



# Director's Rule 12-2012

<b>Applicant:</b>  City of Seattle Department of Planning and Development	<b>Page</b> 1 of 14	<b>Supersedes:</b> DR 17-2008
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<b>Subject:</b>  State Environmental Policy Act (SEPA) Exemptions From Environmental Review Requirements When Establishing, Changing or Expanding A Use	<b>Code and Section Reference:</b> SEPA Sections 25.05.800 and 25.05.908	
	<b>Type of Rule:</b> Code Interpretation	
	<b>Ordinance Authority:</b> SMC 3.06.040	
<b>Index:</b>  City of Seattle State Environmental Policy Act (SEPA) Ordinance	<b>Approved</b>	<b>Date</b>
	<b>(Signature on file)</b> <u>1/9/2013</u> <b>Diane M. Sugimura, Director, DPD</b>	

## BACKGROUND:

Compliance with the State Environmental Policy Act (SEPA), Revised Code of Washington Chapter 43.21C, and the City's SEPA Ordinance, Seattle Municipal Code Chapter 25.05, is required when establishing a new use or changing or expanding an existing use. State SEPA regulations provide certain standards for "categorical exemption" of certain types of action from compliance with SEPA's procedural requirements related to environmental review, and Seattle's SEPA Ordinance provides more detail on how categorical exemptions apply in Seattle, in areas where the state regulations are flexible. The purpose of this Director's Rule is to provide further interpretation of the categorical exemptions associated with establishing a new use or changing or expanding an existing use. In other words, this rule helps determine when SEPA environmental review is required and when it is not.

Tables A and B for Section 25.05.800, showing the exemption levels for residential and non-residential uses, are referenced in this Rule as Table A.

**TABLE A**  
**SEPA Environmental Review Exemption Levels for**  
**Establishing a New Use with New Construction**  
**(SMC 25.05.800)**

Residential Uses			
Number of Exempt Dwelling Units			
Zone			Within Urban Centers, or Urban Villages Containing a Station Area Overlay District, if Growth Targets Have Been Exceeded
	Outside of Urban Centers and Urban Villages Containing a Station Area Overlay District	Within Urban Centers, or Urban Villages Containing a Station Area Overlay District	
SF, RSL	4	4	4
LR1	4	200 <sup>(1)</sup>	20
LR2	6	200 <sup>(1)</sup>	20
LR3	8	200 <sup>(1)</sup>	20
NC1, NC2, NC3, C1, C2	4	200 <sup>(1)</sup>	20
MR, HR, SM	20	200 <sup>(1)</sup>	20
Downtown zones	Not Applicable	250 <sup>(1)</sup>	20
Industrial zones	4	4	4

Notes: SAOD = Station Area Overlay District. Urban centers and urban villages are identified in the Seattle Comprehensive Plan.

1) Pursuant to RCW 43.21C.229, new residential development or the residential portion of new mixed-use development located in an urban center, or in an urban village that contains a SAOD, is categorically exempt from SEPA, unless the Department has determined that residential growth within the urban center or urban village has exceeded exemption limits for the center or village that the Department has established pursuant to subsection 25.05.800.A.1.i. **See Director's Rule 9-2012** (or successor rule). For purposes of this distinction, a "mixed use development" means a development having two or more principal uses, one of which is a residential use comprising 50 percent or more of the gross floor area.

The presence of environmentally critical areas and lands covered by water may also affect which exemption level applies. See Sections I.C, II.F, and III.C of this Rule for new uses, changes-of-use, and expansions of uses, respectively. Also, see Section I.E regarding counting residential units in uses such as nursing homes and congregate residences.

**Table A (continued)  
SEPA Environmental Review Exemption Levels for  
Establishing a New Use with New Construction  
(SMC 25.05.800)**

Zone	Non-Residential Uses		
	Exempt Area of Use (square feet of gross floor area)		
	Outside of Urban Centers and Urban Villages Containing a Station Area Overlay District	Within Urban Centers, or Urban Villages Containing a Station Area Overlay District	Within Urban Centers, or Urban Villages Containing a Station Area Overlay District, if Growth Targets Have Been Exceeded
SF, RSL, LR1	4,000	4,000	4,000
LR2, LR3	4,000	12,000 <sup>(1)</sup> or 30,000	12,000
MR, HR, NC1, NC2, NC3	4,000	12,000 <sup>(1)</sup> or 30,000	12,000
C1, C2, SM zones	12,000	12,000 <sup>(1)</sup> or 30,000	12,000
Industrial zones	12,000	12,000	12,000
Downtown zones	Not Applicable	12,000 <sup>(1)</sup> or 30,000	12,000

