



AGENDA

PLANNING COMMISSION

VIRTUAL/ELECTRONIC REGULAR MEETING

Thursday, August 5, 2021
7:00 p.m.

Held Remotely on Zoom
<https://us02web.zoom.us/j/85909488712?pwd=RThvVXpxTUxaUHICdDRRam1TQ2hsUT09>

Passcode: 325391

In an effort to curtail the spread of the COVID-19 virus, the Planning Commission meeting will take place online using the Zoom platform and the public will not be allowed to attend in-person. You may watch a live feed of the meeting online; join the meeting via Zoom Webinar; or listen to the meeting over the telephone.

The Planning Commission is providing opportunities for public comment by submitting written comment or calling into the meeting to provide oral public comment. To provide oral public comment you must sign-up by 6:30 p.m. the night of the meeting.

Please see the information listed below to access all of these options:



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<https://us02web.zoom.us/j/85909488712?pwd=RThvVXpxTUxaUHICdDRRam1TQ2hsUT09>

Passcode: 325391



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Pre-registration is required by 6:30 p.m. the night of the meeting.



[Click Here to Submit Written Public Comment](#)

Written comments will be presented to Council and posted to the website if received by 4:00 p.m. the night of the meeting; otherwise they will be sent and posted the next day.

	<u>Estimated Time</u>
1. CALL TO ORDER	7:00
2. ROLL CALL	7:01
3. APPROVAL OF AGENDA	7:02
4. APPROVAL OF MINUTES FROM:	7:03
a. July 15, 2021 - Draft Minutes	

Public Comment and Testimony at Planning Commission

During General Public Comment, the Planning Commission will take public comment on any subject which is not specifically scheduled later on the agenda. During Public Hearings and Study Sessions, public testimony/comment occurs after initial questions by the Commission which follows the presentation of each staff report. Please be advised that each speaker's testimony is being recorded. Speakers are asked to sign-up by 6:30 p.m. the night of the meeting. Individuals wishing to speak to agenda items will be

called to speak first, generally in the order in which they have signed. In all cases, speakers are asked to state their first and last name, and city of residence. The Chair has discretion to limit or extend time limitations and the number of people permitted to speak. Generally, individuals may speak for three minutes or less, depending on the number of people wishing to speak. When representing the official position of an agency or City-recognized organization, a speaker will be given 5 minutes. Questions for staff will be directed to staff through the Commission.

5. GENERAL PUBLIC COMMENT	7:05
6. STUDY ITEMS	
a. <u>2021 Development Code Amendments – Part 3 – SEPA Amendments</u>	7:10
7. UNFINISHED BUSINESS	7:55
8. NEW BUSINESS	7:56
9. REPORTS OF COMMITTEES & COMMISSIONERS/ANNOUNCEMENTS	7:57
10. AGENDA FOR Next meeting – August 19, 2021	7:58
11. ADJOURNMENT	8:00

The Planning Commission meeting is wheelchair accessible. Any person requiring a disability accommodation should contact the City Clerk's Office at 801-2230 in advance for more information. For TTY telephone service call 546-0457.

DRAFT
CITY OF SHORELINE

SHORELINE PLANNING COMMISSION
MINUTES OF REGULAR MEETING
(Via Zoom)

July 15, 2021
7:00 P.M.

Commissioners Present

Chair Mork
Commissioner Malek
Commissioner Callahan
Commissioner Galuska
Commissioner Lin
Commissioner Rwamashongye

Staff Present

Andrew Bauer, Planning Manager
Steve Szafran, Senior Planner
Julie Ainsworth-Taylor, Assistant City Attorney
Carla Hoekzema, Planning Commission Clerk

Absent:

Vice Chair Sager (excused)

CALL TO ORDER

Chair Mork called the regular meeting of the Shoreline Planning Commission to order at 7:00 p.m.

ROLL CALL

Ms. Hoekzema called the roll.

APPROVAL OF AGENDA

The agenda was accepted as presented.

APPROVAL OF MINUTES

The minutes of June 17, 2021 were accepted as presented.

GENERAL PUBLIC COMMENT

There were no general public comments.

STUDY ITEM: 2021 DEVELOPMENT CODE AMENDMENTS – PART 2 – MISC. AMENDMENTS

Senior Planner Szafran made a PowerPoint presentation regarding the 2021 Development Code Batch #2 Miscellaneous Amendments. He reviewed 13 proposed amendments which were a mix of updates, clarifications, and policy changes to parking, setbacks, and adaptive reuse of commercial buildings.

1. Update the definition of *Family*
2. Update definition of *Host Agency* to include a public agency
3. Update definition of *Hardscape* to include products like Grasscrete and pervious pavers on a percentage basis
4. Update definition of *Managing Agency* to include a public agency
5. Set a threshold for when a Conditional Use Permit is required
6. Add public agency as a preferred provider for a homeless shelter
7. Allow the Director authority to prohibit an unlisted use which is not consistent with the policies set for each zone and category
8. Amend setback provisions for lots with two front yards (related to #9)
9. Amend setback provisions for lots with two front yards (related to #8)
10. Make it clear that the townhome design standards are stated in a different section of the code
11. Allow certain exemptions from the required site improvement thresholds for *Commercial Adaptive Reuse*
12. Add the ability for the Director to require third party review of a qualified professional's report at any time during the development process
13. Delete requirement for the cost of parking to be included in the rental or sale price of residential units

Commissioner Rwamashongye referred to Amendment #3 and asked why religious organizations were removed. Senior Planner Szafran explained they had been incorporated into the new language.

Commissioner Rwamashongye referred to Amendment #11 and expressed concern about safety issues like seismic retrofit and fire code of the older buildings. He also expressed concern about the older buildings not matching the design of the newer surrounding area. Senior Planner Szafran explained that buildings would still be required to meet safety and building code requirements, and the Fire Department is a reviewer on that building permit. Regarding the design aspect, Senior Planner Szafran agreed that is a trade off in order to use these to provide a more affordable space. There are provisions, such as landscaping, proposed to mitigate some of this.

Commissioner Rwamashongye referred to the parking amendment and asked about data showing what renters' needs actually are. Senior Planner Szafran explained the City engages in discussions regularly with the development community. In those discussions the parking issue has been at the top of list for developers. He offered to provide more data regarding this if desired.

Commissioner Malek noted that if there is less than one parking spot per unit it makes sense to allow for separate rental costs. He also brought up Merlone Geier's proposal for the old Sears Building near Central Market.

Commissioner Callahan thanked staff for the presentation. She spoke in support of Amendment #13 and also referred to the new state law (ESSB 6617) which states that a city cannot require off-street parking if the ADU is within a quarter mile of a major transit stop. She asked how quickly this would be updated in the code. Assistant City Attorney Ainsworth-Taylor indicated she would look into that to see how it is written.

Commissioner Galuska asked about the percentage of impervious for Grasscrete. Senior Planner Szafran replied it would be based on the manufacturer's spec sheet.

Commissioner Lin requested that staff go through the proposed amendments again. She also referred to Amendment #9 regarding front yard setbacks and asked for clarification. Senior Planner Szafran reviewed this and went through the proposed amendments again.

Chair Mork asked Assistant City Attorney Ainsworth-Taylor if she should recuse herself from part of this discussion since she lives on a corner lot. Assistant City Attorney Ainsworth-Taylor replied that would not be necessary if she feels she can make an unbiased opinion.

Chair Mork asked for more detail about how the amendment regarding Commercial Adaptive Reuse would apply in different situations. Planning Manager Szafran indicated he could bring back more information about this.

Commissioner Lin referred to the change related to impervious surfaces and asked if they would also be updating the Stormwater Code. Planning Manager Szafran replied that it would not change; all the development projects would still have to meet the requirements of the Department of Ecology.

Chair Mork thanked staff for the presentation.

DIRECTOR'S REPORT

Director Bauer had several comments:

- He gave an update on the plat vacation amendments.
- On July 26 the Council is holding an appeal hearing on the landmark designation appeal of the Naval hospital on the Fircrest campus.
- City Hall opened up for in-person business on July 6.
- There is a 161-unit apartment development on Aurora across from Sky Nursery that is getting close to permit issuance.
- On October 25 staff intends to hold a joint Planning Commission/City Council meeting to workshop and get feedback on amendments to the MUR-70 zone.

UNFINISHED BUSINESS

None

NEW BUSINESS

None

REPORTS OF COMMITTEES AND COMMISSIONER ANNOUNCEMENTS

Commissioner Malek reported that he and Commissioner Sager met for the first time as the Point Wells Subcommittee last week. This was just an introductory sharing of information, but they plan to start meeting more regularly.

AGENDA FOR NEXT MEETING

The next meeting is scheduled for August 5 to review additional Development Code Amendments.

ADJOURNMENT

The meeting was adjourned at 8:06 p.m.

Laura Mork
Chair, Planning Commission

Carla Hoekzema
Clerk, Planning Commission

PLANNING COMMISSION AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE: 2021 Development Code Amendments – Part 2 – SEPA Amendments		
DEPARTMENT: Planning & Community Development		
PRESENTED BY: Steven Szafran, AICP, Senior Planner		
<input type="checkbox"/> Public Hearing	<input checked="" type="checkbox"/> Study Session	<input type="checkbox"/> Recommendation Only
<input type="checkbox"/> Discussion	<input type="checkbox"/> Update	<input type="checkbox"/> Other

Introduction

The purpose of this study session is to:

- Review the proposed second batch (Batch #2) of Development Code Amendments – SEPA Amendments (Attachment A).
- Respond to questions regarding the proposed development regulations.
- Prepare changes to the proposed amendments based on direction from the Planning Commission.
- Gather public comment.

Amendments to the Development Code (Shoreline Municipal Code Title 20) are processed as legislative decisions. Legislative decisions are non-project decisions made by the City Council under its authority to establish policies and regulations. The Planning Commission is the review authority for these legislative decisions and is responsible for holding a public hearing on proposed Development Code amendments and making a recommendation to the City Council on each amendment.

The Planning Commission held a study session to discuss the first batch of 2021 Development Code Amendments (Batch #1) and give staff direction on the amendments on March 4, 2021. The Commission then held the required public hearing on April 1, 2021. The Batch #1 amendments were adopted by Council on May 3, 2021 (<http://cosweb.ci.shoreline.wa.us/uploads/attachments/cck/council/Agendas/Agendas2021/050321.htm>).

The Planning Commission held a meeting on July 15, 2021 to discuss the miscellaneous amendments in Batch #2 (<https://www.shorelinewa.gov/home/showpublisheddocument/52150/637613497080830000>). The Miscellaneous amendments will be brought back to the Commission for a recommendation with the other groups of amendments in Batch #2 later this year.

Batch #2 consists of three distinct groups of amendments that have been grouped by topic. The first group of amendments is related to miscellaneous amendments proposed by City of Shoreline staff, the second group of amendments is related to the procedure and administration of the State Environmental Policy Act (SEPA), and the third group is related to trees. Proposed tree amendments are proposed by individual members of the Tree Preservation Code Team, which is a group of residents committed to protecting, preserving trees in Shoreline.

Proposed amendments to SEPA procedures are largely clarifying amendments that make the administration of SEPA less cumbersome and clarify that SEPA is not a permit type but a decision that is tied to a proposed permit or action.

In addition to the tree related and SEPA amendments, Batch #2 includes new regulations related to existing commercial structures that are having difficulty attracting new tenants because of nonconforming parking, landscaping, lighting, and sign standards. Staff is proposing amendments to encourage “commercial adaptive reuse” of existing buildings to encourage new activity in these vacant buildings that can benefit the neighborhood while providing more affordable rents for local businesses.

