

**CITY COUNCIL AGENDA ITEM**  
CITY OF SHORELINE, WASHINGTON

<b>AGENDA TITLE:</b>	Legislative Update on State Environmental Policy Act		
<b>DEPARTMENT:</b>	Planning & Community Development		
<b>PRESENTED BY:</b>	Steve Szafran, AICP, Associate Planner		
<b>ACTION:</b>	<input type="checkbox"/> Ordinance	<input type="checkbox"/> Resolution	<input type="checkbox"/> Motion
	<input checked="" type="checkbox"/> Discussion	<input type="checkbox"/> Public Hearing	

**PROBLEM/ISSUE STATEMENT:**

The Washington State Environmental Policy Act (SEPA) was adopted in 1971. No substantive reforms to SEPA have been enacted in the past 41 years. Effective July 10, 2012, the Washington State Legislature passed SB 6406 which mandates that the Department of Ecology (DOE) update SEPA rules. The bill is intended to streamline the regulatory process and achieve program efficiencies while maintaining current levels of natural resource protection; increase SEPA thresholds; and integrate the SEPA process with provisions of the Growth Management Act (GMA).

SB 6406 has automatically raised SEPA thresholds for a variety of development scenarios further explained within this report. The exemption thresholds for environmental review are placed at the highest categorical exemption levels available to local government unless a jurisdiction opts out and adopts lower exemption thresholds. These recent changes to State Law are relevant to Shoreline's Development Code and Comprehensive Plan Update. Staff believes having a discussion with Council on these topics may guide policy decisions in the 2012 Comprehensive Plan update and future Development Code Amendments.

**RESOURCE/FINANCIAL IMPACT:**

There are no financial impacts associated with this project at this point.

**RECOMMENDATION**

Staff recommends that Council confirm the application of the raised categorical exemption thresholds approved by SB 6406 and instruct staff to prepare an ordinance to adopt the highest thresholds passed by the Legislature; and direct staff to support lower thresholds in unincorporated counties and UGA's by providing comment to DOE on the proposed rule update.

Approved By:            City Manager **JU**    City Attorney **IS**

## **INTRODUCTION**

The Washington State Environmental Policy Act (SEPA) was adopted in 1971. No substantive reforms to SEPA have been enacted in the past 41 years.

The Washington State Legislature adopted SB 6406 during the last legislative session that made changes to the current SEPA thresholds. SB 6406 became effective July 10, 2012, and mandates that Department of Ecology (DOE) update SEPA rules. SB 6406 streamlines the regulatory process and achieve program efficiencies while maintaining current levels of natural resource protection; increase SEPA thresholds; and integrate the SEPA process with provisions of the Growth Management Act (GMA).

SB 6406 was originally brought forth by Planning Directors statewide. There was broad agreement that: there was too much unnecessary process in SEPA; SEPA needed to be modernized in light of the GMA; and SEPA reform will not reduce protection of natural and built environments.

SB 6406 automatically raised SEPA thresholds for a variety of development scenarios, although cities have the flexibility to either accept the new thresholds or to adopt a lower threshold. Additionally DOE has an advisory committee which will be making recommendations regarding two specific topics: 1) Increasing the thresholds for SEPA review of minor construction projects under Washington Administrative Code (WAC) 197-11-800(1); and 2) improving the efficiency of the SEPA environmental checklist in WAC 197-11-960.. The initial round of updates is to be completed by December 31, 2012.

### **DOE Preliminary timeline: SEPA Rule Update Round 1**

<b>Milestones</b>	<b>Target date</b>
Advisory Committee assists Ecology in preparing proposed rule update	July - October 2012
CR-102 Form Filed (CR= Code Reviser, Notice of Proposed Rulemaking Form): Proposed Rule published	November 2012
Public Hearing and Comment Period	November/December 2012
CR-103 Form Filed: Rule-Making Order	December 2012/January 2013
Effective date of rule (after filing CR 103)	+31 days

The second round of SEPA rule updates is broad in nature and will attempt to integrate SEPA with GMA and evaluate the remaining categorical exemptions. This will be completed by December 31, 2013.

## **BACKGROUND**

The State Environmental Policy Act (SEPA) applies to decisions by every state and local agency within Washington, including proposals for construction projects and nonproject actions such as a policy, plan, or program. Generally, an Environmental Impact Statement (EIS) must be prepared for a proposal which the lead agency determines will have a probable significant adverse impact on the environment. However, SEPA rules contain categorical exemptions for certain actions that are not major actions significantly affecting the quality of the environment.