Notes: SAOD = Station Area Overlay District. Urban centers and urban villages are identified in the Seattle Comprehensive Plan.  
1) New nonresidential development that is not part of a mixed-use development and that does not exceed 12,000 square feet is categorically exempt from SEPA. Pursuant to RCW 43.21C.229, new non-residential development that does not exceed 30,000 square feet and that is part of a mixed-use development located in an urban center, or in an urban village that contains a SAOD, is categorically exempt from SEPA, unless the Department has determined that employment growth within the urban center or urban village has exceeded exemption limits for the center or village that the Department has established pursuant to subsection 25.05.800.A.1.i. **See Director's Rule 9-2012** (or successor rule).

See Sections I.C, II.F, and III.C of this Rule for more information on how these exemption levels relate to environmentally critical areas and lands covered by water.

**RULE:**

This Rule provides information on SEPA environmental review exemptions of the following types of actions:

- I. Establishing a New Use with New Construction
- II. Change of Use in an Existing Structure
- III. Expansion of an Existing Use or Structure
- IV. Other

**Section I. Exemptions for Establishing a New Use with New Construction**

- A. *Exemption levels for new uses shown in Table A.* Table A summarizes the highest levels of proposed development that are categorically exempt from SEPA environmental

review when a new use is established as the result of the construction of a new building or structure, or as the result of certain new uses of outdoor areas. These are also referred to as the "SEPA thresholds" because above these threshold levels SEPA environmental review will be required.<sup>1</sup> Other text in Section I provides further details, including thresholds for parking use in Section I.B. Also, see **Director's Rule 9-2012** for more information on Urban Centers, Urban Villages with light rail station areas, and their status with respect to growth monitoring and the higher "infill development" threshold levels. For purposes related to these thresholds, the term "infill development" refers to single-purpose residential development, or mixed-use development that contains residential use in at least 50% of its gross floor area, and one or more legal non-residential uses, when located in an Urban Center, or an Urban Village that contains a Station Area Overlay District.

- B. *Parking.* In all zones, construction or addition of parking spaces up to the threshold level of 40 parking spaces is exempt from SEPA review.<sup>2</sup> Larger amounts of parking are exempted when accessory to "infill development" in an Urban Center, or Urban Village that contains a Station Area Overlay District. Also see other rules on thresholds for expansion of parking in Section II.D and III.E (pages 9 and 11) in this Rule.

Parking thresholds are evaluated differently for uses, such as the following, that entail the storage and parking of automobile, bus and truck vehicles as an intrinsic element of the use:

- Towing service
- Major vehicle repair
- Sales and rental of motorized vehicles
- Outdoor parking areas for two or more fleet vehicles of more than 10,000 pounds gross vehicle weight

For such uses, thresholds of SEPA review will be based on square footage of the use, including outdoor lot area in active use, rather than the number of parking spaces.

- C. *Environmentally Critical Areas.* In Environmentally Critical Areas, lower thresholds for environmental review of non-residential uses apply, and vary depending on, among other factors, the environmental features of the site. The exemptions in Table A do not apply when uses are in certain Environmentally Critical Areas as specified in SMC Section 25.05.908.A (landslide-prone areas, steep slopes, riparian corridors, wetlands, and fish and wildlife habitat conservation areas), with the following exception: Establishing one single-family dwelling, when under 9,000 square feet of development coverage, is exempt from SEPA. For this purpose, "development coverage" means all disturbed land within a site that is planned for development or redevelopment. Newly disturbed areas within the abutting right-of-way, when associated with a development proposal are counted towards the proposal's total development coverage. Also see

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<sup>1</sup> Other criteria in this rule, addressing situations such as proposed changes in land use and expansions of existing uses, may also lead to a determination that SEPA environmental review is required.

<sup>2</sup> SMC 25.05.800 sets exempt levels for a parking lot designed for 40 "automobiles." For the purposes of this Rule, DPD considers "automobiles" to include other vehicles to be consistent with the Land Use Code definition of a parking area, which is an area "for the parking of vehicles."