Other topics included in Batch #2 include parking, commercial design standards, Conditional Use Permits, residential setbacks, Hardscape, and critical area review.

Recently, the State passed House Bill 1220 (**Attachment B**) which is related to transitional housing, permanent supportive housing, and emergency shelters. These recent laws made changes to how cities may regulate the location and occupancy of specific types of housing.

- The first law states, “a city shall not prohibit transitional housing or permanent supportive housing in any zones in which residential dwelling units or hotels are allowed.”
- The second law states, “cities must allow indoor emergency shelters and indoor emergency housing in zones in which hotels are allowed. An exception is provided for cities that have adopted an ordinance authorizing indoor emergency shelters and housing in most zones within one mile of transit.
- The third law states a city may not regulate or limit the number of unrelated persons that may occupy a household or dwelling unit.

Staff will continue to evaluate the existing Development Code regulations for compliance with the updated State Law. Any recommended changes based on HB 1220 will come back to the Planning Commission for review before the public hearing on all the proposed Batch #2 amendments.

Background

SMC 20.30.350 states, “An amendment to the Development Code is a mechanism by which the City may bring its land use and development regulations into conformity with the Comprehensive Plan or respond to changing conditions or needs of the City”. Development Code amendments may also be necessary to reduce confusion and clarify

existing language, respond to regional and local policy changes, update references to other codes, eliminate redundant and inconsistent language, and codify Administrative Orders previously approved by the Director. Regardless of their purpose, all amendments are to implement and be consistent with the Comprehensive Plan.

The decision criteria for a Development Code amendment in SMC 20.30.350 (B) states the City Council may approve or approve with modifications a proposal for a change to the text of the land use code when all the following are satisfied:

1. The amendment is in accordance with the Comprehensive Plan; and
2. The amendment will not adversely affect the public health, safety, or general welfare; and
3. The amendment is not contrary to the best interest of the citizens and property owners of the City of Shoreline.

The 2021 Batch Part 2 – SEPA Amendments consist of 16 Director-initiated amendments.

Attachment A includes the proposed 2021 Batch Part 2 SEPA amendments. Each amendment includes a justification for the amendment, the entire amendment in legislative format, and staff's recommendation. Because this meeting is a discussion of the amendments, staff has made a preliminary recommendation at this time.

The proposed changes are generally as follows:

20.30 – Procedures and Administration

- 20.30.040 – Ministerial Decisions – Clarifies that some Type A permits are subject to SEPA. Adds reference to SEPA appeals.
- 20.30.050 – Type B Actions – Clarifies appeal language for Type B permits.
- 20.30.060 – Quasi-Judicial Decisions – Type C – Strikes SEPA administrative appeal language and clarifies that Type C actions are appealable to King County Superior Court.
- 20.30.070 – Legislative Decisions – Strikes SEPA administrative appeal language and clarifies that there are no administrative appeals of legislative decisions.
- 20.30.170 – Limitations on the Number of Hearings – This proposed amendment moves language to another section for clarity.
- 20.30.200 – General Description of Appeals – This amendment clarifies the appeal authority for certain land use actions by including a new table for ease of use.
- 20.30.220 – Commencing an Administrative Appeal – This proposed amendment clarifies the process for filing an administrative appeal.

- 20.30.230 – Administrative Appeal Process – Clarifies the process for administrative appeals before the Hearing Examiner.
- 20.30.540 – Timing and Content of Environmental Review – Clarifies the timing of determining if a project is categorically exempt and clarifies that appeals of a SEPA determination shall accompany the appeal of the project permit (and not before).
- 20.30.565 – Planned Action Determination of Consistency – Clarifies that projects within a planned area do not need additional SEPA review.
- 20.30.570 – Categorical Exemptions and Threshold Determinations – clarifies that a SEPA determination is a final decision by the Director or decision-making authority and is not an administrative review.
- 20.30.580 – Environmental Checklist – Clarifies that it is the applicant’s responsibility to fill out all section of an environmental checklist.
- 20.30.610 – Environmental Impact Statement and Other Environmental Documents – This amendment allows the applicant, qualified professional, or the Department to prepare an Environmental Impact Statement and to dictate the contents of the EIS based on the EIS Scoping process which informs what topics will be evaluated within the EIS.
- 20.30.630 – Comments and Public Notice – This amendment clarifies that a notice of SEPA determination shall be mailed, posted onsite, and advertised in the general paper of circulation (Seattle Times) for all determinations that are subject to this chapter.
- 20.30.670 – SEPA Policies – This amendment strikes confusing language and adds more recent plans, goals, and initiatives that the Department relies on when issuing SEPA determinations.
- 20.30.680 – Appeals – The amendments to this section consolidate and clarify all the SEPA related appeal information that is currently located in other sections of the code.

Next Steps

The schedule for the 2021 Development Code (Part 2) amendments is as follows:

August 19	Planning Commission meeting: Discussion on the 2021 Batch Part 2 of Development Code Amendments – Tree Amendments.
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September/October 2021	Planning Commission Meeting: Public Hearing on the 2021 Batch Part 2 Development Code Amendments.
December 2021/ January 2022	City Council Study Session and Adoption of 2021 Batch Part 1 of Development Code Amendments.

Attachments

Attachment A – Proposed 2021 Batch Part 2 of Development Code Amendments – SEPA Amendments

Attachment B – House Bill 1220

2021 DEVELOPMENT CODE AMENDMENT BATCH – SEPA Amendments

TABLE OF CONTENTS

Number	Section	Topic	Recommendation
20.30 – Procedures and Administration			
1	20.30.040	SEPA and Type A Permits	
2	20.30.050	SEPA and Type B Permits	
3	20.30.060	SEPA and Type C Permits	
4	20.30.070	SEPA and Type L Permits	
5	20.30.170	Move SEPA Appeal Hearings	
6	20.30.200	Move SEPA Appeal Language	
7	20.30.220	Update and Add link to Fee Schedule	
8	20.30.230	Clarify Administrative Appeal Process	
9	20.30.540	Identifying Timing of Categorically Exempt Projects	
10	20.30.565	Planned Action Determination Forms Required	
11	20.30.570	Clarification of Exempt Projects	
12	20.30.580	Completion of Environmental Checklist	
13	20.30.610	EIS Management	
14	20.30.630	SEPA Public Notice and Comments	
15	20.30.670	Adding Relevant Documents for the Review or SEPA	
16	20.30.680	SEPA Appeal Process	

DEVELOPMENT CODE AMENDMENTS

20.30 Amendments

Amendment #1

20.30.040 Ministerial decisions – Type A.

Justification – The intent of these amendments to the Type A table and Type A permits is to clarify that Type A actions are not subject to SEPA unless the categorical thresholds are exceeded in SMC 20.30.560.

The Planned Action Determination has been removed from the table since a Planned Action Determination is not a permit type as the determination is always tied to a building permit.

Lastly, all of the appeal language in the footnotes of the table have been removed since the appeal language will be consolidated in the SEPA section of the code in SMC 20.30, Subchapter 8.

These decisions are based on compliance with specific, nondiscretionary and/or technical standards that are clearly enumerated. These decisions are made by the Director and are exempt from notice requirements.

However, Type A permit applications that exceed the categorical exemptions in SMC 20.30.560, including certain categories of building permits, and permits for projects that require a SEPA threshold determination, are subject to SEPA review. SEPA regulations including process, noticing procedures, and appeals are specified in SMC 20.30, Subchapter 8. ~~procedures, public notice requirements specified in Table 20.30.050 for SEPA threshold determination, or SMC 20.30.045~~

All permit review procedures, and all applicable regulations, and standards apply to all Type A actions. The decisions made by the Director under Type A actions shall be final. The Director's decision shall be based upon findings that the application conforms (or does not conform) to all applicable regulations and standards.

Table 20.30.040 – Summary of Type A Actions and Target Time Limits for Decision, and Appeal Authority

Action Type	Target Time Limits for Decision (Calendar Days)	Section
Type A:		
1. Accessory Dwelling Unit	30 days	20.40.120, 20.40.210
2. Lot Line Adjustment including Lot Merger	30 days	20.30.400
3. Building Permit	120 days	All applicable standards
4. Final Short or Formal Plat	30 days	20.30.450
5. Bed and Breakfast, Boarding House	120 days	20.40.120, 20.40.250, 20.40.260
6. Interpretation of Development Code	15 days	20.10.050, 20.10.060, 20.30.020
7. Right-of-Way Use	30 days	12.15.010 – 12.15.180
8. Shoreline Exemption Permit	15 days	Shoreline Master Program
9. Sign Permit	30 days	20.50.530 – 20.50.610
10. Site Development Permit	60 days	20.20.046, 20.30.315, 20.30.430
11. Deviation from Engineering Standards	30 days	20.30.290
12. Temporary Use Permit	15 days	20.30.295
13. Clearing and Grading Permit	60 days	20.50.290 – 20.50.370
14. Administrative Design Review	28 days	20.30.297
15. Floodplain Development Permit	30 days	13.12.700
16. Floodplain Variance	30 days	13.12.800
17. Planned Action Determination	14 days	20.30.357
<u>17.</u> 18. Noise Variance	30 days	9.05

An administrative appeal authority is not provided for Type A actions. Appeals of a Type A Action are to Superior Court pursuant to RCW 36.70(C), Land Use Petition Act. except that any

~~Type A action which is not categorically exempt from environmental review under Chapter 43.21C RCW or for which environmental review has not been completed in connection with other project permits shall be appealable. Appeal of these actions together with any appeal of the SEPA threshold determination is set forth in Table 20.30.050(4).~~

Staff Preliminary Recommendation – Staff recommends approval.

Amendment #2

20.30.050 – Type b actions

Justification – SEPA is a review associated with an action. Table 20.30.050 is a summary for Type B Actions. Actions include the approval of uses subdivisions and variances. SEPA is a review triggered by proposed development, plans and activities that meet or exceed thresholds as defined by the State. Therefore, staff is proposing that the SEPA process be defined separately in SMC 20.30.680 – Appeals and not included in Table 20.30.050.

Type B decisions require that the Director issues a written report that sets forth a decision to approve, approve with modifications, or deny the application. The Director's report will also include the SEPA Threshold Determination if applicable ~~City's decision under any required SEPA review.~~

All ~~Director's Type B decisions made under Type B actions~~ are appealable in an open record appeal hearing, except Shoreline Substantial Development Permits, Shoreline Variances and Shoreline CUPs that shall be appealed to the Shorelines Hearing Board pursuant to RCW 90.58 Shoreline Management Act. Such hearing shall consolidate with any SEPA threshold determination. ~~appeals of SEPA negative threshold determinations. SEPA determinations of significance are appealable in an open record appeal prior to the project decision.~~

All ~~appeals shall be heard by the Hearing Examiner except appeals of shoreline substantial development permits, shoreline conditional use permits, and shoreline variances that shall be appealable to the State Shorelines Hearings Board.~~

Table 20.30.050 – Summary of Type B Actions, Notice Requirements, Target Time Limits for Decision, and Appeal Authority

Action	Notice Requirements: Application and Decision ^{(1), (2), (3)}	Target Time Limits for Decision	Appeal Authority	Section
Type B:				
1. Binding Site Plan ⁽⁴⁾	Mail	90 days	HE	20.30.480
2. Conditional Use Permit (CUP)	Mail, Post Site, Newspaper	90 days	HE	20.30.300
3. Preliminary Short Subdivision ⁽⁴⁾	Mail, Post Site, Newspaper	90 days	HE	20.30.410
4. SEPA Threshold Determination of Significance	Mail, Post Site, Newspaper	60 days	HE	20.30.490— 20.30.710
5. Shoreline Substantial Development Permit, Shoreline Variance, and Shoreline CUP	Mail, Post Site, Newspaper	120 days	State Shorelines Hearings Board	Shoreline Master Program
6. Zoning Variances	Mail, Post Site, Newspaper	90 days	HE	20.30.310
7. Plat Alteration ^{(5), (6)}	Mail	90 days	HE	20.30.425

Key: HE = Hearing Examiner

- (1) Public hearing notification requirements are specified in SMC 20.30.120.
- (2) Notice of application requirements are specified in SMC 20.30.120.
- (3) Notice of decision requirements are specified in SMC 20.30.150.
- (4) These Type B actions do not require a neighborhood meeting. A notice of development will be sent to adjacent properties.
- (5) A plat alteration does not require a neighborhood meeting.

