

OKANOGAN COUNTY COMMISSIONERS

ORDINANCE 2014 - 1

An Ordinance approving amendments to Okanogan County's environmental policy (OCC 14.04) as it pertains to flexible thresholds for categorical exemptions.

WHEREAS: In accordance with Senate Bill 6406, recent amendments were made to Washington State SEPA Rules (WAC 197-11-800) which increase flexible thresholds for categorical exemptions for minor new construction.

WHEREAS: Following Washington State's amendments to SEPA rules, which authorizes increases to categorical exemptions, the Board of Okanogan County Commissioners directed it's Planning Department to initiate a public process in order to review proposed increases to categorical exemptions for minor new construction by amending Okanogan County's environmental policy (OCC 14.04). The Planning Department drafted an amended code section for circulation, review, and comment.

WHEREAS: Notice of the proposed code amendment and schedule for a public hearing before the Okanogan County Regional Planning Commission was circulated to a variety of public agencies, interested members of the public, and published on July 24, 2013 in Omak Chronicle, which is Okanogan County's legal periodical of record, and the Methow Valley News.

WHEREAS: The Planning Commission reviewed the proposed code amendment during an open record public hearing. Written comments and verbal testimony were considered by the Planning Commission. The Planning Commission continued the public hearing in order to allow additional comment and testimony. The Planning Commission made a recommendation to the Board of Okanogan County Commissioners.

WHEREAS: Notice of the comment period and public hearing before the Board of Okanogan County Commissioners was published in the County's legal periodical of record on December 25, 2013.

WHEREAS: An open record public hearing was conducted by the Board of County Commissioners at which time they considered written comments, verbal testimony, and the recommendation of the Okanogan County Regional Planning Commission.

WHEREAS: The Board of County Commissioners determined that environmental analysis, protection and mitigation for impacts to elements of the environment are adequately addressed by existing county, state and federal regulations.

WHEREAS: The Board of County Commissioners determined that whether SEPA review is required or exempt, adequate provisions for public notification and comment on development permits is required by numerous other land use regulations administered by local, state, and federal regulatory agencies.

WHEREAS: The Board of County Commissioners determined that SEPA was originally authorized in Washington State, NEPA at the national level, in order to require environmental analysis where other regulations failed to achieve comprehensive environmental review. SEPA regulations have become redundant and burdensome due to numerous other environmental-based regulations which have been implemented since the original authorization of SEPA regulations.


WHEREAS: The Board of County Commissioners determined that specific levels of categorical exemptions should be applied uniformly throughout all areas of unincorporated Okanogan County.

BE IT THEREFORE ORDAINED: The Board of Okanogan County Commissioners approves amendments to Okanogan County Code 14.04 "Environmental Policy", specifically section 14.04.100 "Flexible Thresholds for Categorical Exemptions" as identified in Exhibit A. This decision is supported with findings of fact (Exhibit B) and conclusions of law (Exhibit C).

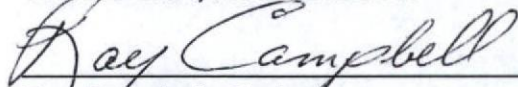
DATED at Okanogan, Washington this 21st day of January, 2014.

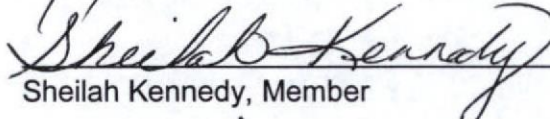


ATTEST:


Latena Johns, Clerk of the Board

**BOARD OF COUNTY COMMISSIONERS
OKANOGAN, WASHINGTON**


Ray Campbell, Chairman


Sheilah Kennedy, Member



Jim DeTro, Member

Exhibit A

Okanogan County Code, Chapter 14.04 "Environmental Policy"

Amended Text

14.04.100 Flexible thresholds for categorical exemptions

Okanogan County establishes the following exempt levels for minor new construction under WAC 197-11-800(1)(d) based on local conditions.

- A. The following exempt levels shall apply to all of Okanogan County:
 - 1. For residential dwelling units:
 - a. Up to 20 single-family units, and
 - b. Up to 25 multifamily units
 - 2. For agricultural structures: up to 40,000 square feet;
 - 3. For office, school, commercial, recreational, service or storage buildings: up to 12,000 square feet and up to 40 parking spaces;
 - 4. For parking lots: up to 40 parking spaces;
 - 5. For landfills and excavations: up to 1,000 cubic yards.

Current Text

14.04.100 Flexible thresholds for categorical exemptions

Okanogan County establishes the following exempt levels for minor new construction under WAC 197-11-800(1)(b) based on local conditions.

