

ORDINANCE NO. 3272-12

**An Ordinance Increasing the SEPA Categorical  
Exemption Threshold for Residential and  
Commercial Development in the E-1 MUO (Mixed  
Use Overlay) Zone, as provided by RCW 43.21C.229,  
Amending Ordinance No. 1348-87, as amended  
(EMC Chapter 20.04).**



WHEREAS, the City Council finds the following:

1. The City has been preparing the Evergreen Way Revitalization Plan, the goals of which include encouraging more residential and mixed use development to support the significant public investment made by the City and Community Transit in the Swift Bus Rapid Transit service on Evergreen Way.
2. The City engaged the services of an economist to evaluate the economic viability of different land uses for the Evergreen Way corridor, including residential and mixed use development.
3. The economic analysis found that residential and mixed use redevelopment on Evergreen Way would be substantially more viable with a range of incentives not currently available in Everett's land use code or procedural requirements.
4. Chapter 43.21C RCW authorizes cities to exempt from environmental review infill development that meets the requirements of 43.21C.229 in areas where existing densities are lower than provided in comprehensive plan policies.
5. The adopted Everett Growth Management Comprehensive Plan designates Evergreen Way as a high intensity mixed use corridor and encourages a greater density of housing development in proximity to transit facilities.
6. Most housing development in the Evergreen Way corridor since the adoption of the Everett Growth Management Comprehensive Plan in 1994 has not reached the permitted density in the existing zoning.
7. Increasing the categorical exemption threshold for residential and mixed use development would reduce the time required to process land use permits for development that is encouraged by the comprehensive plan. It would be one of several incentives proposed as part of the Evergreen Way Revitalization Plan to encourage the development of additional residential and mixed use development near Swift Bus Rapid Transit stations.
8. Since the City established its existing SEPA categorical exemption thresholds in 1987, it has significantly improved its protection of environmental resources and mitigation of impacts

through a variety of regulations, including critical area regulations, transportation impact fees, and stormwater / water quality regulations.

9. The design standards proposed as part of the Evergreen Way Revitalization Plan will mitigate impacts of development that currently are mitigated by SEPA.
10. The proposed amendment will require public notice to be provided for projects that are exempted from the SEPA review process by the adoption of this Ordinance.
11. The City has separate codes that require the collection of transportation impact fees, which will not be affected by this Ordinance.

WHEREAS, the City Council concludes the following:

1. The proposed amendment will streamline permit review in the areas closest to the Swift Bus Rapid Transit stations and encourage appropriate infill development along Evergreen Way.
2. The proposed amendment will promote densities called for by the comprehensive plan in this "high intensity mixed use corridor."
3. The proposed amendment is consistent with RCW 43.21C.229.
4. The proposed amendment is in the best long term interests of the Everett community.

NOW, THEREFORE, THE CITY OF EVERETT DOES ORDAIN:

Section 1. Ordinance No. 1348-87, as amended by Ordinance No. 2534-01 (EMC Chapter 20.04), is hereby amended by the addition of the following categorical exemption, which shall be codified as EMC 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 100 dwelling units;
2. Commercial use within a mixed use building including 8 or more residential dwelling units, and the required off-street parking: up to 15,000 square feet.

B. 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 EMC 20.04.130 shall be subject to Review Process II as specified in EMC 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. Effective Date.** This Ordinance will become effective upon adoption of the Ordinance adopting the City's Comprehensive Plan docket items initiated in 2011 incorporating the Mukilteo School District Capital Improvements Plan into the Capital Facilities Element of the City's Comprehensive Plan.

**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.

  
Ray Stephanson, Mayor

ATTEST:

  
CITY CLERK

Passed: 4/18/12

Valid: 4/25/12

Published: 4/28/12

Effective Date: 5/10/12