(6) If a public hearing is requested, the plat alteration will be processed as a Type C action per SMC Table 20.30.060

Staff Preliminary Recommendation – Staff recommends approval.

Amendment #3

20.30.060 Quasi-judicial decisions – Type C.

Justification – The amendments proposed in this section clarify that a consolidated SEPA appeal process is not available for all Type C actions and that SEPA appeal processes are provided for in SMC 20.30.680 – Appeals.

These decisions are made by the City Council or the Hearing Examiner, as shown in Table 20.30.060, and involve the use of discretionary judgment in the review of each specific application.

Prior to submittal of an application for any Type C permit, the applicant shall conduct a neighborhood meeting to discuss the proposal and to receive neighborhood input as specified in SMC 20.30.090.

Type C decisions require findings, conclusions, an open record public hearing and recommendations prepared by the review authority for the final decision made by the City Council or Hearing Examiner. ~~Any administrative appeal of a SEPA threshold determination shall be consolidated with the open record public hearing on the project permit, except a determination of significance, which is appealable under SMC 20.30.050.~~

There is no administrative appeal of a Type C actions decision. Any appeal of a Type C decision is to King County Superior Court pursuant to RCW 36.70(C), Land Use Petition Act.

Table 20.30.060 – Summary of Type C Actions, Notice Requirements, Review Authority, Decision Making Authority, and Target Time Limits for Decisions

Action	Notice Requirements for Application and Decision ⁽²³⁾ , ⁽³⁴⁾	Review Authority, Open Record Public Hearing	Decision Making Authority (Public Meeting)	Target Time Limits for Decisions	Section
Type C:					
1. Preliminary Formal Subdivision	Mail, Post Site, Newspaper	HE ⁽¹⁾ , ⁽²⁾	City Council	120 days	20.30.410
2. Rezone of Property and Zoning Map Change	Mail, Post Site, Newspaper	HE ⁽¹⁾ , ⁽²⁾	City Council	120 days	20.30.320
3. Site-Specific Comprehensive Plan Map Amendment	Mail, Post Site, Newspaper	HE ⁽¹⁾ , ⁽²⁾	City Council		20.30.345
4. Special Use Permit (SUP)	Mail, Post Site, Newspaper	HE ⁽¹⁾ , ⁽²⁾		120 days	20.30.330
5. Critical Areas Special Use Permit	Mail, Post Site, Newspaper	HE ⁽¹⁾ , ⁽²⁾		120 days	20.30.333
6. Critical Areas Reasonable Use Permit	Mail, Post Site, Newspaper	HE ⁽¹⁾ , ⁽²⁾		120 days	20.30.336
7. Secure Community Transitional Facility – Special Use Permit	Mail, Post Site, Newspaper	HE ⁽¹⁾ , ⁽²⁾		120 days	20.40.502
8. Essential Public Facility – Special Use Permit	Mail, Post Site, Newspaper	HE ⁽¹⁾ , ⁽²⁾		120 days	20.30.330
9. Master Development Plan	Mail, Post Site, Newspaper	HE ⁽¹⁾ , ⁽²⁾		120 days	20.30.353
10. Plat Alteration with Public Hearing ⁽⁵⁴⁾	Mail	HE ⁽¹⁾ , ⁽²⁾		120 days	20.30.425

⁽⁴⁾ Including consolidated SEPA threshold determination appeal.

(1)(2) HE = Hearing Examiner.

(2)(3) Notice of application requirements are specified in SMC 20.30.120.

(3)(4) Notice of decision requirements are specified in SMC 20.30.150.

(4)(5) A plat alteration does not require a neighborhood meeting.

Staff Preliminary Recommendation – Staff recommends approval.

Amendment #4

20.30.070 – Legislative decisions

Justification – The following provision in SMC 20.30.070 has caused confusion and to interested parties, applicants, and the City. The clause states:

“There is no administrative appeal of legislative actions of the City Council, but such actions may be appealed together with any SEPA threshold determination according to State law.”

Staff is proposing that Legislative Decisions do not provide for an administrative appeal to Council’s decision when combined with an appeal of the SEPA determination. Instead, all appeals related to Legislative Decisions would be filed either with the Growth Management Hearings Board pursuant to RCW 36.70A Growth Management Act or to Superior Court pursuant to RCW 36.70C, Land Use Petition Act. These amendments would alleviate the internal contradictions in this clause and Table 20.30.070. These amendments streamline the appeals process by removing questions about when and to what authority one must submit an appeal.

This amendment also adds a column for appeal authorities to Table 20.30.070 – Summary of Legislative Decisions.

These decisions are legislative, nonproject decisions made by the City Council under its authority to establish policies and regulations regarding future private and public developments, and management of public lands. There is no administrative appeal of legislative decisions.

Table 20.30.070 – Summary of Legislative Decisions

Decision	Review Authority, Public Hearing	Decision Making Authority (in accordance with State law)	Section	<u>Appeal Authority</u>
1. Amendments and Review of the Comprehensive Plan	PC ⁽¹⁾	City Council	20.30.340	<u>Growth Management Hearings Board</u>
2. Amendments to the Development Code	PC ⁽¹⁾	City Council	20.30.350	<u>Growth Management Hearings Board</u>
3. Development Agreements	PC ⁽¹⁾	City Council	20.30.355	<u>King County Superior Court</u>

⁽¹⁾ PC = Planning Commission

Legislative decisions include a hearing and recommendation by the Planning Commission and final action by the City Council.

The City Council shall take legislative action on the proposal in accordance with State law.

There is no administrative appeal of legislative actions decisions of the City Council, ~~but such actions may be appealed together with any SEPA threshold determination according to State law.~~ Amendments to the Comprehensive Plan and the Development Code and any related SEPA determination are appealable to the Growth management Hearings Board pursuant to RCW 36.70A Growth Management Act. Any appeal of a Development Agreement is appealable to King County Superior Court pursuant to RCW 36.70(C) Land Use Petition Act.

Staff Preliminary Recommendation – Staff recommends approval.

Amendment #5
20.30.170 – Limitations on the number of hearings

Justification – The SEPA appeal information is being added to SMC 20.30.680 – Appeals and the language that is proposed to be struck from this section is being moved to 20.30.230.

No more than one open record hearing shall be heard on any land use application. ~~The appeal hearing on SEPA threshold determination of nonsignificance shall be consolidated with any open record hearing on the project permit. (Ord. 238 Ch. III § 5(a), 2000).~~

Staff Preliminary Recommendation – Staff recommends approval.

Amendment #6

20.30.200 – General Description of Appeals

Justification – The amendments in this section clarify the types of appeals heard by the Council, Hearing Examiner, Superior Court, or the Growth Management Hearings Board depending on the type of permit that is being appealed. Item “C” is proposed to be removed from the section since all SEPA appeal information is now contained in SMC 20.30.680 – Appeals.

A. Type A decisions may be appealed to the King County Superior Court pursuant to RCW 36.70C Land Use Petition Act.

B. Type B Administrative decisions, except for shoreline permits, (Type B) are appealable may be appealed to the Hearing Examiner who conducts an open record appeal hearing pursuant to SMC 20.30 Subchapter 4 Land Use Hearings and Appeals. Shoreline substantial development, variance, and conditional use permits may be appealed to the Shoreline Hearings Board pursuant to RCW 90.58 Shoreline Management Act.

BC. Type C decisions may be appealed Appeals of City Council decisions without ministerial decisions (Type A), an administrative appeal, and appeals of an appeal authority’s decisions shall be made to the King County Superior Court pursuant to RCW 36.70C Land Use Petition Act.

D. Type L decisions, except for Development Agreements, may be appealed to the Growth Management Hearings Board pursuant to RCW 36.70A Growth Management Act. Development Agreements may be appealed to the King County Superior Court pursuant to RCW 36.70C Land Use Petition Act.

<u>Decision Type</u>	<u>Appeal Authority</u>
<u>Type A</u>	<u>King County Superior Court - RCW 36.70C</u>
<u>Type B (non-shoreline)</u>	<u>Hearing Examiner – SMC 20.30 Subchapter 4^[1]</u>

<u>Type B (shoreline)</u>	<u>Shoreline Hearings Board – RCW 90.58</u>
<u>Type C</u>	<u>King County Superior Court – RCW 36.70C</u>
<u>Type L (Comprehensive Plan and Development Regulations)</u>	<u>Growth Management Hearings Board – RCW 36.70A</u>
<u>Type L (Development Agreements)</u>	<u>King County Superior Court – RCW 36.70C</u>

[1] Final decisions of an appeal on a Type B decision to the Hearing Examiner may be appealed as provided in SMC 20.30 Subchapter 4.

C. SEPA Determinations are appealable with Type A, Type C and Type L decisions to Superior Court.

Staff Preliminary Recommendation – Staff recommends approval.

Amendment #7

20.30.220 Filing Commencing an administrative appeals.

Justification – This proposed amendment clarifies the process for filing an administrative appeal.

A. Any aggrieved person may appeal a decision to the Hearing Examiner. Only Type B decisions may be appealed.

B. Appeals, and the appeal fee set forth in the fee schedule adopted pursuant to SMC 3.01, must be received by the City Clerk no later than 5:00 pm local time on the shall be filed within 14 ~~fourteenth~~ calendar days ~~from~~ following the date of the notice of the Director’s decision receipt of the mailing. A decision shall be deemed received three days from date of mailing.

BC. Appeals shall be filed in writing with the City Clerk. The appeal shall and comply with the form and content requirements of the rules of procedure adopted by the Hearing Examiner pursuant to 2.15.070 SMC in accordance with this chapter. The written appeal statement shall contain a concise statement demonstrating the person is adversely affected by the decision; identifying each alleged error of fact, law, or procedure and the manner in which the decision fails to satisfy the applicable decision criteria; and the specific relief requested.

~~D. B.~~ Appeals shall be accompanied by a filing fee in the amount to be set in Chapter ~~3.01~~ SMC.

~~C.~~ Within 10 calendar days following timely filing of a complete appeal with the City Clerk, notice of the date, time, and place for the open record hearing shall be mailed by the City Clerk to all parties of record.

Staff Preliminary Recommendation – Staff recommends approval.

Amendment #8

20.30.230 Administrative Appeal process.

Justification – This amendment clarifies that a decision can be someone other than the Director and clarifies the permit appeal process.

A. All administrative appeals are conducted pursuant to rules of procedure adopted by the Hearing Examiner pursuant to 2.15.070 SMC.

B. A. No more than one open record hearing shall be heard on any permit decision.

C. An appeal shall be heard and decided within 90 days from the date the appeal is filed. The parties may agree in writing to extend this time. Any extension of time must be submitted to the Hearing Examiner for approval.