- A. The following exempt levels shall apply to all of Okanogan County with the exception of School District No. 350 (Methow Review District):
 - 1. For residential dwelling units in WAC 197-11-800 (l)(b)(i): up to 20 dwelling units;
 - 2. For agricultural structures in WAC 197-11-800 (l)(b)(ii): up to 30,000 square feet;
 - 3. For office, school, commercial, recreational, service or storage buildings in WAC 197-11-800(1)(b)(iii): up to 12,000 square feet and up to 40 parking spaces;
 - 4. For parking lots in WAC 197-11-800(1)(b)(iv): up to 40 parking spaces;
 - 5. For landfills and excavations in WAC 197-11-800 (l)(b)(v): up to 500 cubic yards.
- B. The following exempt levels shall apply to School District No. 350:
 - 1. For residential dwelling units in WAC 197-11-800 (l)(b)(i): up to four dwelling units;
 - 2. For agricultural structures in WAC 197-11-800 (l)(b)(ii): up to 10,000 square feet;
 - 3. For office, school, commercial, recreational, service or storage buildings in WAC 197-11-800(1)(b)(iii): up to 4,000 square feet and up to 20 parking spaces;
 - 4. For parking lots in WAC 197-11-800(1)(b)(iv): up to 20 parking spaces;
 - 5. For landfills and excavations in WAC 197-11-800 (l)(b)(v): up to 100 cubic yards.

Exhibit B

The following are findings of fact:

1. The 2012 Washington State Legislature enacted Senate Bill 6406 which directs formation of a "SEPA rulemaking advisory committee" for the purpose of conducting the rulemaking process and updating SEPA regulations.
2. On January 28, 2013, amendments to WAC 197-11-800(1) "Minor New Construction – Flexible Thresholds" became effective.
3. In accordance with Washington State Senate Bill 6406, Cities and Counties are authorized to use the increased categorical exemption levels whether or not they have been adopted by these entities.
4. Consistent with WAC 197-11-800(1) "Minor New Construction – Flexible Thresholds", Okanogan County processed amendments to Okanogan County's environmental policy, specifically OCC 14.04.100 "Flexible Thresholds for Categorical Exemptions".
5. Currently, OCC 14.04.100 identifies two geographic areas, with different thresholds for categorical exemptions. The original proposal and project notifications included increasing categorical exemptions uniformly throughout unincorporated Okanogan County.
6. On July 17, 2013, the Okanogan County SEPA Responsible Official found the proposal was categorically exempt from SEPA determination and EIS requirements, in accordance with WAC 197-11-800 (19) and WAC 197-11-904 (5).
7. On July 23, 2013, notice of the proposed code amendment and public hearing was forwarded to various public agencies, with expertise in SEPA, for their respective review and comment. On July 24, 2013, notice of the proposed code amendment and Okanogan County Regional Planning Commission public hearing was published in the legal notice sections of the Omak Chronicle (Okanogan County's legal periodical of record) and the Methow Valley News.
8. On August 26, 2013, and again on October 28, 2013, the Okanogan County Regional Planning Commission conducted a public hearing for this code amendment. The Planning Commission considered all written comments and verbal testimony. Comments and testimony were received requesting retention of the current exemption levels for School District 350.
9. After considering all information in the record for this code amendment, the Planning Commission approved a motion to recommend that the Board of Okanogan County Commissioners approve the code amendment, including increased thresholds for categorical exemptions, while retaining lower thresholds for categorical exemptions for School District 350.
10. On December 25, 2013, notice of the proposed code amendment and public hearing with the Board of Okanogan County Commissioners was published in the legal notice section of the Omak Chronicle, Okanogan County's legal periodical of record.

11. On January 6, 2014, the Board of Okanogan County Commissioners conducted a public hearing for this code amendment at which time they considered all written comments and verbal testimony. The Board of County Commissioners considered the record and recommendation transmitted by the Planning Commission, comments received after the Planning Commission hearing, and new public testimony.
12. The Board of Okanogan County Commissioners finds that specific development proposals will be reviewed individually for environmental impacts, where applicable. Environmental elements of individual projects determined categorically exempt from SEPA threshold determination and EIS requirements would be regulated by numerous other landuse regulations administered by Okanogan County.
 - i. OCC Title 17 "Zoning" limits development by imposing stringent land use and density limitations, such as limiting any residential construction within the 100-year floodplain within the Methow Review District.
 - ii. OCC Chapter 14.12 "Critical Areas" limits development which may impact wildlife habitat, wetlands, streams, etc.
 - iii. The "Master Program for Okanogan County Shoreline Management" limits development and subdivisions within close proximity to the County's lakes and rivers which are designated as shorelines of statewide significance.
 - iv. OCC Chapter 15.08 "Floodplain Management" limits development and construction within designated floodplains.
 - v. OCC 15.02 "Building and Related Codes" regulates construction for purposes of protecting public health, safety and welfare.
 - vi. OCC Title 13 "Water and Sewers" regulates water and wastewater distribution systems, soil loading, and development density.
 - vii. OCC Title 16 "Subdivisions" regulates land divisions and adjustments by imposing stringent development guidelines and integrates compliance with other development regulations, including SEPA.
 - viii. "Okanogan County Road and Street Standards and Guidelines for Developments" regulate construction of roads for purposes of protecting public health, safety and welfare.
 - ix. Other state and federal regulations requiring environmental protection including but not limited to RCW 70.94 "Washington Clean Air Act" and associated laws and policies, numerous water quality, numerous hazardous waste regulations, and the "Endangered Species Act of 1973", and Environmental Policy SEPA threshold determination and EIS requirements when physically or functionally related to a greater project.
13. After considering all information in the record for this code amendment, the Board of County Commissioners directed staff to prepare amendments to Okanogan County Code 14.04.100 "Flexible Thresholds for Categorical Exemptions". The amendments would be applied uniformly throughout unincorporated Okanogan County and would not include separate provisions for School District 350. The Board of County Commissioners then continued the hearing to January 21, 2014 at 3:00pm leaving the record open to public comment and testimony.
14. On January 21, 2014, the Board of Okanogan County Commissioners conducted a public hearing for this code amendment at which time they considered written comments and verbal testimony and enabling documents ordered during the previous hearing date (January 6, 2014).

