

**CITY OF STANWOOD  
Stanwood, Washington**

**ORDINANCE 1401**

**AN ORDINANCE OF THE CITY OF STANWOOD, WASHINGTON, AMENDING STANWOOD MUNICIPAL CODE (SMC) SUBSECTION 17.80.080(6) RELATING TO GRADING PERMITS AND SEPA REVIEW; AMENDING SMC SUBSECTION 17.149.090(2) RELATING TO SEPA CATEGORICAL EXEMPTIONS; ESTABLISHING SEVERABILITY AND AN EFFECTIVE DATE**

**WHEREAS**, under Chapter 36.70A RCW, the State Growth Management Act (GMA), the City is authorized to adopt concurrent zoning code amendments to implement its Comprehensive Plan; and

**WHEREAS**, amendments to the zoning code contained in SMC Title 17 are required to ensure consistency with the Comprehensive Plan; and

**WHEREAS**, the development regulation amendments relating to grading permits and SEPA categorical exemptions contained in this ordinance are consistent with the procedural guidelines for amendments to the development regulations of the City; and

**WHEREAS**, on June 22, 2015 the Stanwood Planning Commission reviewed the amendments set forth in this Ordinance during the amendment process; and

**WHEREAS**, the City of Stanwood SEPA Responsible Official reviewed the amendments and issued a Determination of Non-significance (DNS) on July 14, 2015; and

**WHEREAS**, on July 27, 2015, following notice as required by law, a public hearing was held by the Planning Commission and all persons wishing to provide public input concerning the proposed amendments set forth in this Ordinance were heard; and

**WHEREAS**, public notice of the SEPA DNS and the above-referenced public hearing were provided as required by law; and

**WHEREAS**, no comments or appeals were received as a result of the issuance of the DNS; and

**WHEREAS**, at its July 23, 2015 regular Council meeting the City Council reviewed the proposed amendments contained in this Ordinance and provided direction on each of the proposed amendments; and

**WHEREAS**, at its regular August 13, 2015 Council meeting the City Council reviewed the recommendation of the Planning Commission which is attached and incorporated herein as Exhibit A and concurred with said recommendation; and

**WHEREAS**, pursuant to RCW 36.70A.106, the City has notified the Washington State Department of Commerce of the City's intent to adopt the proposed amendments to the zoning code and allowing for a 60-day comment period; and

**WHEREAS**, during the 60 day comment period the State Department of Commerce did not provide comment; and

**WHEREAS**, the City has authority to enact thresholds for permitting and categorical exemptions that are consistent with those set forth in SEPA and WAC 197-11- the SEPA Guidelines; and

**WHEREAS**, the City Council finds that the processes set forth in WAC 197-11-800(1)(c) (i) – (iv) have or will be satisfied as follows:

1. On a project level basis the City will provide documentation that the requirements for environmental analysis, protection, and mitigation for impacts to elements of the environment listed in WAC 197-11-444 have been adequately addressed through the City's development regulations and applicable state and federal regulations;
2. City codes and practices will provide for notice and opportunity for comment to the public, affected tribes and agencies on a project specific basis regarding the increased exemption levels contained herein;
3. The City has provided a minimum of sixty (60) days notice to affected tribes, agencies with expertise, affected jurisdictions, the Department of Ecology and the public and has provided an opportunity to comment on the proposed new exemption levels;
4. On a project level basis the City will document how its development regulations and applicable state and federal laws provide adequate protections for cultural and historic resources resulting from the increased exemption levels set forth herein; and
5. The City Council also 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 land use regulations administered by the City of Stanwood. Such regulations include but are not limited to the following:
  - i. SMC Title 17 "Zoning" limits development by imposing stringent land use and density limitations, such as regulating construction within the 100- year floodplain within the Stillaguamish River floodplain and density of development.
  - ii. SMC Chapter 17.114 – Critical Areas – General Provision, Chapter 17.115 – Critical Areas – Geological Hazardous Area – Specific Standards, Chapter 17.120 – Critical Areas – Frequently Flooded Areas – Specific Standards, Chapter 17.125 – Critical Areas – Wetlands – Specific Standards, Chapter 17.130 – Critical Areas – Fish and Wildlife Habitat Conservation Areas – Specific Standards, Chapter 17.135 – Critical Areas – Critical Aquifer Recharge Areas – Specific Standards limits development which may impact wildlife habitat, wetlands, streams, etc.
  - iii. Chapter 17.150 "Shoreline Management" limits development and subdivisions within close proximity to the City's streams and rivers which are designated as shorelines of statewide significance.