~~C. B.~~ Timely filing of an appeal shall stay ~~delay~~ the effective date of the Director's decision until the appeal is ruled upon by the Hearing Examiner or withdrawn by the appellant. A subsequent appeal of the Hearing Examiner's decision to the King County Superior Court shall not stay the effectiveness of the Director's decision unless the Court issues an order staying the decision.

~~D. C.~~ The hearing shall be limited to the issues ~~included~~ set forth in the written appeal statement. Participation in the appeal shall be limited to the appellant, City, including all staff, and the applicant for the proposal subject to appeal, ~~if not the appellant, and those persons or entities which have timely filed complete written appeal statements and paid the appeal fee.~~

Staff Preliminary Recommendation – Staff recommends approval.

Amendment #9

20.30.540 – Timing and content of environmental review.

Justification – This amendment will align the determination of completeness of a land use application with the determination of a SEPA categorical exemption.

The second amendment to this section deletes SMC 20.30.540(2) which states that if the City is lead agency for a project, SEPA may be appealed before a permit is submitted. The purpose of these SEPA amendments to consolidate and clarify the SEPA review and appeal process so the below section will be deleted, and all of the appeal language will be stated in SMC 20.30.680 – Appeals.

A. **Categorical Exemptions.** The City will normally identify whether an action is categorically exempt within ~~40~~ 28 days of receiving an ~~complete~~ application.

B. **Threshold Determinations.** When the City is lead agency for a proposal, the following threshold determination timing requirements apply:

1. If a Determination of Significance (DS) is made concurrent with the notice of application for a proposal, the DS and scoping notice shall be combined with the notice of application ~~(RCW 36.70B.110)~~. Nothing in this subsection prevents the DS/scoping notice from being issued before the notice of application. If sufficient information is not available to make a threshold determination when the notice of application is issued, the DS may be issued later in the review process.

2. SEPA determinations for city capital projects may be appealed to the Hearing Examiner as provided in SMC 20.30, Subchapter 4. ~~If the City is lead agency and project proponent or is funding a project, the City may conduct its review under SEPA and may allow appeals of procedural determinations prior to submitting a project permit application.~~

~~2. 3-~~ If an open record predecision hearing is required on the proposal, the threshold determination shall be issued at least 15 calendar days before the open record predecision hearing ~~(RCW 36.70B.110 (6)(b))~~.

~~3. 4-~~ The optional DNS process provided in WAC 197-11-355 may be used to indicate on the notice of application that the lead agency is likely to issue a Determination of Non-Significance (DNS). If this optional process is used, a separate comment period on the DNS may not be required ~~(refer to WAC 197-11-355(4))~~.

C. For nonexempt proposals, the DNS or draft Environmental Impact Statement (EIS) for the proposal shall accompany the City's staff recommendation to the appropriate review authority. If the final EIS is or becomes available prior to review, it shall be substituted for the draft.

D. The optional provision of WAC 197-11-060(3)(c) analyzing similar actions in a single environmental document is adopted.

Staff Preliminary Recommendation – Staff recommends approval.

Amendment #10

20.30.565 Planned action determination of consistency approval ~~SEPA exemptions.~~

Justification – The amendment clarifies that projects within a Planned Action Area may not require an additional SEPA determination. Projects within a Planned Action Area do require a form be filled out that describe the project and document the impacts from that proposal.

Projects proposed within a planned action area, as defined by the City, may be eligible for planned action status. The applicant shall submit a complete Planned Action Determination of Consistency Review Checklist and any other submittal requirements specified by the Director at the time of application submittal. If the City determines the project is within a planned action area and meets the thresholds established by the planned action, no additional SEPA analysis is required. If a project does not qualify as a planned action, SEPA review will be required. ~~Development approvals in planned action districts identified on the City zoning map are designated planned action approvals pursuant to WAC 197-11-164. The environmental impacts of development in these districts consistent with the applicable code provisions have been addressed in a planned action EIS and do not require additional SEPA review.~~

Staff Preliminary Recommendation – Staff recommends approval.

Amendment #11

20.30.570 – Categorical exemptions and threshold determinations – Use of exemptions

Justification – This amendment clarifies that a SEPA determination is a final decision by the Director or decision-making authority and may or may not be an administrative review.

- A. The determination of whether a proposal is categorically exempt shall be made by the responsible official.
- B. The determination that a proposal is exempt shall be a final decision, ~~and not subject to administrative review.~~
- C. If a proposal is exempt, none of the procedural requirements of this subchapter shall apply to the proposal.

~~D. The responsible official shall not require completion of an environmental checklist for an exempt proposal.~~

E. If a proposal includes both exempt and nonexempt actions, the responsible official may authorize exempt actions prior to compliance with the procedural requirements of this ordinance, except that:

1. The responsible official shall not give authorization for:
 - Any nonexempt action;
 - Any action that would have an adverse environmental impact; or
 - Any action that would limit the choice of alternatives.
2. The responsible official may withhold approval of an exempt action that would lead to modification of the physical environment, when such modification would serve no purpose if nonexempt action(s) were not approved; and
3. The responsible official may withhold approval of exempt actions that would lead to substantial financial expenditures by a private applicant when the expenditures would serve no purpose if nonexempt action(s) were not approved.

Staff Preliminary Recommendation – Staff recommends approval.

Amendment #12
20.30.580 Environmental checklist.

Justification – The submittal of an environmental checklist is required for all projects subject to SEPA review. It is the applicant’s responsibility to complete all sections of the checklist and submit it to the City for review and to issue a determination. This amendment removes the provision that the applicant can request the City fill out portions of the checklist on the request of the applicant.

A. A completed environmental checklist shall be filed at the same time as an application for a permit, license, certificate, or other approval not exempted in this ordinance; except, a checklist is not needed if the City’s responsible official and applicant agree an EIS is required, SEPA compliance has been completed, or SEPA compliance has been initiated by another agency. Except as provided in subsection E of this section, the checklist shall be in the form of WAC 197-11-960 with such additions that may be required by the responsible official in accordance with WAC 197-11-906(4).

B. For private proposals, the responsible official will require the applicant to complete the environmental checklist, providing assistance as necessary. For City proposals, the department initiating the proposal shall complete the environmental checklist for that proposal.

C. The responsible official may require that it, and not the private applicant, will complete all or part of the environmental checklist for a private proposal, if any ~~either~~ of the following occurs:

1. The City has technical information on a question or questions that is unavailable to the private applicant; or
2. The applicant has provided inaccurate information on previous proposals or on proposals currently under consideration; or
3. ~~On the request of the applicant.~~

D. The applicant shall pay to the City the actual costs of providing information under subsections (C)(2). and ~~(C)(3) of this section.~~

E. For projects ~~submitted as seeking to qualify as~~ planned actions ~~under WAC 197-11-164,~~ the City ~~shall use its~~ applicant shall submit a planned action determination of consistency review checklist and any other submittal requirements specified by the Director. ~~existing environmental checklist form or may modify the environmental checklist form as provided in WAC 197-11-315. The modified environmental checklist form may be prepared and adopted along with or as part of a planned action ordinance; or developed after the ordinance is adopted. In either case, a proposed modified environmental checklist form must be sent to the Department of Ecology to allow at least a 30-day review prior to use.~~

F. The lead agency shall make a reasonable effort to verify the information in the environmental checklist and planned action checklist and shall have the authority to determine the final content of the ~~environmental checklists.~~

Staff Preliminary Recommendation – Staff recommends approval.

Amendment #13

20.30.610 – Environmental impact statements and other environmental documents– Additional considerations.

Justification – This amendment allows the applicant, qualified professional, or the Department to prepare an Environmental Impact Statement and to dictate the contents of the EIS based on the EIS Scoping process which informs what topics will be evaluated within the EIS. This amendment takes more of the burden from the department, and the Director, when preparing and managing the EIS process. Letter “A” is being moved from the section to SMC 20.30.630 since that is the comment section of the code.

A. ~~Pursuant to WAC 197-11-408(2)(a), all comments on determinations of significance and scoping notices shall be in writing, except where a public meeting on EIS scoping occurs pursuant to WAC 197-11-410(1)(b).~~

~~BA.~~ Pursuant to WAC 197-11-420, 197-11-620, and 197-11-625, the Department shall be responsible for preparation and content of an EISs and other environmental documents by or under the direction of the SEPA Responsible Official. ~~The Department may contract with consultants as necessary for the preparation of environmental documents. The Department may consider the opinion of the applicant regarding the qualifications of the consultant but the Department shall retain sole authority for selecting persons or firms to author, co-author, provide special services or otherwise participate in the preparation of required environmental documents.~~ An EIS may be prepared by the lead agency's staff; by an applicant or its agent; or by an outside consultant retained by either an applicant or the lead agency. The lead agency shall assure that the EIS is prepared in a professional manner and with appropriate interdisciplinary methodology. The responsible official shall direct the areas of research and examination to be undertaken as a result of the scoping process, as well as the organization of the resulting document.

~~CB.~~ Consultants or sub-consultants selected ~~by the Department~~ to prepare environmental documents for a private development proposal shall not:

- (1) act as agents for the applicant in preparation or acquisition of associated underlying permits;
- (2) have a financial interest in the proposal for which the environmental document is being prepared; and
- (3) perform any work or provide any services for the applicant in connection with or related to the proposal.

~~DC.~~ All costs of preparing ~~the~~ any required environment document shall be borne by the applicant.

~~ED.~~ If the responsible official requires an EIS for a proposal and determines that ~~someone other than~~ the City will prepare the EIS, the responsible official shall notify the applicant immediately as soon as reasonably possible after completion of the threshold determination. The responsible official shall also notify the applicant of the City's procedure for EIS preparation, including approval of the DEIS and FEIS prior to distribution.

~~FE.~~ The City may require an applicant to provide information ~~the City does not possess, including information~~ that must be obtained by specific investigations. This provision is not intended to expand or limit an applicant's other obligations under WAC 197-11-100, or other provisions of regulations, statute, or ordinance. An applicant shall not be required to produce information under this provision which is not specifically required by this subchapter nor is the applicant relieved of the duty to supply any other information required by statute, regulation or ordinance.

~~GF.~~ In the event an applicant decides to suspend or abandon the project, the applicant must provide formal written notice to the Department ~~and consultant.~~ The applicant shall continue to be responsible for all monies expended by the Department ~~or consultants~~ to the point of the Department's receipt of notification ~~to suspend or abandon, or other obligations or penalties under the terms of any contract let for preparation of the environmental documents.~~

~~HG.~~ The Department shall only publish ~~an environmental impact statement (an EIS)~~ when it believes that the EIS adequately discloses the significant direct, indirect, and cumulative adverse impacts of the proposal and its alternatives; mitigation measures proposed and committed to by the applicant, and their effectiveness in significantly mitigating impacts;

mitigation measures that could be implemented or required; and unavoidable significant adverse impacts.

Staff Preliminary Recommendation – Staff recommends approval.

Amendment #14

20.30.630 Comments and public notice – Additional considerations.

Justification – This amendment clarifies that a notice of SEPA determination shall be mailed, posted onsite, and advertised in the general paper of circulation (Seattle Times) for all determinations that are subject to this chapter.

A. For purposes of WAC 197-11-510, public notice for SEPA threshold determinations shall be required as provided in Chapter 20.30.120, Subchapter 3, Permit Review Procedures, except for Type L actions. At a minimum, notice shall be provided to property owners located within 500 feet, posted on the property (for site-specific proposals), and the Department shall publish a notice of the threshold determination in the newspaper of general circulation for the general area in which the proposal is located. This notice shall include the project location and description, the type of permit(s) required, comment period dates, and the location where the complete application and environmental documents may be reviewed.