Prior to the new legislation, the City of Shoreline used the lowest thresholds for environmental review exemption provided by law under flexible thresholds for minor new construction except for landfill and excavation. Those thresholds, listed in the Development Code, SMC 20.30.560, are:

- The construction or location of any residential structures of four (4) dwelling units.
- The construction of an office, school, commercial, recreational, service or storage building with 4,000 square feet of gross floor area and with associated parking facilities designed for 20 automobiles.
- The construction of a parking lot designed for 20 automobiles.
- Any landfill or excavation of 500 cubic yards throughout the total lifetime of the fill or excavation; any fill or excavation classified as a Class I, II, or III forest practice under RCW 76.09.050 or regulations thereunder. The minimum volume is 100 cubic yards. 500 cubic yards is the maximum allowed under SEPA rules

## **DISCUSSION**

The Council should be aware that SB 6406 raised SEPA thresholds for a variety of development scenarios. SB 6406 raises the exempt thresholds for environmental review to the highest categorical exemption levels. Comparing the new exemption thresholds to the City's current development code, those levels are:

- The construction or location of any residential structures of 20 ~~four~~ dwelling units.
- The construction of an office, school, commercial, recreational, service or storage building with 20,000 ~~4,000~~ square feet of gross floor area and with associated parking facilities designed for 40 ~~20~~ automobiles.
- The construction of a parking lot designed for 40 ~~20~~ automobiles.
- Any landfill or excavation of 500 cubic yards throughout the total lifetime of the fill or excavation; any fill or excavation classified as a Class I, II, or III forest practice

under RCW 76.09.050 or regulations there under (Shoreline has already adopted the highest level for clearing and grading).

The new exemption thresholds became effective July 10, 2012, and as such staff is following the new guidelines. The City can officially adopt the new thresholds provided in SB 6406, or choose to adopt thresholds less than those approved by the State Legislature. Staff would recommend that the Council adopt the new thresholds. Since the Department of Ecology has not made any formal rulemaking, the Council may want to wait until the beginning of 2013 to make any changes to the Development Code. If Council is comfortable with the new thresholds, staff will communicate with developers that the City is following the maximum threshold guidelines and the Development Code will be updated once the final rulemaking guidelines are issued by the Department of Ecology.

Additionally, SB 6406 will allow an infill SEPA exemption of up to 65,000 square feet for residential, mixed-use, and commercial structures provided the Comprehensive Plan was previously subjected to environmental analysis through an environmental impact statement. For example, the City may designate an area through a subarea plan or planned action, such as a light rail station area, that will exempt the previously mentioned projects from SEPA review as long as the environmental analysis was completed on the entire area. The area could also be extended citywide through the Comprehensive Plan update.

SB 6406 exempts development code and comprehensive plan amendments from SEPA review as long as the amendment will provide increased environmental protection throughout the City.

SB 6406 provides new flexibility for pre-answering questions on the SEPA checklist. This provision is intended to reduce redundancy and improve clarity regarding existing regulations. Pre-answering questions means the City provides answers in the SEPA checklist that point to regulations that mitigate the potential impact.

SB 6406 also establishes a Growth Management Planning and Environmental Review Fund (PERF) to make loans and grants to local governments for programmatic SEPA review.

There is currently a SEPA advisory committee, consisting of city and county representatives, that will advise DOE on possible threshold scenarios beyond the exemptions changes discussed previously in this report. The committee has discussed different thresholds for cities, counties and Urban Growth Areas (UGAs). In order to promote reinvestment and redevelopment in cities like Shoreline, the thresholds should be commensurate with urban services and infrastructure developments outside of the City. The environmental impact of development inside of cities, which is mostly redevelopment and infill, is much less than the environmental impact of new development outside of cities. Since land and redevelopment is usually more expensive in cities, cities may have an economic disadvantage for development versus the cost in unincorporated areas. Staff recommends supporting increased thresholds in the cities

and keeping the thresholds lower outside of cities, where the level of detailed study and planning may not support urban densities and consequently a far greater risk exists for environmental harm and sprawl. Raising SEPA thresholds should still be a local option, that is, cities should have the choice of adopting the minimum thresholds, the maximum thresholds, or something in between. If Council also supports this premise, please direct staff to prepare comments to DOE on the Council's behalf.

### **RESOURCE/FINANCIAL IMPACT**

This information is provided for discussion only; there are no financial impacts associated with this project at this point.

### **RECOMMENDATION**

Staff recommends that Council confirm the application of the raised categorical exemption thresholds approved by SB 6406 and instruct staff to prepare an ordinance to adopt the highest thresholds passed by the Legislature; and direct staff to support lower thresholds in unincorporated counties and UGA's by providing comment to DOE on the proposed rule update.