

ATTACHMENT E

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, AMENDING VARIOUS ORDINANCES AS CODIFIED IN TUKWILA MUNICIPAL CODE CHAPTER 21.04, "STATE ENVIRONMENTAL ACT POLICY," TO INCORPORATE A VARIETY OF HOUSEKEEPING CODE AMENDMENTS; ESTABLISHING NEW POLICIES RELATING TO ENVIRONMENTAL REVIEW FOR DEVELOPMENT IN THE TUKWILA URBAN CENTER; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the Department of Ecology has updated the State Environmental Policy Act (SEPA) rules resulting in some incorrect references in Tukwila Municipal Code; and

WHEREAS, the list of plans referenced under Tukwila Municipal Code Section 21.04.270 have been updated and references old plans such as the 1995 Comprehensive Plan and the Parks and Open Space Plan adopted by Ordinance No. 1315; and

WHEREAS, future project-specific development proposals in the Tukwila Urban Center (TUC) that are consistent with the Southcenter Subarea Plan, new TUC development regulations, and the Supplemental Environmental Impact Statement do not require individual SEPA review and cannot be challenged administratively or judicially pursuant to SEPA; and the City's SEPA ordinance must be revised to include a process for tracking projects that meet the criteria and are exempt from SEPA; and

WHEREAS, the City Council desires to amend Tukwila Municipal Code Title 21 to clarify and correct the issues noted above; and

WHEREAS, on _____, the City's State Environmental Policy Act (SEPA) Responsible Official issued a Determination of Non-Significance on the proposed amendments; and

WHEREAS, on _____, the City was informed by the Washington State Department of Commerce that it had met the Growth Management Act notice requirements under RCW 36.70A.106; and

WHEREAS, on _____, the Tukwila Planning Commission, following adequate public notice, held a public hearing to receive testimony concerning amending the Tukwila Municipal Code and at that meeting adopted a motion recommending the proposed changes; and

WHEREAS, on _____, the Tukwila City Council, following adequate public notice, held a public hearing to receive testimony concerning the recommendations of the Planning Commission;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, HEREBY ORDAINS AS FOLLOWS:

Section 1. Ordinance Nos. 2173 §1, 1344 §6 and 1331 §11, as codified at Tukwila Municipal Code (TMC) Section 21.04.110, are hereby amended to read as follows:

21.04.110 Categorical exemptions – Flexible thresholds

A. The City establishes the following exempt levels for minor new construction based on local conditions:

1. For residential dwelling units in WAC 197-11-800 (1)(b)(i) and WAC 197-11-800(1)(b)(ii) up to nine dwelling units.
2. For agricultural structures in WAC 197-11-800 (1)(b)(~~ii~~)(iii) up to 10,000 square feet.
3. For office, school, commercial, recreational, service or storage buildings in WAC 197-11-800 (1)(b)(~~iii~~)(iv), up to 12,000 square feet, and up to 40 parking spaces.
4. For parking lots in WAC 197-11- 800 (1)(b)(iv), up to 40 parking spaces.
5. For landfills and excavations in WAC 197-11-800 (1)(b)(v), up to 500 cubic yards.

B. The responsible official shall send copies of all adopted flexible thresholds to the Department of Ecology, headquarters office, Olympia, Washington.

Section 2. Ordinance No. 1853 §6, as codified at TMC Section 21.04.152, is hereby amended to read as follows:

21.04.152 Planned actions identified

Planned actions are specifically identified as developments which satisfy all of the following characteristics:

1. is a “permitted use” located within the MIC/L (TMC 18.36.020) and MIC/H (TMC 18.38.020) zones and/or is an accessory use (TMC 18.36.030 and 18.38.030 respectively) (“conditional” and “unclassified” uses are not planned actions); and

2. satisfies the consistency checklist which demonstrates that all impacts have been mitigated; and

3. is consistent with the Tukwila Comprehensive Plan per RCW 43.21.440 ~~43.21C.031(2)~~; and

4. is not any of the following:

a. an “essential public facility” as defined in RCW 36.70a.200, per RCW 43.21C.031(2);

b. an action which is not consistent with the Tukwila Comprehensive Plan as adopted per RCW 36.70A (consistency required per RCW 43.21C.031(2));

c. a conditional or unclassified use, in the respective MIC/L or MIC/H zones;

d. a development related to the Regional Transit Authority light rail or commuter rail system;

e. any decisions about the 16th Avenue Bridge improvement or disposition which would normally require a SEPA threshold determination; or

f. a development in which any portion includes shoreline modifications waterward of the ordinary high water mark.