B. Publication of notice in a newspaper of general circulation in the area where the proposal is located shall also be required for all nonproject actions and for all other proposals that are subject to the provisions of this subchapter but are not classified as Type A, B, or C, or L decisions actions.

C. The SEPA responsible official may require further notice if deemed necessary to provide adequate public notice of a pending action. Failure to require further or alternative notice shall not be a violation of any notice procedure.

D. Pursuant to WAC 197-11-408(2)(a), all comments on determinations of significance and scoping notices shall be in writing, except where a public meeting on EIS scoping occurs pursuant to WAC 197-11-410(1)(b).

Staff Preliminary Recommendation – Staff recommends approval.

Amendment #15

20.30.670 SEPA policies.

Justification – This amendment strikes letter “A” as the current language is confusing. The second amendment adds more recent plans, goals, and initiatives that the Department relies on when issuing SEPA determinations.

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

B. For the purposes of RCW 43.21C.060 and WAC 197-11-660(a), the following policies, plans, rules and regulations, and all amendments thereto, are designated as potential bases for the exercise of the City's substantive authority to condition or deny proposals under SEPA, subject to the provisions of RCW 43.21C.240 and SMC 20.30.660.

1. The policies of the State Environmental Policy Act, RCW 43.21C.020.
2. The Shoreline Comprehensive Plan, its appendices, subarea plans, surface water management plans, park master plans, and habitat and vegetation conservation plans.
3. The ~~City of~~ Shoreline Municipal Code.
4. The Shoreline Historic Inventory.
5. The Shoreline Environmental Sustainability Strategy.
6. The Shoreline Climate Action Plan.
7. The Shoreline Diversity and Inclusion Goals.

Staff Preliminary Recommendation – Staff recommends approval.

Amendment #16
20.30.680 – Appeals.

Justification – The amendments to this section consolidate and clarify all the SEPA related appeal information that is currently located in SMC 20.30 Subchapter 2. As currently written, it is difficult to know how to appeal a SEPA determination when that SEPA determination is associated with a building permit (which is a Type-A administrative decision); a Type-B land use application which is an administrative decision by the Director; a Type-C action which is either approved by the Hearing Examiner or the City Council; or a Type-L action which is approved by the City Council.

The confusion mainly occurs when a Type-A action has SEPA attached to it. A Type-A action is an administrative approval which mean an appeal of a Type-A action goes to Superior Court. The SEPA determination on the Type-A permit would also need to go to Superior Court. Staff's proposal is to have all SEPA appeals go to either the State Superior Court, the Growth Management Hearings Board, or the State Shoreline Hearings Board based on the type or permit being appealed. For example, a Comprehensive Plan Amendment is classified as a Type L – Legislative action approved by Council. An appeal of Council's action of a Type L action will go to the Growth management Hearings Board. It makes sense for the SEPA appeal to go to the same hearing body as the permit.

A. There are no administrative appeals of a SEPA threshold determination except threshold determinations associated with a Type B actions. Any appeal of a SEPA determination, together with the City's final decision on a proposal, may be appealed to the King County Superior Court, the Growth Management Hearings Board, or the Shoreline Hearings Board, based on the type of permit action being appealed, as provided in RCW 43.21.075.

~~A.— Any interested person may appeal a threshold determination or the conditions or denials of a requested action made by a nonelected official pursuant to the procedures set forth in this section and Chapter 20.30 SMC, Subchapter 4, General Provisions for Land Use Hearings and Appeals. No other SEPA appeal shall be allowed.~~

~~1.— If an administrative appeal is allowed, Only one administrative appeal of each threshold determination shall be allowed on a proposal. Procedural appeals shall be consolidated in all cases with substantive SEPA appeals, if any, involving decisions to approve, condition or deny an action pursuant to RCW 43.21C.060 with the public hearing or appeal, if any, on the proposal, except for appeals of a DS.~~

~~2.— As provided in RCW 43.21C.075(3)(d), the decision of the responsible official shall be entitled to substantial weight.~~

~~3.— An appeal of a DS must be filed within 14 calendar days following issuance of the DS.~~

~~4.— All Administrative appeals of SEPA determinations are allowed for appeals of a DNS for actions decisions classified in Chapter 20.30 SMC, Subchapter 2, Types of Actions, as Type A or B, or C actions decisions for which the Hearing Examiner is the has review appeal authority., must These appeals must be filed within 14 calendar days following notice of the SEPA threshold determination as provided in SMC 20.30.150, Public notice of decision; provided, that the appeal period for a DNS for a Type A or B actions issued at the same time as the final decision shall be extended for an additional seven calendar days if WAC 197-11-340(2)(a) applies.~~

~~5.— The Hearing Examiner shall make the final decision on all Administrative Appeals as allowed in SMC Chapter 20.30, Subchapter 2, Types of Actions – Type B. Hearing Examiner shall make a final decision on all procedural SEPA determinations. The Hearing Examiner’s decision may be appealed to superior court as provided in Chapter 20.30 SMC, Subchapter 4, General Provisions for Land Use Hearings and Appeals.~~

~~B.— Notwithstanding the provisions of subsection (A) of this section, the Department may adopt procedures under which an administrative appeal shall not be provided if the Director finds that consideration of an appeal would be likely to cause the Department to violate a compliance, enforcement or other specific mandatory order or specific legal obligation. The Director’s determination shall be included in the notice of the SEPA determination, and the Director shall provide a written summary upon which the determination is based within five days of receiving a written request. Because there would be no administrative appeal in such situations, review may be sought before a court of competent jurisdiction under RCW 43.21C.075 and applicable regulations, in connection with an appeal of the underlying governmental action.~~

Staff Preliminary Recommendation – Staff recommends approval.

CERTIFICATION OF ENROLLMENT

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1220

Chapter 254, Laws of 2021

(partial veto)

67th Legislature
2021 Regular Session

EMERGENCY SHELTERS AND HOUSING—LOCAL PLANNING AND DEVELOPMENT

EFFECTIVE DATE: July 25, 2021

Passed by the House April 14, 2021
Yeas 57 Nays 40

LAURIE JINKINS

**Speaker of the House of
Representatives**

Passed by the Senate April 10, 2021
Yeas 25 Nays 24

DENNY HECK

President of the Senate

Approved May 12, 2021 2:35 PM with
the exception of section 7, which is
vetoed.

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1220** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

Chief Clerk

FILED

May 12, 2021

**Secretary of State
State of Washington**

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1220

AS AMENDED BY THE SENATE

Passed Legislature - 2021 Regular Session

State of Washington

67th Legislature

2021 Regular Session

By House Appropriations (originally sponsored by Representatives Peterson, Macri, Bateman, Ryu, Lekanoff, Fitzgibbon, Kloba, Davis, Lovick, Santos, Ortiz-Self, Simmons, Berg, Hackney, Chopp, Tharinger, and Frame)

READ FIRST TIME 02/22/21.

1 AN ACT Relating to supporting emergency shelters and housing
2 through local planning and development regulations; amending RCW
3 36.70A.020, 36.70A.390, and 36.70A.030; reenacting and amending RCW
4 36.70A.070; adding a new section to chapter 35A.21 RCW; adding a new
5 section to chapter 35.21 RCW; and adding a new section to chapter
6 36.70A RCW.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

8 **Sec. 1.** RCW 36.70A.020 and 2002 c 154 s 1 are each amended to
9 read as follows:

10 The following goals are adopted to guide the development and
11 adoption of comprehensive plans and development regulations of those
12 counties and cities that are required or choose to plan under RCW
13 36.70A.040. The following goals are not listed in order of priority
14 and shall be used exclusively for the purpose of guiding the
15 development of comprehensive plans and development regulations:

16 (1) Urban growth. Encourage development in urban areas where
17 adequate public facilities and services exist or can be provided in
18 an efficient manner.

19 (2) Reduce sprawl. Reduce the inappropriate conversion of
20 undeveloped land into sprawling, low-density development.

1 (3) Transportation. Encourage efficient multimodal transportation
2 systems that are based on regional priorities and coordinated with
3 county and city comprehensive plans.

4 (4) Housing. (~~Encourage the availability of affordable~~) Plan
5 for and accommodate housing affordable to all economic segments of
6 the population of this state, promote a variety of residential
7 densities and housing types, and encourage preservation of existing
8 housing stock.

9 (5) Economic development. Encourage economic development
10 throughout the state that is consistent with adopted comprehensive
11 plans, promote economic opportunity for all citizens of this state,
12 especially for unemployed and for disadvantaged persons, promote the
13 retention and expansion of existing businesses and recruitment of new
14 businesses, recognize regional differences impacting economic
15 development opportunities, and encourage growth in areas experiencing
16 insufficient economic growth, all within the capacities of the
17 state's natural resources, public services, and public facilities.

18 (6) Property rights. Private property shall not be taken for
19 public use without just compensation having been made. The property
20 rights of landowners shall be protected from arbitrary and
21 discriminatory actions.

22 (7) Permits. Applications for both state and local government
23 permits should be processed in a timely and fair manner to ensure
24 predictability.

25 (8) Natural resource industries. Maintain and enhance natural
26 resource-based industries, including productive timber, agricultural,
27 and fisheries industries. Encourage the conservation of productive
28 forestlands and productive agricultural lands, and discourage
29 incompatible uses.

30 (9) Open space and recreation. Retain open space, enhance
31 recreational opportunities, conserve fish and wildlife habitat,
32 increase access to natural resource lands and water, and develop
33 parks and recreation facilities.

34 (10) Environment. Protect the environment and enhance the state's
35 high quality of life, including air and water quality, and the
36 availability of water.

37 (11) Citizen participation and coordination. Encourage the
38 involvement of citizens in the planning process and ensure
39 coordination between communities and jurisdictions to reconcile
40 conflicts.

1 (12) Public facilities and services. Ensure that those public
2 facilities and services necessary to support development shall be
3 adequate to serve the development at the time the development is
4 available for occupancy and use without decreasing current service
5 levels below locally established minimum standards.

6 (13) Historic preservation. Identify and encourage the
7 preservation of lands, sites, and structures, that have historical or
8 archaeological significance.

9 **Sec. 2.** RCW 36.70A.070 and 2017 3rd sp.s. c 18 s 4 and 2017 3rd
10 sp.s. c 16 s 4 are each reenacted and amended to read as follows:

11 The comprehensive plan of a county or city that is required or
12 chooses to plan under RCW 36.70A.040 shall consist of a map or maps,
13 and descriptive text covering objectives, principles, and standards
14 used to develop the comprehensive plan. The plan shall be an
15 internally consistent document and all elements shall be consistent
16 with the future land use map. A comprehensive plan shall be adopted
17 and amended with public participation as provided in RCW 36.70A.140.
18 Each comprehensive plan shall include a plan, scheme, or design for
19 each of the following:

20 (1) A land use element designating the proposed general
21 distribution and general location and extent of the uses of land,
22 where appropriate, for agriculture, timber production, housing,
23 commerce, industry, recreation, open spaces, general aviation
24 airports, public utilities, public facilities, and other land uses.
25 The land use element shall include population densities, building
26 intensities, and estimates of future population growth. The land use
27 element shall provide for protection of the quality and quantity of
28 groundwater used for public water supplies. Wherever possible, the
29 land use element should consider utilizing urban planning approaches
30 that promote physical activity. Where applicable, the land use
31 element shall review drainage, flooding, and stormwater runoff in the
32 area and nearby jurisdictions and provide guidance for corrective
33 actions to mitigate or cleanse those discharges that pollute waters
34 of the state, including Puget Sound or waters entering Puget Sound.

