

## Amending LMC 16.05.070 SEPA Flexible Thresholds

### **16.05.070 - Flexible thresholds for categorical exemptions.**

- A. The city establishes the following exempt levels for minor new construction under WAC 197-11-800(1)(b) based on local conditions.
1. For residential dwelling units in WAC 197-11-800(1)(b)(i):
    - a. Up to 12 dwelling units City-wide except in the Pepin Creek Subarea, or ~~Up to twelve dwelling units~~
    - ba. In the Pepin Creek Subarea, ~~Up to 4 dwelling units.~~
  2. For office, school, commercial, recreational, service or storage buildings in WAC 197-11-800(1)(b)(iii): Up to ten thousand square feet and up to twenty-five parking spaces.
  3. For parking lots in WAC 197-11-800(1)(b)(iv): Up to forty parking spaces.
  4. For landfills and excavations in WAC 197-11-800(1)(b)(v): Up to two hundred fifty cubic yards.
- B. 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).

### **16.05.160 - Substantive authority.**

- A. The policies and goals set forth in this chapter are supplementary to those in the existing authorization of the city of Lynden.
- B. The city may attach conditions to a permit or approval for a purpose so long as:
1. Such conditions are necessary to mitigate specific probable adverse environmental impacts identified in environmental documents prepared pursuant to this chapter; and
  2. Such conditions are in writing; and
  3. The mitigation measures included in such conditions are reasonable and capable of being accomplished; and
  4. The city has considered whether other local, state, or federal mitigation measures applied to the proposal are sufficient to mitigate the identified impacts; and
  5. Such conditions are based on one or more policies in subsection D of this section and cited in the license or other decision document.
- C. The city may deny a permit or approval for a proposal on the basis of SEPA so long as:

1. A finding is made that approving the proposal would result in probable significant adverse environmental impacts that are identified in a FEIS or final SEIS prepared pursuant to this chapter; and
2. A finding is made that there are no reasonable mitigation measures capable of being accomplished that are sufficient to mitigate the identified impact; and
3. The denial is based on one or more policies identified in subsection D of this section and identified in writing in the decision document.

D. The city designates and adopts by reference the following policies as the basis for the city's exercise of authority pursuant to this section:

1. The city shall use all practicable means, consistent with other essential considerations of state policy, to improve and coordinate plans, functions, programs, and resources to the end that the state and its citizens may:
  - a. Fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;
  - b. Assure for all people of Washington safe, healthful, productive, and aesthetically and culturally pleasing surroundings;
  - c. Attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;
  - d. Preserve important historic, cultural, and natural aspects of our national heritage;
  - e. Maintain, wherever possible, an environment which supports diversity and variety of individual choice;
  - f. Achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and
  - g. Enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.

2. The city recognizes that each person has a fundamental and inalienable right to a healthful environment and that each person has a responsibility to contribute to the preservation and enhancement of the environment.

3. The city adopts by reference the policies in the following city documents, as periodically updated:

a. City of Lynden Comprehensive Land Use Plan;

b. City of Lynden Shoreline Management Program;

c. City of Lynden Critical Areas Ordinance;

d. City of Lynden Subdivision Ordinance;

e. All subarea plans adopted by the City of Lynden, including t

3. The Pepin Creek Subarea Plan as adopted by the City Council Ordinance 1600 on March 2, 2020. and periodically updated.

E. When any proposal or action not requiring a decision of the city council is conditioned or denied on the basis of SEPA by a nonelected official, the decision shall be appealable to the city council. Such appeal may be perfected by the proponent or any aggrieved party by giving notice to the responsible official within ten days of the decision being appealed. Review by the city council shall be on a de novo basis.

(Ord. 712 § A(part), 1984).