SMC Chapter 25.09, Regulations for Environmentally Critical Areas. If a site is determined to be fully exempt from Environmentally Critical Areas review, then non-Environmentally Critical Areas thresholds apply.

*Lands covered by water.* On lands covered by water, any new construction, regardless of the number of units, gross floor area, or number of parking spaces proposed is subject to environmental review. See SMC 25.05.908 and Chapter 25.09, Regulations for Environmentally Critical Areas.

- D. *Mixed-use buildings.* For buildings containing both residential and non-residential uses, residential uses will be evaluated according to number of dwelling units, and non-residential uses will be evaluated according to square footage of gross floor area in the determination of exemption from environmental review. For example, if a development proposal in an NC3 zone **outside** an Urban Center and outside an Urban Village containing a Station Area Overlay District will contain 3,800 square feet of non-residential area and up to four dwelling units it will be exempt from SEPA review, even though the total floor area of all uses in the development proposal exceeds 4,000 square feet. Similarly, on a site in a Seattle Mixed (SM) zone **within** an Urban Center, or within an Urban Village with a Station Area Overlay District, a development proposal containing 29,900 square feet of non-residential area and up to 200 dwelling units (or 250 units in Downtown) may be exempt from SEPA review. Please note:
- floor area associated with residential uses is not counted as part of non-residential uses' gross floor area; and
  - the total combined non-residential gross floor area in a development proposal is the relevant measure, not floor area per individual business or any other such division of the non-residential gross floor area.
- E. *Determining total number of units.* The exemption is based on the total number of units on a development site or project, not on the number of units per structure. For residential uses not readily described as a discrete number of units, including nursing homes and congregate residences, the exemption will be based on a comparison of sleeping units (functionally equivalent to bedrooms) to dwelling units. Each bedroom will be counted as one-half of one dwelling unit in these cases.
- F. Non-residential thresholds for "live-work" uses. Live-work uses will be evaluated subject to the thresholds for non-residential uses.
- G. *Series of exempt structures or actions.* Pursuant to SMC 25.05.305, a series of exempt structures, or a series of exempt actions (i.e., approvals), may require environmental review if they are physically or functionally related to each other and together may have a probable significant adverse environmental impact, or if they are proposals or a series of actions that are related to each other closely enough to be considered a single course of action. This will be determined on a case-by-case basis by the Director.
- H. *Accessory uses.* An accessory use (other than parking) is considered part of the principal use, so the establishment of an accessory use in floor area that is already occupied by the principal use is exempt.

I. *Area of use.* For uses located in buildings, "area of use" shall mean gross floor area. For uses located outdoors, "area of use" shall mean the area devoted to that use. Examples of such outdoor uses include, but are not limited to, the following:

- Outdoor storage
- Outdoor sales areas
- Outdoor seating for restaurants, if outdoor seating area exceeds 750 square feet
- Outdoor sports and recreational facilities
- Salvage yards
- Towing company impound lots
- Gas station canopies
- Car washes

For public parks, the "area of use" shall include gross floor area of structures together with outdoor areas improved for active recreational uses, such as athletic fields.

## **Section II. Exemptions for Change of Use in an Existing Structure**

A. A proposal to change a use within an existing building requires SEPA review, regardless of the actual area being changed, when the change results in a building that, if built new, would have required SEPA review under Section I of this Rule.

### *B. Residential Uses*

1. SEPA review is required for proposals involving residential uses if a change of use:
  - adds or eliminates (e.g., by remodel or demolition) more than the exempt number of dwelling units for the zone (based on Section I, Table A of this Rule), or
  - increases or decreases the number of dwelling units by more than 50 percent (if the total unit count is already over the exempt level for the zone), or
  - increases the number of dwelling units such that the resulting total exceeds the exemption level for the first time (refer to Table A and Section II.A above), or
  - increases the number of dwelling units at all if the site is in an Environmentally Critical Area.