35 (2) A housing element ensuring the vitality and character of
36 established residential neighborhoods that:

37 (a) Includes an inventory and analysis of existing and projected
38 housing needs that identifies the number of housing units necessary

1 to manage projected growth, as provided by the department of
2 commerce, including:

3 (i) Units for moderate, low, very low, and extremely low-income
4 households; and

5 (ii) Emergency housing, emergency shelters, and permanent
6 supportive housing;

7 (b) (~~includes~~) Includes a statement of goals, policies,
8 objectives, and mandatory provisions for the preservation,
9 improvement, and development of housing, including single-family
10 residences, and within an urban growth area boundary, moderate
11 density housing options including but not limited to, duplexes,
12 triplexes, and townhomes;

13 (c) (~~identifies~~) Identifies sufficient capacity of land for
14 housing(~~g~~) including, but not limited to, government-assisted
15 housing, housing for (~~low-income families~~) moderate, low, very low,
16 and extremely low-income households, manufactured housing,
17 multifamily housing, (~~and~~) group homes (~~and~~), foster care
18 facilities, emergency housing, emergency shelters, permanent
19 supportive housing, and within an urban growth area boundary,
20 consideration of duplexes, triplexes, and townhomes; (~~and~~)

21 (d) (~~makes~~) Makes adequate provisions for existing and
22 projected needs of all economic segments of the community, including:

23 (i) Incorporating consideration for low, very low, extremely low,
24 and moderate-income households;

25 (ii) Documenting programs and actions needed to achieve housing
26 availability including gaps in local funding, barriers such as
27 development regulations, and other limitations;

28 (iii) Consideration of housing locations in relation to
29 employment location; and

30 (iv) Consideration of the role of accessory dwelling units in
31 meeting housing needs;

32 (e) Identifies local policies and regulations that result in
33 racially disparate impacts, displacement, and exclusion in housing,
34 including:

35 (i) Zoning that may have a discriminatory effect;

36 (ii) Disinvestment; and

37 (iii) Infrastructure availability;

38 (f) Identifies and implements policies and regulations to address
39 and begin to undo racially disparate impacts, displacement, and
40 exclusion in housing caused by local policies, plans, and actions;

1 (g) Identifies areas that may be at higher risk of displacement
2 from market forces that occur with changes to zoning development
3 regulations and capital investments; and

4 (h) Establishes antidisplacement policies, with consideration
5 given to the preservation of historical and cultural communities as
6 well as investments in low, very low, extremely low, and moderate-
7 income housing; equitable development initiatives; inclusionary
8 zoning; community planning requirements; tenant protections; land
9 disposition policies; and consideration of land that may be used for
10 affordable housing.

11 In counties and cities subject to the review and evaluation
12 requirements of RCW 36.70A.215, any revision to the housing element
13 shall include consideration of prior review and evaluation reports
14 and any reasonable measures identified. The housing element should
15 link jurisdictional goals with overall county goals to ensure that
16 the housing element goals are met.

17 (3) A capital facilities plan element consisting of: (a) An
18 inventory of existing capital facilities owned by public entities,
19 showing the locations and capacities of the capital facilities; (b) a
20 forecast of the future needs for such capital facilities; (c) the
21 proposed locations and capacities of expanded or new capital
22 facilities; (d) at least a six-year plan that will finance such
23 capital facilities within projected funding capacities and clearly
24 identifies sources of public money for such purposes; and (e) a
25 requirement to reassess the land use element if probable funding
26 falls short of meeting existing needs and to ensure that the land use
27 element, capital facilities plan element, and financing plan within
28 the capital facilities plan element are coordinated and consistent.
29 Park and recreation facilities shall be included in the capital
30 facilities plan element.

31 (4) A utilities element consisting of the general location,
32 proposed location, and capacity of all existing and proposed
33 utilities, including, but not limited to, electrical lines,
34 telecommunication lines, and natural gas lines.

35 (5) Rural element. Counties shall include a rural element
36 including lands that are not designated for urban growth,
37 agriculture, forest, or mineral resources. The following provisions
38 shall apply to the rural element:

39 (a) Growth management act goals and local circumstances. Because
40 circumstances vary from county to county, in establishing patterns of

1 rural densities and uses, a county may consider local circumstances,
2 but shall develop a written record explaining how the rural element
3 harmonizes the planning goals in RCW 36.70A.020 and meets the
4 requirements of this chapter.

5 (b) Rural development. The rural element shall permit rural
6 development, forestry, and agriculture in rural areas. The rural
7 element shall provide for a variety of rural densities, uses,
8 essential public facilities, and rural governmental services needed
9 to serve the permitted densities and uses. To achieve a variety of
10 rural densities and uses, counties may provide for clustering,
11 density transfer, design guidelines, conservation easements, and
12 other innovative techniques that will accommodate appropriate rural
13 economic advancement, densities, and uses that are not characterized
14 by urban growth and that are consistent with rural character.

15 (c) Measures governing rural development. The rural element shall
16 include measures that apply to rural development and protect the
17 rural character of the area, as established by the county, by:

18 (i) Containing or otherwise controlling rural development;

19 (ii) Assuring visual compatibility of rural development with the
20 surrounding rural area;

21 (iii) Reducing the inappropriate conversion of undeveloped land
22 into sprawling, low-density development in the rural area;

23 (iv) Protecting critical areas, as provided in RCW 36.70A.060,
24 and surface water and groundwater resources; and

25 (v) Protecting against conflicts with the use of agricultural,
26 forest, and mineral resource lands designated under RCW 36.70A.170.

27 (d) Limited areas of more intensive rural development. Subject to
28 the requirements of this subsection and except as otherwise
29 specifically provided in this subsection (5)(d), the rural element
30 may allow for limited areas of more intensive rural development,
31 including necessary public facilities and public services to serve
32 the limited area as follows:

33 (i) Rural development consisting of the infill, development, or
34 redevelopment of existing commercial, industrial, residential, or
35 mixed-use areas, whether characterized as shoreline development,
36 villages, hamlets, rural activity centers, or crossroads
37 developments.

38 (A) A commercial, industrial, residential, shoreline, or mixed-
39 use area are subject to the requirements of (d)(iv) of this

1 subsection, but are not subject to the requirements of (c)(ii) and
2 (iii) of this subsection.

3 (B) Any development or redevelopment other than an industrial
4 area or an industrial use within a mixed-use area or an industrial
5 area under this subsection (5)(d)(i) must be principally designed to
6 serve the existing and projected rural population.

7 (C) Any development or redevelopment in terms of building size,
8 scale, use, or intensity shall be consistent with the character of
9 the existing areas. Development and redevelopment may include changes
10 in use from vacant land or a previously existing use so long as the
11 new use conforms to the requirements of this subsection (5);

12 (ii) The intensification of development on lots containing, or
13 new development of, small-scale recreational or tourist uses,
14 including commercial facilities to serve those recreational or
15 tourist uses, that rely on a rural location and setting, but that do
16 not include new residential development. A small-scale recreation or
17 tourist use is not required to be principally designed to serve the
18 existing and projected rural population. Public services and public
19 facilities shall be limited to those necessary to serve the
20 recreation or tourist use and shall be provided in a manner that does
21 not permit low-density sprawl;

22 (iii) The intensification of development on lots containing
23 isolated nonresidential uses or new development of isolated cottage
24 industries and isolated small-scale businesses that are not
25 principally designed to serve the existing and projected rural
26 population and nonresidential uses, but do provide job opportunities
27 for rural residents. Rural counties may allow the expansion of small-
28 scale businesses as long as those small-scale businesses conform with
29 the rural character of the area as defined by the local government
30 according to RCW 36.70A.030(~~((+16))~~) (23). Rural counties may also
31 allow new small-scale businesses to utilize a site previously
32 occupied by an existing business as long as the new small-scale
33 business conforms to the rural character of the area as defined by
34 the local government according to RCW 36.70A.030(~~((+16))~~) (23). Public
35 services and public facilities shall be limited to those necessary to
36 serve the isolated nonresidential use and shall be provided in a
37 manner that does not permit low-density sprawl;

38 (iv) A county shall adopt measures to minimize and contain the
39 existing areas or uses of more intensive rural development, as
40 appropriate, authorized under this subsection. Lands included in such

1 existing areas or uses shall not extend beyond the logical outer
2 boundary of the existing area or use, thereby allowing a new pattern
3 of low-density sprawl. Existing areas are those that are clearly
4 identifiable and contained and where there is a logical boundary
5 delineated predominately by the built environment, but that may also
6 include undeveloped lands if limited as provided in this subsection.
7 The county shall establish the logical outer boundary of an area of
8 more intensive rural development. In establishing the logical outer
9 boundary, the county shall address (A) the need to preserve the
10 character of existing natural neighborhoods and communities, (B)
11 physical boundaries, such as bodies of water, streets and highways,
12 and land forms and contours, (C) the prevention of abnormally
13 irregular boundaries, and (D) the ability to provide public
14 facilities and public services in a manner that does not permit low-
15 density sprawl;

16 (v) For purposes of (d) of this subsection, an existing area or
17 existing use is one that was in existence:

18 (A) On July 1, 1990, in a county that was initially required to
19 plan under all of the provisions of this chapter;

20 (B) On the date the county adopted a resolution under RCW
21 36.70A.040(2), in a county that is planning under all of the
22 provisions of this chapter under RCW 36.70A.040(2); or

23 (C) On the date the office of financial management certifies the
24 county's population as provided in RCW 36.70A.040(5), in a county
25 that is planning under all of the provisions of this chapter pursuant
26 to RCW 36.70A.040(5).

27 (e) Exception. This subsection shall not be interpreted to permit
28 in the rural area a major industrial development or a master planned
29 resort unless otherwise specifically permitted under RCW 36.70A.360
30 and 36.70A.365.

31 (6) A transportation element that implements, and is consistent
32 with, the land use element.

33 (a) The transportation element shall include the following
34 subelements:

35 (i) Land use assumptions used in estimating travel;

36 (ii) Estimated traffic impacts to state-owned transportation
37 facilities resulting from land use assumptions to assist the
38 department of transportation in monitoring the performance of state
39 facilities, to plan improvements for the facilities, and to assess

1 the impact of land-use decisions on state-owned transportation
2 facilities;

3 (iii) Facilities and services needs, including:

4 (A) An inventory of air, water, and ground transportation
5 facilities and services, including transit alignments and general
6 aviation airport facilities, to define existing capital facilities
7 and travel levels as a basis for future planning. This inventory must
8 include state-owned transportation facilities within the city or
9 county's jurisdictional boundaries;

10 (B) Level of service standards for all locally owned arterials
11 and transit routes to serve as a gauge to judge performance of the
12 system. These standards should be regionally coordinated;

13 (C) For state-owned transportation facilities, level of service
14 standards for highways, as prescribed in chapters 47.06 and 47.80
15 RCW, to gauge the performance of the system. The purposes of
16 reflecting level of service standards for state highways in the local
17 comprehensive plan are to monitor the performance of the system, to
18 evaluate improvement strategies, and to facilitate coordination
19 between the county's or city's six-year street, road, or transit
20 program and the office of financial management's ten-year investment
21 program. The concurrency requirements of (b) of this subsection do
22 not apply to transportation facilities and services of statewide
23 significance except for counties consisting of islands whose only
24 connection to the mainland are state highways or ferry routes. In
25 these island counties, state highways and ferry route capacity must
26 be a factor in meeting the concurrency requirements in (b) of this
27 subsection;

28 (D) Specific actions and requirements for bringing into
29 compliance locally owned transportation facilities or services that
30 are below an established level of service standard;

31 (E) Forecasts of traffic for at least ten years based on the
32 adopted land use plan to provide information on the location, timing,
33 and capacity needs of future growth;

34 (F) Identification of state and local system needs to meet
35 current and future demands. Identified needs on state-owned
36 transportation facilities must be consistent with the statewide
37 multimodal transportation plan required under chapter 47.06 RCW;

38 (iv) Finance, including:

39 (A) An analysis of funding capability to judge needs against
40 probable funding resources;

1 (B) A multiyear financing plan based on the needs identified in
2 the comprehensive plan, the appropriate parts of which shall serve as
3 the basis for the six-year street, road, or transit program required
4 by RCW 35.77.010 for cities, RCW 36.81.121 for counties, and RCW
5 35.58.2795 for public transportation systems. The multiyear financing
6 plan should be coordinated with the ten-year investment program
7 developed by the office of financial management as required by RCW
8 47.05.030;

9 (C) If probable funding falls short of meeting identified needs,
10 a discussion of how additional funding will be raised, or how land
11 use assumptions will be reassessed to ensure that level of service
12 standards will be met;

13 (v) Intergovernmental coordination efforts, including an
14 assessment of the impacts of the transportation plan and land use
15 assumptions on the transportation systems of adjacent jurisdictions;

16 (vi) Demand-management strategies;

17 (vii) Pedestrian and bicycle component to include collaborative
18 efforts to identify and designate planned improvements for pedestrian
19 and bicycle facilities and corridors that address and encourage
20 enhanced community access and promote healthy lifestyles.