- iv. Chapter 17.120 "Critical Areas – Frequently Flooded Areas – Specific Standards" limits development and construction within designated floodplains.
- v. Chapter 14.04 "Uniform Codes" regulates construction for purposes of protecting public health, safety and welfare.
- vi. Title 12 "Utilities" regulates water and wastewater distribution systems .
- vii. SMC Title 16 "Subdivisions" regulates land divisions and adjustments by imposing stringent development guidelines and integrates compliance with other development regulations, including SEPA.
- viii. Chapter 14.14 "Street and Utility Standards" regulate construction of roads and utilities (water, sewer, and stormwater) for purposes of protecting public health, safety and welfare.
- ix. Chapter 17.140 "Stormwater Management Performance Standards regulates the treatment of stormwater run-off.
- x. 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.

**WHEREAS**, the City Council has determined that it is in the best interests of the City to amend the subsections of Title 17 set forth below, all related to zoning and development;;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF STANWOOD, WASHINGTON, DO ORDAIN AS FOLLOWS:**

**Section 1.** SMC Subsection 17.80.080(6) is hereby amended to read as follows (all other provisions of SMC 17.80.080 entitled "Grading permits" remains in effect and unchanged):

**17.80.080 Grading permits.**

(6) SEPA. Grading applications for fills of 500 1,000 cubic yards or more or any fill located within a sensitive area or buffer shall require review under SEPA.

**Section 2.** SMC Subsection 17.149.090(2) is hereby amended to read as follows (all other provisions of SMC 17.149.090 entitled "Categorical exemptions" remains in effect and unchanged):

**17.149.090 Categorical exemptions.**

(2) The city adopts by reference WAC 197-11-800, entitled "Categorical Exemptions", but amends subsection (1)(b) to read as follows:

(b) The following types of construction shall be exempt, except when undertaken wholly or partly on lands covered by water:

(i) The construction or location of any single-family residential structures of ~~20~~ 30 dwelling units or fewer.

(ii) The construction or location of any multifamily residential structures of less than or equal to 60 dwelling units.

(iii) The construction of a barn, loafing shed, farm equipment storage building, produce storage or packing structure, or similar agricultural structure, covering ~~30,000~~ 40,000 square feet or less, and to be used only by the property owner or his or her agent in the conduct of farming the property. This exemption shall not apply to feed lots.

(iiiiv) The construction of an office, school, commercial, recreational, service or storage building with ~~42,000~~ 30,000 square feet or less of gross floor area, and with associated parking facilities and/or independent parking facility designed for ~~40~~ 90 automobiles parking spaces or fewer.

(iv) ~~The construction of a parking lot designed for 40 automobiles or less.~~

(vi) Any landfill or excavation of ~~500~~ 1,000 or fewer cubic yards throughout the total lifetime of the fill or excavation; and any fill or excavation classified as a class I, II, or III forest practice under RCW 76.09.050 or regulations thereunder.

**Section 3. Severability.** The various parts, sections and clauses of this ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby.

**Section 4. Effective Date.** This Ordinance shall take effect from and after five (5) days after its passage and publication as required by law.

**PASSED AND APPROVED** by the Stanwood City Council this 23<sup>rd</sup> day of November 2015.

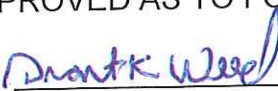
CITY OF STANWOOD

  
\_\_\_\_\_  
Leonard Kelley, Mayor

ATTEST:

By:   
\_\_\_\_\_  
Greg Thrasher, City Clerk

APPROVED AS TO FORM:

By:   
\_\_\_\_\_  
Grant Weed, City Attorney

Date of Publication: December 1, 2015

Effective Date: December 7, 2015