### *C. Non-Residential Uses*

1. For the purpose of these standards, actively used outdoor areas, as described in Section I.I above ("Area of Use"), shall be regulated in the same manner as floor area in a building.
2. Except as provided in Paragraph 3 below, there is a "change of use" subject to this Section (Section II) of the Rule, if:

- a. A new use is proposed to be established in an existing building (or actively used outdoor area) where the use does not now exist; OR
  - b. An increase is proposed in the area occupied by an existing use, replacing a different use.
3. Non-residential land uses are sorted into four categories, based on their intensity, in Table B. For the purposes of this rule, conversion of existing floor area from one use to another in a different category under Table B shall be considered a "change of use," and shall require SEPA review, except in industrial zones. In industrial zones, a change of use of existing floor area to a use in an adjacent category (for example, a change from a use in Category 3 to a use in Category 2 or 4) shall not require SEPA review. Uses listed in Table B are as defined in Chapter 23.84A of the Land Use Code. Uses not specifically listed in Table B will be considered to belong to the category containing the uses most similar in nature and/or relative intensity, in the judgment of the Director.
4. Subject to Sections II.C.1, 2, and 3 above, and except as specifically provided in Sections II.D, E and F below, a change of use of an area requires SEPA review if and only if the resulting use is non-residential and the change involves an area larger than the exempt area provided for the zone under Section I, Table A of this Rule.
5. *Changes within past two years are evaluated cumulatively.* The two-year past record of changes-in-use (from date of application) will be considered in determining whether SEPA review is required for a current proposal. If past changes-of-use in that timeframe, combined with a current proposal for change-of-use, add up to a change that involves an area that would require SEPA review if undertaken in a single proposal, SEPA review will be required for the current proposal.

**TABLE B**  
**Exemptions for Change of Use From One Non-residential Use to**  
**Another Non-residential Use in an Existing Building**

<b>USE CATEGORIES</b>
Category 1. The following uses: <ul style="list-style-type: none"><li>• Offices</li><li>• Research and development labs</li><li>• Business incubators</li><li>• Eating and drinking establishments</li><li>• Retail sales and service uses</li><li>• Automotive retail sales and service</li><li>• Sales and rental of motorized vehicles</li><li>• Lodging</li><li>• Medical offices and services</li><li>• Nursing homes</li><li>• Schools</li><li>• Religious facilities</li><li>• Major Institutions</li><li>• Theaters, lecture and meeting halls, spectator sports facilities</li><li>• Libraries, museums, community clubs and centers</li><li>• "Live-work" units</li><li>• Indoor participant sports and recreation uses</li></ul>
Category 2. The following uses: <ul style="list-style-type: none"><li>• Gas stations</li><li>• Towing services</li><li>• Custom and craft work</li><li>• Food processing for human consumption</li><li>• Animal shelters and kennels</li><li>• Rail transit facilities</li><li>• Passenger terminals</li><li>• Marine sales and services</li><li>• Mini-warehouses</li><li>• Utility services</li></ul>
Category 3. The following uses: <ul style="list-style-type: none"><li>• Adult motion picture theaters, adult panorams, adult cabarets</li><li>• Heavy commercial sales and services</li><li>• Major automotive vehicle repair</li><li>• Vehicle storage and maintenance</li><li>• Warehouse</li><li>• Wholesale showroom</li><li>• Light manufacturing</li><li>• General manufacturing</li><li>• Cargo terminals</li><li>• Dry boat storage</li><li>• Construction services</li></ul>

Category 4. The following uses:

- Salvage yards
- Heavy manufacturing
- Major communication utility
- Jails
- Work-release centers
- High-impact uses
- Power plants
- Recycling
- Sewage treatment plant
- Solid waste management

Notes: If a use is not listed in this table, it will be categorized according to its relative intensity compared to other uses listed in these categories, in the judgment of the Director.

- D. *Parking*. Except where parking is exempted from SEPA review because it is accessory to an otherwise exempt “infill development” in an Urban Center, or an Urban Village that contains a Station Area Overlay District, a change of use that is an increase of more than 40 parking spaces will require SEPA review. An increase in parking that causes the total parking quantity to surpass 40 spaces for the first time will require SEPA review, regardless of the number of parking spaces added, unless it is part of an “infill development” located in an Urban Center, or an Urban Village that contains a Station Area Overlay District.<sup>3</sup>
- E. *Landmarks*. If the subject property includes a landmark, a change of use may require SEPA review. Refer to CAM 3000 for more information.
- F. If located over water or in an Environmentally Critical Area listed in SMC 25.05.908A (including landslide-prone areas, riparian corridors, wetlands, and fish and wildlife habitat conservation areas), any change of use will require SEPA review.

### **Section III. Exemptions for Expansion of an Existing Use or Structure**

- A. *SEPA Review Exemptions for Expansions Described in Table C*. The exemptions in Table C relate to physical expansions in uses or structures (including more floor area, larger building footprint and/or increased parking), which may or may not relate to increased total dwelling unit counts.<sup>4</sup>

Any expansion up to the amount shown on Table C does not require SEPA review, unless located over water or in an Environmentally Critical Area. See Section III.C below.

- B. *Based on Entire Development at the Site*. Exemptions from SEPA will be based on the area and number of units in the entire development on the site, rather than based on the area and number of units in individual structures.

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<sup>3</sup> Refer to Section I.B about uses for which parking thresholds are measured according to square footage.

<sup>4</sup> Refer to Section II for guidance on changes in use in an existing structure if that is applicable.

**TABLE C**  
**Exemptions from SEPA Review for Expansions of Existing Uses or Structures, Not Including Expansions on Lands Covered by Water or in Environmentally Critical Areas**

<b>Use/Zone</b>	<b>Level of expansion exempt from SEPA</b>
<b>RESIDENTIAL USES</b>	
Single Family Residence	All expansions are exempt, except as further limited on lands covered by water and for certain expansions in Environmentally Critical Areas.
Expansion of multifamily structure without adding units	If the total number of units remains less than the exempt number of units for a new building in the zone according to Section I of this Rule, then any structural addition is exempt from SEPA review. If the total number of units is already over the exempt number of units under Section I, an expansion of the structure is exempt from SEPA review if it does not add dwelling units.
Addition of units to a multifamily or mixed-use development	If the total number of dwelling units remains less than the exempt number of units for a new building in the zone according to Section I of this Rule, then a structural addition that adds units is exempt from SEPA review. If a development already exceeds the applicable threshold, an increase of no more than 50 percent in the total number of units in the development on the site is exempt from SEPA review, unless the number of units added itself exceeds the categorical exemption for the zone.
<b>NON-RESIDENTIAL USES</b>	
Applicable to all zones where non-residential uses are allowed	If existing gross floor area in non-residential use in a development is below the applicable threshold, an increase in gross floor area is exempt if it doesn't bring the total non-residential gross floor area of the development over the applicable threshold for the first time. If an existing development already exceeds the applicable threshold, an increase of up to 50 percent of the existing gross floor area is exempt if the floor area increase itself is no more than the applicable threshold. (Refer to the thresholds in Table A of this Rule.)
Parking	40 parking spaces. See Section III.E for more guidance.

C. *Environmentally Critical Areas.* In certain Environmentally Critical Areas (known and potential landslide areas, steep slope areas, riparian corridors, wetlands, and fish and wildlife habitat conservation areas, as regulated under SMC Chapter 25.09), physical expansion of a single family residential development, including accessory structures and site work, is categorically exempt from SEPA review if development coverage does not exceed 9,000 square feet. (See definition of "development coverage in Section I.C of this Director's Rule, and the definition of "development" in SMC 25.09.520). Expansion of any other building or any outdoor area devoted to active use requires SEPA review if the site is in one of the listed Environmentally Critical Areas, provided that if the site qualifies for an exemption from Environmentally Critical Areas review such that the site

is treated as non-critical, it shall be treated as a non-critical area for purposes of determining SEPA exemption levels.

- D. *Lands Covered by Water*. Physical expansion of structures on or over lands covered by water shall require SEPA review.
- E. *Parking*. Refer to Sections I.B and II.D for parking thresholds that also relate to expansions of uses, including for uses that may involve outdoor parking or storage of vehicles. The SEPA review exemption for parking that is accessory to “infill development” in an Urban Center, or an Urban Village containing a Station Area Overlay District, as mentioned in Sections I.A and I.B of this Rule, also will apply to expansions of uses as long as they qualify as this type of “infill development.”