21 (b) After adoption of the comprehensive plan by jurisdictions
22 required to plan or who choose to plan under RCW 36.70A.040, local
23 jurisdictions must adopt and enforce ordinances which prohibit
24 development approval if the development causes the level of service
25 on a locally owned transportation facility to decline below the
26 standards adopted in the transportation element of the comprehensive
27 plan, unless transportation improvements or strategies to accommodate
28 the impacts of development are made concurrent with the development.
29 These strategies may include increased public transportation service,
30 ride-sharing programs, demand management, and other transportation
31 systems management strategies. For the purposes of this subsection
32 (6), "concurrent with the development" means that improvements or
33 strategies are in place at the time of development, or that a
34 financial commitment is in place to complete the improvements or
35 strategies within six years. If the collection of impact fees is
36 delayed under RCW 82.02.050(3), the six-year period required by this
37 subsection (6)(b) must begin after full payment of all impact fees is
38 due to the county or city.

39 (c) The transportation element described in this subsection (6),
40 the six-year plans required by RCW 35.77.010 for cities, RCW

1 36.81.121 for counties, and RCW 35.58.2795 for public transportation
2 systems, and the ten-year investment program required by RCW
3 47.05.030 for the state, must be consistent.

4 (7) An economic development element establishing local goals,
5 policies, objectives, and provisions for economic growth and vitality
6 and a high quality of life. A city that has chosen to be a
7 residential community is exempt from the economic development element
8 requirement of this subsection.

9 (8) A park and recreation element that implements, and is
10 consistent with, the capital facilities plan element as it relates to
11 park and recreation facilities. The element shall include: (a)
12 Estimates of park and recreation demand for at least a ten-year
13 period; (b) an evaluation of facilities and service needs; and (c) an
14 evaluation of intergovernmental coordination opportunities to provide
15 regional approaches for meeting park and recreational demand.

16 (9) It is the intent that new or amended elements required after
17 January 1, 2002, be adopted concurrent with the scheduled update
18 provided in RCW 36.70A.130. Requirements to incorporate any such new
19 or amended elements shall be null and void until funds sufficient to
20 cover applicable local government costs are appropriated and
21 distributed by the state at least two years before local government
22 must update comprehensive plans as required in RCW 36.70A.130.

23 NEW SECTION. **Sec. 3.** A new section is added to chapter 35A.21
24 RCW to read as follows:

25 A code city shall not prohibit transitional housing or permanent
26 supportive housing in any zones in which residential dwelling units
27 or hotels are allowed. Effective September 30, 2021, a code city
28 shall not prohibit indoor emergency shelters and indoor emergency
29 housing in any zones in which hotels are allowed, except in such
30 cities that have adopted an ordinance authorizing indoor emergency
31 shelters and indoor emergency housing in a majority of zones within a
32 one-mile proximity to transit. Reasonable occupancy, spacing, and
33 intensity of use requirements may be imposed by ordinance on
34 permanent supportive housing, transitional housing, indoor emergency
35 housing, and indoor emergency shelters to protect public health and
36 safety. Any such requirements on occupancy, spacing, and intensity of
37 use may not prevent the siting of a sufficient number of permanent
38 supportive housing, transitional housing, indoor emergency housing,
39 or indoor emergency shelters necessary to accommodate each code

1 city's projected need for such housing and shelter under RCW
2 36.70A.070(2)(a)(ii).

3 NEW SECTION. **Sec. 4.** A new section is added to chapter 35.21
4 RCW to read as follows:

5 A city shall not prohibit transitional housing or permanent
6 supportive housing in any zones in which residential dwelling units
7 or hotels are allowed. Effective September 30, 2021, a city shall not
8 prohibit indoor emergency shelters and indoor emergency housing in
9 any zones in which hotels are allowed, except in such cities that
10 have adopted an ordinance authorizing indoor emergency shelters and
11 indoor emergency housing in a majority of zones within a one-mile
12 proximity to transit. Reasonable occupancy, spacing, and intensity of
13 use requirements may be imposed by ordinance on permanent supportive
14 housing, transitional housing, indoor emergency housing, and indoor
15 emergency shelters to protect public health and safety. Any such
16 requirements on occupancy, spacing, and intensity of use may not
17 prevent the siting of a sufficient number of permanent supportive
18 housing, transitional housing, indoor emergency housing, or indoor
19 emergency shelters necessary to accommodate each city's projected
20 need for such housing and shelter under RCW 36.70A.070(2)(a)(ii).

21 **Sec. 5.** RCW 36.70A.390 and 1992 c 207 s 6 are each amended to
22 read as follows:

23 A county or city governing body that adopts a moratorium, interim
24 zoning map, interim zoning ordinance, or interim official control
25 without holding a public hearing on the proposed moratorium, interim
26 zoning map, interim zoning ordinance, or interim official control,
27 shall hold a public hearing on the adopted moratorium, interim zoning
28 map, interim zoning ordinance, or interim official control within at
29 least sixty days of its adoption, whether or not the governing body
30 received a recommendation on the matter from the planning commission
31 or department. If the governing body does not adopt findings of fact
32 justifying its action before this hearing, then the governing body
33 shall do so immediately after this public hearing. A moratorium,
34 interim zoning map, interim zoning ordinance, or interim official
35 control adopted under this section may be effective for not longer
36 than six months, but may be effective for up to one year if a work
37 plan is developed for related studies providing for such a longer
38 period. A moratorium, interim zoning map, interim zoning ordinance,

1 or interim official control may be renewed for one or more six-month
2 periods if a subsequent public hearing is held and findings of fact
3 are made prior to each renewal.

4 This section does not apply to the designation of critical areas,
5 agricultural lands, forestlands, and mineral resource lands, under
6 RCW 36.70A.170, and the conservation of these lands and protection of
7 these areas under RCW 36.70A.060, prior to such actions being taken
8 in a comprehensive plan adopted under RCW 36.70A.070 and implementing
9 development regulations adopted under RCW 36.70A.120, if a public
10 hearing is held on such proposed actions. This section does not apply
11 to ordinances or development regulations adopted by a city that
12 prohibit building permit applications for or the construction of
13 transitional housing or permanent supportive housing in any zones in
14 which residential dwelling units or hotels are allowed or prohibit
15 building permit applications for or the construction of indoor
16 emergency shelters and indoor emergency housing in any zones in which
17 hotels are allowed.

18 **Sec. 6.** RCW 36.70A.030 and 2020 c 173 s 4 are each amended to
19 read as follows:

20 Unless the context clearly requires otherwise, the definitions in
21 this section apply throughout this chapter.

22 (1) "Adopt a comprehensive land use plan" means to enact a new
23 comprehensive land use plan or to update an existing comprehensive
24 land use plan.

25 (2) "Affordable housing" means, unless the context clearly
26 indicates otherwise, residential housing whose monthly costs,
27 including utilities other than telephone, do not exceed thirty
28 percent of the monthly income of a household whose income is:

29 (a) For rental housing, sixty percent of the median household
30 income adjusted for household size, for the county where the
31 household is located, as reported by the United States department of
32 housing and urban development; or

33 (b) For owner-occupied housing, eighty percent of the median
34 household income adjusted for household size, for the county where
35 the household is located, as reported by the United States department
36 of housing and urban development.

37 (3) "Agricultural land" means land primarily devoted to the
38 commercial production of horticultural, viticultural, floricultural,
39 dairy, apiary, vegetable, or animal products or of berries, grain,

1 hay, straw, turf, seed, Christmas trees not subject to the excise tax
2 imposed by RCW 84.33.100 through 84.33.140, finfish in upland
3 hatcheries, or livestock, and that has long-term commercial
4 significance for agricultural production.

5 (4) "City" means any city or town, including a code city.

6 (5) "Comprehensive land use plan," "comprehensive plan," or
7 "plan" means a generalized coordinated land use policy statement of
8 the governing body of a county or city that is adopted pursuant to
9 this chapter.

10 (6) "Critical areas" include the following areas and ecosystems:

11 (a) Wetlands; (b) areas with a critical recharging effect on aquifers
12 used for potable water; (c) fish and wildlife habitat conservation
13 areas; (d) frequently flooded areas; and (e) geologically hazardous
14 areas. "Fish and wildlife habitat conservation areas" does not
15 include such artificial features or constructs as irrigation delivery
16 systems, irrigation infrastructure, irrigation canals, or drainage
17 ditches that lie within the boundaries of and are maintained by a
18 port district or an irrigation district or company.

19 (7) "Department" means the department of commerce.

20 (8) "Development regulations" or "regulation" means the controls
21 placed on development or land use activities by a county or city,
22 including, but not limited to, zoning ordinances, critical areas
23 ordinances, shoreline master programs, official controls, planned
24 unit development ordinances, subdivision ordinances, and binding site
25 plan ordinances together with any amendments thereto. A development
26 regulation does not include a decision to approve a project permit
27 application, as defined in RCW 36.70B.020, even though the decision
28 may be expressed in a resolution or ordinance of the legislative body
29 of the county or city.

30 (9) "Emergency housing" means temporary indoor accommodations for
31 individuals or families who are homeless or at imminent risk of
32 becoming homeless that is intended to address the basic health, food,
33 clothing, and personal hygiene needs of individuals or families.
34 Emergency housing may or may not require occupants to enter into a
35 lease or an occupancy agreement.

36 (10) "Emergency shelter" means a facility that provides a
37 temporary shelter for individuals or families who are currently
38 homeless. Emergency shelter may not require occupants to enter into a
39 lease or an occupancy agreement. Emergency shelter facilities may

1 include day and warming centers that do not provide overnight
2 accommodations.

3 (11) "Extremely low-income household" means a single person,
4 family, or unrelated persons living together whose adjusted income is
5 at or below thirty percent of the median household income adjusted
6 for household size, for the county where the household is located, as
7 reported by the United States department of housing and urban
8 development.

9 ~~((10))~~ (12) "Forestland" means land primarily devoted to
10 growing trees for long-term commercial timber production on land that
11 can be economically and practically managed for such production,
12 including Christmas trees subject to the excise tax imposed under RCW
13 84.33.100 through 84.33.140, and that has long-term commercial
14 significance. In determining whether forestland is primarily devoted
15 to growing trees for long-term commercial timber production on land
16 that can be economically and practically managed for such production,
17 the following factors shall be considered: (a) The proximity of the
18 land to urban, suburban, and rural settlements; (b) surrounding
19 parcel size and the compatibility and intensity of adjacent and
20 nearby land uses; (c) long-term local economic conditions that affect
21 the ability to manage for timber production; and (d) the availability
22 of public facilities and services conducive to conversion of
23 forestland to other uses.

24 ~~((11))~~ (13) "Freight rail dependent uses" means buildings and
25 other infrastructure that are used in the fabrication, processing,
26 storage, and transport of goods where the use is dependent on and
27 makes use of an adjacent short line railroad. Such facilities are
28 both urban and rural development for purposes of this chapter.
29 "Freight rail dependent uses" does not include buildings and other
30 infrastructure that are used in the fabrication, processing, storage,
31 and transport of coal, liquefied natural gas, or "crude oil" as
32 defined in RCW 90.56.010.

33 ~~((12))~~ (14) "Geologically hazardous areas" means areas that
34 because of their susceptibility to erosion, sliding, earthquake, or
35 other geological events, are not suited to the siting of commercial,
36 residential, or industrial development consistent with public health
37 or safety concerns.

38 ~~((13))~~ (15) "Long-term commercial significance" includes the
39 growing capacity, productivity, and soil composition of the land for
40 long-term commercial production, in consideration with the land's

1 proximity to population areas, and the possibility of more intense
2 uses of the land.

3 ~~((14))~~ (16) "Low-income household" means a single person,
4 family, or unrelated persons living together whose adjusted income is
5 at or below eighty percent of the median household income adjusted
6 for household size, for the county where the household is located, as
7 reported by the United States department of housing and urban
8 development.

9 ~~((15))~~ (17) "Minerals" include gravel, sand, and valuable
10 metallic substances.

11 ~~((16))~~ (18) "Moderate-income household" means a single person,
12 family, or unrelated persons living together whose adjusted income is
13 at or below 120 percent of the median household income adjusted for
14 household size, for the county where the household is located, as
15 reported by the United States department of housing and urban
16 development.

17 (19) "Permanent supportive housing" is subsidized, leased housing
18 with no limit on length of stay that prioritizes people who need
19 comprehensive support services to retain tenancy and utilizes
20 admissions practices designed to use lower barriers to entry than
21 would be typical for other subsidized or unsubsidized rental housing,
22 especially related to rental history, criminal history, and personal
23 behaviors. Permanent supportive housing is paired with on-site or
24 off-site voluntary services designed to support a person living with
25 a complex and disabling behavioral health or physical health
26 condition who was experiencing homelessness or was at imminent risk
27 of homelessness prior to moving into housing to retain their housing
28 and be a successful tenant in a housing arrangement, improve the
29 resident's health status, and connect the resident of the housing
30 with community-based health care, treatment, or employment services.
31 Permanent supportive housing is subject to all of the rights and
32 responsibilities defined in chapter 59.18 RCW.

33 ~~((17))~~ (20) "Public facilities" include streets, roads,
34 highways, sidewalks, street and road lighting systems, traffic
35 signals, domestic water systems, storm and sanitary sewer systems,
36 parks and recreational facilities, and schools.

37 ~~((18))~~ (21) "Public services" include fire protection and
38 suppression, law enforcement, public health, education, recreation,
39 environmental protection, and other governmental services.

1 (~~(19)~~) (22) "Recreational land" means land so designated under
2 RCW 36.70A.1701 and that, immediately prior to this designation, was
3 designated as agricultural land of long-term commercial significance
4 under RCW 36.70A.170. Recreational land must have playing fields and
5 supporting facilities existing before July 1, 2004, for sports played
6 on grass playing fields.

7 (~~(20)~~) (23) "Rural character" refers to the patterns of land
8 use and development established by a county in the rural element of
9 its comprehensive plan:

10 (a) In which open space, the natural landscape, and vegetation
11 predominate over the built environment;

12 (b) That foster traditional rural lifestyles, rural-based
13 economies, and opportunities to both live and work in rural areas;

14 (c) That provide visual landscapes that are traditionally found
15 in rural areas and communities;

16 (d) That are compatible with the use of the land by wildlife and
17 for fish and wildlife habitat;

18 (e) That reduce the inappropriate conversion of undeveloped land
19 into sprawling, low-density development;

20 (f) That generally do not require the extension of urban
21 governmental services; and

22 (g) That are consistent with the protection of natural surface
23 water flows and groundwater and surface water recharge and discharge
24 areas.

25 (~~(21)~~) (24) "Rural development" refers to development outside
26 the urban growth area and outside agricultural, forest, and mineral
27 resource lands designated pursuant to RCW 36.70A.170. Rural
28 development can consist of a variety of uses and residential
29 densities, including clustered residential development, at levels
30 that are consistent with the preservation of rural character and the
31 requirements of the rural element. Rural development does not refer
32 to agriculture or forestry activities that may be conducted in rural
33 areas.

34 (~~(22)~~) (25) "Rural governmental services" or "rural services"
35 include those public services and public facilities historically and
36 typically delivered at an intensity usually found in rural areas, and
37 may include domestic water systems, fire and police protection
38 services, transportation and public transit services, and other
39 public utilities associated with rural development and normally not

1 associated with urban areas. Rural services do not include storm or
2 sanitary sewers, except as otherwise authorized by RCW 36.70A.110(4).

3 ~~((23))~~ (26) "Short line railroad" means those railroad lines
4 designated class II or class III by the United States surface
5 transportation board.

6 ~~((24))~~ (27) "Urban governmental services" or "urban services"
7 include those public services and public facilities at an intensity
8 historically and typically provided in cities, specifically including
9 storm and sanitary sewer systems, domestic water systems, street
10 cleaning services, fire and police protection services, public
11 transit services, and other public utilities associated with urban
12 areas and normally not associated with rural areas.

13 ~~((25))~~ (28) "Urban growth" refers to growth that makes
14 intensive use of land for the location of buildings, structures, and
15 impermeable surfaces to such a degree as to be incompatible with the
16 primary use of land for the production of food, other agricultural
17 products, or fiber, or the extraction of mineral resources, rural
18 uses, rural development, and natural resource lands designated
19 pursuant to RCW 36.70A.170. A pattern of more intensive rural
20 development, as provided in RCW 36.70A.070(5)(d), is not urban
21 growth. When allowed to spread over wide areas, urban growth
22 typically requires urban governmental services. "Characterized by
23 urban growth" refers to land having urban growth located on it, or to
24 land located in relationship to an area with urban growth on it as to
25 be appropriate for urban growth.

26 ~~((26))~~ (29) "Urban growth areas" means those areas designated
27 by a county pursuant to RCW 36.70A.110.

28 ~~((27))~~ (30) "Very low-income household" means a single person,
29 family, or unrelated persons living together whose adjusted income is
30 at or below fifty percent of the median household income adjusted for
31 household size, for the county where the household is located, as
32 reported by the United States department of housing and urban
33 development.

34 ~~((28))~~ (31) "Wetland" or "wetlands" means areas that are
35 inundated or saturated by surface water or groundwater at a frequency
36 and duration sufficient to support, and that under normal
37 circumstances do support, a prevalence of vegetation typically
38 adapted for life in saturated soil conditions. Wetlands generally
39 include swamps, marshes, bogs, and similar areas. Wetlands do not
40 include those artificial wetlands intentionally created from

1 nonwetland sites, including, but not limited to, irrigation and
2 drainage ditches, grass-lined swales, canals, detention facilities,
3 wastewater treatment facilities, farm ponds, and landscape amenities,
4 or those wetlands created after July 1, 1990, that were
5 unintentionally created as a result of the construction of a road,
6 street, or highway. Wetlands may include those artificial wetlands
7 intentionally created from nonwetland areas created to mitigate
8 conversion of wetlands.

9 ***NEW SECTION.** Sec. 7. A new section is added to chapter 36.70A
10 RCW to read as follows:

11 In addition to ordinances, development regulations, and other
12 official controls adopted or amended, a city or county should
13 consider policies to encourage the construction of accessory dwelling
14 units as a way to meet affordable housing goals. These policies could
15 include, but are not limited to:

16 (1) The city or county may not require the owner of a lot on
17 which there is an accessory dwelling unit to reside in or occupy the
18 accessory dwelling unit or another housing unit on the same lot;

19 (2) The city or county may require the owner not to use the
20 accessory dwelling unit for short-term rentals;

21 (3) The city or county may not count residents of accessory
22 dwelling units against existing limits on the number of unrelated
23 residents on a lot;

24 (4) The city or county may not establish a minimum gross floor
25 area for accessory dwelling units that exceeds the state building
26 code;

27 (5) The city or county must make the same allowances for
28 accessory dwelling units' roof decks, balconies, and porches to
29 encroach on setbacks as are allowed for the principal unit;

30 (6) The city or county must apply abutting lot setbacks to
31 accessory dwelling units on lots abutting zones with lower setback
32 requirements;

33 (7) The city or county must establish an amnesty program to help
34 owners of unpermitted accessory dwelling units to obtain a permit;

35 (8) The city or county must permit accessory dwelling units in
36 structures detached from the principal unit, must allow an accessory
37 dwelling unit on any lot that meets the minimum lot size required for
38 the principal unit, and must allow attached accessory dwelling units
39 on any lot with a principal unit that is nonconforming solely because

1 the lot is smaller than the minimum size, as long as the accessory
2 dwelling unit would not increase nonconformity of the residential use
3 with respect to building height, bulk, or lot coverage;

4 (9) The city or county may not establish a maximum gross floor
5 area requirement for accessory dwelling units that are less than
6 1,000 square feet or 60 percent of the principal unit, whichever is
7 greater, or that exceeds 1,200 square feet;

8 (10) A city or county must allow accessory dwelling units to be
9 converted from existing structures, including but not limited to
10 detached garages, even if they violate current code requirements for
11 setbacks or lot coverage;

12 (11) A city or county may not require public street improvements
13 as a condition of permitting accessory dwelling units; and

14 (12) A city or county may require a new or separate utility
15 connection between an accessory dwelling unit and a utility only when
16 necessary to be consistent with water availability requirements,
17 water system plans, small water system management plans, or
18 established policies adopted by the water or sewer utility provider.
19 If such a connection is necessary, the connection fees and capacity
20 charges must:

21 (a) Be proportionate to the burden of the proposed accessory
22 dwelling unit upon the water or sewer system; and

23 (b) Not exceed the reasonable cost of providing the service.

**Sec. 7 was vetoed. See message at end of chapter.*

Passed by the House April 14, 2021.

Passed by the Senate April 10, 2021.

Approved by the Governor May 12, 2021, with the exception of
certain items that were vetoed.

Filed in Office of Secretary of State May 12, 2021.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to Section 7,
Engrossed Second Substitute House Bill No. 1220 entitled:

"AN ACT Relating to supporting emergency shelters and housing
through local planning and development regulations."

Section 7 of this bill can be read to encourage the siting and
development of accessory dwelling units in areas of the state outside
of urban growth areas. This was a technical oversight that occurred
during the legislative process. As passed, the bill inadvertently
omitted a key reference limiting these policies to urban growth
areas, which was not the intention of the bill's sponsor.

For these reasons I have vetoed Section 7 of Engrossed Second
Substitute House Bill No. 1220.

With the exception of Section 7, Engrossed Second Substitute House Bill No. 1220 is approved."

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