

**City of Mill Creek Community Development Director/SEPA Responsible Official
Administrative Order No. 2012-01**

Authority: MCMC 14.03.020 and MCMC 14.09.010(A)(7) authorize the Community Development Director to make administrative interpretations without need for public notice in order to carry out the Director's duty to administer the City of Mill Creek's Development Code. MCMC 18.04.090 designates the Community Development Director as the SEPA Responsible Official.

Background: As signed by the governor and effective July 10, 2012, Section 301 of 2ESSB 6406 (Laws of 2012, 1st Sec. Sess., ch. 1) requires the state Department of Ecology to engage in a rulemaking process to review categorical exemption thresholds to the State Environmental Policy Act (SEPA). Section 301(2)(d) states in relevant part:

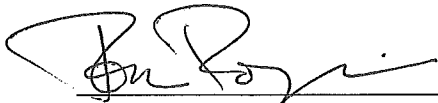
Until the completion of the ruling making required under this section, a city or county *may apply* the highest categorical exemption levels authorized under WAC 197-11-800 to any action, regardless if the city or county with jurisdiction has exercised its authority to raise the exemption levels above the established minimums, *unless* the city or county with jurisdiction passes an ordinance or resolution that lowers the exemption levels to a level below the allowed maximum but not less than the default minimum levels detailed in WAC 197-11-800.

This new law provides cities discretionary authority to raise their categorical exemption thresholds without approval from their governing bodies. Because the grant of authority uses the term "may," the law does not require cities to raise categorical exemption thresholds.

Discretionary authority to apply different standards than those adopted by a city's governing body creates a potential for confusion and a public perception of arbitrary decision making. To avoid any perception of arbitrary decision making and to avoid conflict with the SEPA categorical exemption thresholds contemplated and adopted by the City of Mill Creek City Council, it is in the best interest of the City not to exercise the discretionary authority granted by Section 301(2)(d) of 2ESSB 6406.

Administrative Order: In light of the foregoing background, I hereby direct applicable City staff to continue to utilize the categorical exemption thresholds adopted in Chapter 18.04 MCMC and not exercise the discretion granted by the legislature in Section 301(2)(d) of 2ESSB 6406 (Laws of 2012, 1st Sec. Sess., ch. 1).

This Order is made on this 24th day of July 2012.



Tom Rogers, Community Development Director