15. The Board of Okanogan County Commissioners find that SEPA was originally authorized in Washington State, NEPA at the national level, in order to require comprehensive environmental analysis where other regulations failed to achieve comprehensive environmental analysis. SEPA regulations have become redundant and burdensome due to numerous other environmental-based regulations which have been implemented since the implementation of SEPA.
16. The Board of Okanogan County Commissioners find that specific levels of categorical exemptions should be applied uniformly throughout all areas of unincorporated Okanogan County.
17. After considering all information in the record, the Board of Okanogan County Commissioners approved amendments to Okanogan County Code 14.04.100 "Flexible Thresholds for Categorical Exemptions". The amendments shall be applied uniformly throughout unincorporated Okanogan County and shall not include separate provisions for School District 350.

Exhibit C

The following are conclusions of law:

1. This amendment to Okanogan County Code revises Okanogan County's environmental policy by increasing SEPA exemption levels listed in 14.04.100 "Flexible thresholds for categorical exemptions" in accordance with Washington State WAC 197-11-800(1).
2. The proposed amendment would apply to unincorporated areas of Okanogan County. Increasing categorical exemptions levels should be uniformly applied county-wide in and would be consistent with the maximum levels allowed by recent amendments to WAC 197-11-800(1) "Minor New Construction – Flexible Thresholds".
3. Section 301(2)(d) of Washington State Senate Bill 6406 grants authority to local governments to apply the highest categorical exemption flexible threshold levels authorized under WAC 197-11-800 without amending local codes. Okanogan County desires to reflect these flexible thresholds within County code for good practice in order to avoid confusion to the public.
4. The proposed amendment applies to those lands designated under the "Okanogan County Comprehensive Plan", the "Methow Valley Addendum to the Okanogan County Comprehensive Plan", and the "Upper Methow Valley Comprehensive Plan". The proposed code amendment is consistent with the goals and policies of these plans.
5. This code amendment is exempt from SEPA determination and EIS requirements in accordance with WAC 197-11-800 (19) and WAC 197-11-904 (5).
6. SEPA was originally authorized in Washington State, NEPA at the national level, in order to require environmental protection where other regulations failed to achieve environmental protection. SEPA regulations have become redundant and burdensome due to numerous other environmental-based regulations which have been implemented since the original authorization of SEPA regulations.
7. Specific development proposals will be reviewed individually for environmental impacts, where applicable. Environmental elements of individual projects determined categorically exempt from SEPA threshold determination and EIS requirements would be regulated by numerous other landuse regulations administered by Okanogan County such as OCC Title 17 "Zoning", OCC Chapter 14.12 "Critical Areas", "Master Program for Okanogan County Shoreline Management", OCC Chapter 15.08 "Floodplain Management", OCC 15.02 "Building and Related Codes", OCC Title 13 "Water and Sewers", OCC Title 16 "Subdivisions", and "Okanogan County Road and Street Standards and Guidelines for Developments", And numerous other state and federal regulations requiring environmental protection including but not limited to RCW 70.94 "Washington Clean Air Act" and associated laws and policies, numerous water quality, numerous hazardous waste regulations, and the "Endangered Species Act of 1973", and Environmental Policy SEPA threshold determination and EIS requirements when physically or functionally related to a greater project.
8. Specific levels of categorical exemptions should be applied uniformly throughout all areas of unincorporated Okanogan County.

9. The public, and public agencies, were given ample notification of the proposal and opportunity to participate in the review process and give written comments and verbal testimony during open record public hearing with both the Okanogan County Regional Planning Commission and Board of Okanogan County Commissioners. All comments and testimony received have been considered by the Board of Okanogan County Commissioners in analysis of the proposed amendments to Okanogan County's environmental policy.
10. Approval of the proposed code amendment is in the interest of public health, safety and general welfare of the citizens of Okanogan County.