

**CITY OF MOUNTLAKE TERRACE**

**ORDINANCE NO. 2756**

**AN ORDINANCE OF THE CITY OF MOUNTLAKE TERRACE REVISING THE TOWN CENTER PLANNED ACTION AREA TO BE CONSISTENT WITH THE COMPREHENSIVE PLAN AND TOWN CENTER SUBAREA PLAN, AND MODIFYING THE PLANNED ACTION DEVELOPMENT THRESHOLDS AND MITIGATION MEASURES PURSUANT TO THE STATE ENVIRONMENTAL POLICY ACT, AND REPEALING ORDINANCE NO. 2616 AND CHAPTER 19.90 OF TITLE 19 OF THE MOUNTLAKE TERRACE MUNICIPAL CODE AND REPLACING CHAPTER 19.90 WITH A NEW CHAPTER 19.90 “TOWN CENTER PLANNED ACTION”**

**WHEREAS**, the State Environmental Policy Act (“SEPA”) and implementing rules provide for the integration of environmental review with land use planning and project review through designation of “Planned Actions” by jurisdictions planning under the Growth Management Act (“GMA”); and

**WHEREAS**, the City has adopted a Comprehensive Plan complying with the GMA, and previously designated the Town Center as a planned action in in 2007, and amended the planned action area boundaries and development thresholds in 2013, consistent with changes adopted in the Comprehensive Plan and Town Center subarea plan; and

**WHEREAS**, in September 2019, the City adopted a revised subarea plan for the Town Center which contemplated revising the designated “Planned Action” for the Town Center; and

**WHEREAS**, designation of a Planned Action expedites the permitting process for subsequent, implementing projects whose impacts have been previously addressed in a Planned Action environmental impact statement (“EIS”), and thereby encourages desired growth and economic development; and

**WHEREAS**, the City issued a Final Supplemental EIS for the Town Center Subarea Plan Update on September 18, 2019, which expands on the previously issued EIS and EIS Addendum for the Town Center subarea, and identifies impacts and mitigation measures associated with planned development in the Town Center; and

**WHEREAS**, the City Council adopted development regulations which will provide protection for the environment, and further adopted zoning regulations specific to the Town Center which will guide the location, form, and quality of desired development.

**WHEREAS**, as part of the public process, community meetings were held on April 22, 2019 at 6:00 pm and May 6, 2019 at 6:00 pm, following notice to the state agencies with jurisdiction and the affected federally recognized tribal governments; and

**WHEREAS**, the Planning Commission, after public notice as required, held a public hearing on the Town Center Planned Action Ordinance on August 5, 2019, at 7:00 pm, reviewed the public record, and made a recommendation to the City Council; and

**WHEREAS**, the City Council, after public notice as required, held a public hearing on the Town Center Planned Action Ordinance on August 5, 2019, reviewed the Planning Commission’s recommendation and other items of public record, and found that the proposed ordinance meets the criteria of MTMC 19.110.240.C for a zoning code text amendment and is consistent with state law.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MOUNTLAKE TERRACE, WASHINGTON, DOES HEREBY ORDAIN AS FOLLOWS:**

**Section 1. Recitals.** The Recitals set forth above are hereby adopted and incorporated as Findings of Fact and/or Conclusion of Law of the City Council pursuant to the requirements of the Mountlake Terrace Municipal Code 19.110.240(C). The City Council bases its findings and conclusions on the entire record of testimony and exhibits, including all written and oral testimony before the Planning Commission and the City Council.

**Section 2. Replacement Chapter.** Chapter 19.90, Town Center Planned Action, of the Mountlake Terrace Municipal Code and Ordinance No. 2616 are hereby repealed and a new Chapter 19.90, “Town Center Planned Action,” to read as follows:

**Chapter 19.90**  
**TOWN CENTER PLANNED ACTION**

Sections:

- 19.90.010 Purpose.
- 19.90.020 Definitions.
- 19.90.030 Procedures and criteria for evaluation and determining projects as planned actions.
- 19.90.040 Monitoring and review.

**19.90.010 Purpose.**

The purpose of this chapter is to:

- A. Combine analysis of environmental impacts with the City’s development of plans and regulations;
- B. Designate the Mountlake Terrace Town Center as a Planned Action for purposes of environmental review of subsequent, implementing projects pursuant to the State Environmental Policy Act (SEPA), RCW 43.21C.440;
- C. Establish criteria and procedures, consistent with state law, that will determine whether subsequent projects qualify as Planned Actions;
- D. Provide the public with information about Planned Actions and how the City will process implementing projects;

E. Streamline and expedite the land use review and approval process by relying on the environmental impact statement (EIS), EIS Addendum, and Supplemental EIS completed for the planned action; and

F. Apply the City's development regulations together with the mitigation measures described in the EIS and this ordinance to address the impacts of future development contemplated by the Planned Action.

#### **19.90.020 Definitions.**

“Comprehensive Plan” means the Comprehensive Plan, as identified in MTMC 18.10.010.

“Department” means the Community and Economic Development Department.

“SEPA Responsible Official” means the Planning and Community Development Director or his or her designee.

“Town Center Subarea Plan” means the Town Center Subarea Plan, as identified in MTMC 19.90.030.

“Traffic Engineer” means the City's Traffic Engineer, as designated by the City's Engineering Services Director or his/her designee.

#### **19.90.030 Procedures and criteria for evaluating and determining projects as planned actions.**

A. