43.21C.110. WSR 84-05-020 (Order DE 83-39), § 197-11-800, filed 2/10/84, effective 4/4/84.]