

## EXHIBIT C

### **14.04.050 Categorical exemptions.**

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

1. WAC [197-11-800](#) Categorical exemptions (except as otherwise established below);
2. WAC [197-11-880](#) Emergencies; and
3. WAC [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:

1. For single-family residential projects, up to 12 dwelling units;
2. For multifamily residential projects, up to 12 dwelling units;
3. For agricultural structures, up to 20,000 square feet;
4. For office, school, commercial, recreational, service, or storage buildings, up to 20,000 square feet;
5. For parking facilities, up to 25 parking spaces;
6. For fills or excavations, up to 500 cubic yards. All fill or excavation, of any quantity, necessary for an exempt project in subsections (B)(1) through (B)(5) of this section shall be exempt.

C. The exemptions in this subsection apply except when the project:

1. Is undertaken wholly or partly on lands covered by water;
2. Requires a license governing discharge to water that is not exempt under RCW 43.21C.0383;
3. Requires a license governing emission to air that is not exempt under RCW 43.21C.0381 or WAC 197-11-800(7) or (8); or
4. 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 (Exh. A (part)), 2011; Ord. 622 § 6, 1984).