*Parking expansions within past five years are evaluated cumulatively.* The five-year past record of parking expansions (from date of application) will be considered in determining whether SEPA review is required for a current proposal. If past parking expansions in that timeframe, combined with a current proposal for parking expansion, add up to an expansion of more than 40 parking spaces that would require SEPA review if undertaken in a single proposal, SEPA review will be required for the current proposal (unless it is undertaken as part of an expansion of use that qualifies as “infill development” in an Urban Center, or an Urban Village containing a Station Area Overlay District).

- F. *Mixed-use buildings*. For buildings containing both residential and non-residential uses, residential uses will be evaluated according to number of dwelling units, and non-residential uses will be evaluated according to square footage of gross floor area in the determination of exemption from environmental review. Refer to Section I.D for further description, and Section I.F regarding “live-work” uses.

#### **Section IV. Other Exemptions and Thresholds**

- A. *Lot Boundary Adjustments*. Lot boundary adjustments do not require SEPA review.
- B. *Short Plats*. Short subdivision of land, in areas not covered by water and not designated as Environmentally Critical Areas, does not require SEPA review. Pursuant to SMC 25.05.908, short platting in Environmentally Critical Areas is not exempt from environmental review, even if the result is to create only one additional lot. SEPA review is required for short subdivision of lands covered by water.
- C. *Repair or Minor Alteration of Structures*. The repair, remodeling, maintenance, enclosure or minor alteration of existing structures, or of portions of existing structures, is exempt from SEPA so long as it does not result in a material expansion or change of use. The following list contains examples of accessory features that, when altered, repaired, maintained or added to an existing structure located outside of any Environmentally Critical Area or any lands covered by water, are exempt from SEPA review:
  - 1. Stairways and stairwells
  - 2. Heating and air conditioning equipment

3. Porches and decks
  4. Canopies, awnings and marquees
  5. Fences
  6. Landscaping
  7. Signs, other than billboards
  8. Doors, entrances, and windows
  9. Roofing or siding
  10. Painting
  11. Transformer vaults
  12. Mechanical penthouses
  13. Restrooms
  14. Barrier-free access
- D. *Tanks*. Installation of one or more underground tanks is exempt from SEPA review unless the total capacity of the tank or tanks exceeds 10,000 gallons. Installation of cisterns to hold rainwater or other above-ground tanks will be evaluated for their relationship to SEPA exemptions by considering them as structures or parts of structures and counting their footprint coverage area as part of gross floor area. Such coverage will be evaluated against the non-residential use exemption levels in Section I, Table A of this Rule.
- E. *Grading*. The grading of less than 500 cubic yards in areas other than those designated as Environmentally Critical Areas or lands covered by water is exempt from SEPA review.
- F. *Interior Demolition and Structural Reinforcement*. In nonexempt projects, interior demolition and structural reinforcement activities shall be considered exempt activities and shall be permitted under SMC 25.05.305 unless:
1. The activities may alter designated or eligible historical features; or
  2. The activities will eliminate the effective maintenance of a use in the current use category. The approval of these exempt activities does not constitute approval of nonexempt activities.
- G. *Accessory Communication Devices*. The following accessory communication devices qualify as "minor accessory facilities" under SMC 25.05.800 B.4 and are categorically exempt from SEPA review:
1. Satellite dish antennas that transmit and receive if:
    - accessory to a use located on the same site,
    - 6 feet or less in diameter, and
    - use no more than 2 watts of power.
  2. Point-to-point dish and panel antennas that transmit as well as receive, if:
    - accessory to a use located on the same site, and
    - no more than 4 feet in diameter or 15 square feet.
  3. Receive-only dish and panel antennas, if
    - accessory to a use located on the same site, and

- no more than 12 feet in diameter or 38 square feet.

H. *Minor Antennas*. The following shall be categorically exempt from SEPA review:

- “Whip” antennas: Tubular antennas (resembling flagpoles) if they are 4 inches or less in diameter.
- GPS (global positioning satellite) antennas: Small, round antennas (resembling hockey pucks) that are typically placed on roofs of buildings.
- “Test mobile” antennas: Small, prism-shaped antennas that are mounted near other antennas to act as monitors.

I. *Addition of Antennas to Existing Transmission Towers*. Addition of one or more antennas to an existing transmission tower shall be categorically exempt from SEPA review unless the addition constitutes “physical expansion of a communication utility” as defined at SMC 23.84.006.

