

**ORDINANCE NO. \_\_\_\_\_**

**An Ordinance Concerning State Environmental Policy Act Categorical Exemption Thresholds for Infill Development, Amending Ordinance No's. 3272-12 and 3513-16 (EMC Chapter 20.04), as Amended, and Repealing Ordinance No. 3128-09**

**WHEREAS**, in order to accommodate infill development and thereby realize the goals and policies of comprehensive plans adopted according to chapter 36.70A RCW (Growth Management Act), the Legislature authorized local government to establish categorical exemptions from the requirements of the State Environmental Policy Act (SEPA); and

**WHEREAS**, chapter 43.21C.229 RCW sets forth the criteria for a city to adopt exemptions from SEPA, including actions related to development to fill in an urban growth area where current density and intensity of use in the area is lower than called for in the goals and policies of the city's comprehensive plan; and

**WHEREAS**, the criteria set forth in chapter 43.21C.229 RCW also include that the development is not inconsistent with the comprehensive plan or exceed the density or intensity of use called for in the goals and policies of the applicable comprehensive plan; and

**WHEREAS**, the criteria set forth in chapter 43.21C.229 RCW also include that the city considers the specific probable adverse environmental impacts of the proposed action and determines that these specific impacts are adequately addressed by the development regulations or other applicable requirements of the comprehensive plan, subarea plan element of the comprehensive plan, planned action ordinance, or other local, state, or federal rules or laws; and

**WHEREAS**, the criteria set forth in chapter 43.21C.229 RCW also require that the city's applicable comprehensive plan was previously subjected to environmental analysis through an environmental impact statement or has prepared an environmental impact statement that considers the proposed use or density and intensity of use in the area proposed for an exemption; and

**WHEREAS**, the city's comprehensive plan was subject to environmental analysis, including 2015 Draft and Final Supplemental EIS for the City of Everett GMA Comprehensive Plan; 2009 Planned Action Draft and Final Supplemental EIS for the City of Everett Downtown Plan; 2006 SEPA Addendum for the Downtown Plan and Development Standards; 2004 Draft and Final Supplemental EIS for the City of Everett 10-Year Comprehensive Plan; 2003 Addendum to the EIS for Everett Station Area Plan and Development Regulations and Design Standards; 1994 Everett Growth Management EIS; and

**WHEREAS**, chapter 43.21C.229 RCW limits the categorical exemptions for infill development to either: residential development; mixed-use development; or commercial development up to sixty-five thousand square feet, excluding retail development; and

**WHEREAS**, the City adopted a Planned Action Ordinance under the State Environmental Policy Act (SEPA) for Downtown Everett (Ordinance No. 3128-09) on June 10, 2009 based on the 2006 adoption of the Everett Downtown Subarea Plan; and

**WHEREAS**, the purpose of a Planned Action Ordinance is to expedite the permitting process for subsequent implementing projects whose impacts have been previously addressed, and the SEPA exemptions for infill development provide similar objectives to the Planned Action ordinance; and

**WHEREAS**, the city's planning commission held a public hearing on the proposed amendments on June 5, 2018 and have recommended that the city council adopt the amendments; and

**WHEREAS**, the Everett City Council held public hearings on August 1<sup>st</sup>, 8<sup>th</sup>, 15<sup>th</sup> and 29<sup>th</sup>, 2018 to consider public input.

**NOW, THEREFORE, THE CITY OF EVERETT DOES ORDAIN:**

**Section 1.** Section 2 of Ordinance 3513-16 and Section 1 of Ordinance 3272-12 (EMC 20.04, Environmental Policy, Article III. Categorical Exemption, Section 20.04.140, Categorical exemptions—Infill development, is amended to read as follows *[proposed changes are shown with a vertical bar in the left hand margin; words struck through are proposed for deletion; words that are underlined are proposed additions]*:

**20.04.140 Categorical exemptions—Infill development.**

A. The following exempt levels are established for new construction under RCW 43.21C.229, for land located within the E-1 MUO (mixed-use overlay) zone:

1. Residential use and its required off-street parking: up to one hundred dwelling units;
2. Commercial use within a mixed-use building including eight or more residential dwelling units, and the required off-street parking: up to thirty thousand square feet.

B. The following exempt levels are established for new construction under RCW 43.21C.229, for land located within the Urban Residential (UR), Urban Mixed (UM) and Urban Light Industrial (ULI) zones in Metro Everett:

1. Residential development up to two hundred dwelling units;
2. Mixed-use development;
3. Commercial development up to sixty-five thousand square feet, excluding retail development;  
or
4. Any minor new construction identified as exempt pursuant to EMC 20.04.130.

**BC.** Review Process. Development proposals that meet the categorical exemption thresholds stated in subsection A of this section that exceed the city SEPA thresholds for categorical exemption as specified in Section 20.04.130 shall be subject to Review Process II as specified in Chapter 15.20; provided, however, that environmental review under SEPA is not required. The city shall provide notice of the proposed development application as required by Review Process II.

**Section 2.** Ordinance No. 3128-09, an Ordinance Establishing a Planned Action for Downtown Everett, is hereby repealed.

**Section 3. Severability.** Should any section, paragraph, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulations, this shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

**Section 4. Conflict.** In the event there is a conflict between the provisions of this Ordinance and any other City ordinance, the provisions of this Ordinance shall control.

**Section 5. Corrections.** The City Clerk and the codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection number and any references thereto.

**Section 6. General Duty.** It is expressly the purpose of this Ordinance to provide for and promote the health, safety and welfare of the general public and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this Ordinance. It is the specific intent of this Ordinance that no provision or any term used in this Ordinance is intended to impose any duty whatsoever upon the City or any of its officers or employees. Nothing contained in this Ordinance is intended nor shall be construed to create or form the basis of any liability on the part of the City, or its officers, employees or agents, for any injury or damage resulting from any action or inaction on the part of the City related in any manner to the enforcement of this Ordinance by its officers, employees or agents.

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Cassie Franklin, Mayor

**ATTEST:**

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**CITY CLERK**

**Passed:** \_\_\_\_\_

**Valid:** \_\_\_\_\_

**Published:** \_\_\_\_\_

**Effective Date:** \_\_\_\_\_