Section 3. Regulations Established. A new TMC Section 21.04.165 is hereby established to read as follows:

21.04.165 Environmental review for development in the Tukwila Urban Center – Policies

A. Development proposed in the Tukwila Urban Center will not be subject to environmental review and project-specific SEPA-based administrative or judicial appeals if all of the following criteria are met:

1. The proposed development is consistent with the Southcenter Subarea Plan and associated development regulations in TMC Chapter 18.28.

2. The proposed development meets all established conditions or mitigation.

3. Probable significant adverse impacts of the proposed development have been identified in the Supplemental Environmental Impact Statement (SEIS) prepared for the Southcenter Subarea Plan.

4. The traffic generated from the proposal does not cause the total number of PM hour peak trips generated within the Southcenter Subarea as a whole to exceed the maximum number of new PM peak hour trips threshold as identified in the SEIS for the Southcenter Subarea Plan, or a subsequent traffic analysis based on a revised future land use scenario for the Southcenter Subarea.

5. The project application vests by April 4, 2023.

6. The proposed development is
 - a. not a public facility or utility;
 - b. not an “essential public facility” as defined in RCW 36.70A.200 and TMC Section 18.06.270;
 - c. not a conditional or unclassified use, in the respective TUC zones;
 - d. not a development for which any portion includes shoreline modifications waterward of the ordinary high water mark.

B. A consistency checklist shall be provided by the Department of Community Development to track all the criteria listed under TMC Section 21.04.165.A. The applicant shall submit a response to the consistency checklist documenting that the proposed development complies with all of the criteria listed under TMC Section 21.04.165.A.

Section 4. Ordinance Nos. 1757 §2, 1599 §7(5), 1344 §14 and 1331 §24, as codified at TMC Section 21.04.270, are hereby amended to read as follows:

21.04.270 SEPA – Policies

A. The policies and goals set forth in this chapter are supplementary to those in the existing authorization of the City.

B. The City adopts by reference the policies in the following City codes, ordinances, resolutions and plans as now exist or as may be amended hereafter:

1. Annexation Policy Plan ~~–Resolution 626~~
2. ~~1995~~-Comprehensive Land Use Policy Plan
3. Comprehensive Water Plan ~~–Resolution 873~~
4. International Uniform-Building Code ~~–1982 Edition Ordinance 1287~~
5. Long Range Parks and Open Space Plan ~~Ordinance 1315~~
6. Sanitary Sewer Comprehensive ~~Sewer~~ Plan ~~–Resolution 904~~
7. Shoreline Master Plan ~~–Ordinance 898~~
8. Sidewalk Ordinance ~~–Ordinance 1233~~
9. Southcenter Subarea Plan
10. Southcenter Design Manual
11. Standard Specifications for Municipal Construction ~~–Ordinance 1250~~
12. Subdivisions and Plats – TMC Title 17 ~~Ordinance– Section 17.04~~
13. Surface Water Comprehensive Plan
14. Transportation Improvement Plan ~~Resolution 917~~
15. Zoning Code – TMC Title 18

Section 5. Corrections by City Clerk or Code Reviser. Upon approval of the City Attorney, the City Clerk and the code reviser are authorized to make necessary corrections to this ordinance, including the correction of clerical errors; references to other local, state or federal laws, codes, rules, or regulations; or ordinance numbering and section/subsection numbering.

Section 6. Severability. If any section, subsection, paragraph, sentence, clause or phrase of this ordinance or its application to any person or situation should be held to be invalid or unconstitutional for any reason by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this ordinance or its application to any other person or situation.

Section 7. Effective Date. This ordinance or a summary thereof shall be published in the official newspaper of the City, and shall take effect and be in full force five days after passage and publication as provided by law.

PASSED BY THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, at a Regular Meeting thereof this _____ day of _____, 2016.

ATTEST/AUTHENTICATED:

Christy O’Flaherty, MMC, City Clerk

Allan Ekberg, Mayor

APPROVED AS TO FORM BY:

Filed with the City Clerk: _____

Passed by the City Council: _____

Published: _____

Effective Date: _____

Ordinance Number: _____

Rachel B. Turpin, City Attorney