J. *Satellite Earth Station Antennas*. The following standards shall govern whether SEPA review is required for satellite earth station antennas (which are dishes or similar antennas pointed up at satellites in geostationary orbit):

1. *Antennas one meter (3.28 feet) or smaller in diameter*. SEPA review shall be required only if the antenna is to be located in a historic district or on a site or structure designated as a historic landmark.
2. *Antennas two meters (6.56 feet) in diameter or smaller, but larger than one meter in diameter*. SEPA review is required for those antennas to be located in residential zones (including single family, multifamily, DMR and IDR). SEPA review is not required for those antennas to be located in other downtown zones or in commercial or industrial zones.<sup>5</sup>
3. *Antennas larger than two meters in diameter*. SEPA review is required unless the antenna qualifies for an exemption under another section of this Rule.

K. *Video Programming Antennas*. Video programming antennas are “over-the-air reception” antennas that allow people to receive satellite television signals. Some video programming antennas are also satellite earth stations, which may qualify for exemption under Section IV.I of this Rule. No SEPA review is required for installation of the following types of antenna, unless the antenna is to be located in a historic district or on a site or structure designated as a historic landmark:

1. TBS: An antenna designed to receive television broadcast services.
2. DBS: An antenna, one meter or less in diameter, designed to receive direct broadcast satellite service, including direct-to-home satellite service.
3. MMDS: An antenna, one meter or less in diameter or on the diagonal, designed to receive video programming services via multi-point distribution services.

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<sup>5</sup> Taken together, paragraphs J1 and J2 of this Section reflect an anomaly in federal law that the City remains bound to uphold: If the site is a historic landmark or is in a historic district, and the zoning is not residential, an antenna up to one meter in diameter would require SEPA review, while an antenna that is greater than one meter in diameter but less than two meters in diameter would not require SEPA review. (*Compare* 47 CFR 25.104 *and* 47 CFR 1.4000.)

L. *Microcells and Other Personal Wireless Communication Service Antennas.* The following standards govern whether personal wireless service facilities are exempt from SEPA review:

1. Microcells: A facility is exempt from SEPA review if:
  - it is a microcell and
  - it is to be attached to an existing structure that does not contain a residence or a school.
2. Other personal wireless service antennas: A facility is exempt from SEPA review if:
  - it includes personal wireless services antennas, other than a microcell, and
  - it will be attached to an existing structure (which may be a tower) that does not contain a residence or a school, and
  - it is located in a Commercial, Downtown, or Industrial zone.
3. Towers (including monopoles): A facility is exempt from SEPA review if:
  - it is a personal wireless service tower less than 60 feet in height and
  - it is located in a Commercial, Downtown, or Industrial zone.

M. *Key Definitions in State Law.* State law defines “personal wireless services” as “commercial mobile services, unlicensed wireless services and common carrier wireless exchange access services, as defined by federal laws and regulations.” (RCW 43.21C.0384(3)(a).) Cellular telephone facilities fall under the category of commercial mobile services.

“Microcell” is defined as “a wireless communication facility consisting of an antenna that is either: (i) Four feet in height and with an area of not more than five hundred eighty square inches; or (ii) if a tubular antenna, no more than four inches in diameter and no more than six feet in length.” (RCW 43.21C.0384 (3)(c).) The exemption for a microcell is limited to facilities with no more than one microcell antenna. If an applicant proposes to add two or more microcell antennas at a single site, the exemption does not apply. If a proposed facility will consist of more than one microcell, or both a microcell and other personal wireless service antennas that do not meet the definition of “microcell,” whether the facility is exempt from SEPA review shall be determined according to Section IV.L, paragraph 2 (“Other personal wireless service antennas”) of this Rule. If it is attached to an existing structure that does not contain a residence or a school, and it is located in a Commercial, Downtown, or Industrial zone, it qualifies for an exemption from SEPA review.

N. *Farmer's Markets.* An intermittent retail sales use occurring not more often than two days per week, providing opportunities for residents to purchase produce, art/craft items, and similar goods from temporary facilities such as tables and covered areas, is exempt from SEPA review, based on interpretation of the intent of SMC 25.05.800.N.3-4, which indicate that licenses to operate or engage in charitable or retail sales and service activities, including but not limited a wide variety of shops (in N.4) and entertainment activities (in N.3) are exempt.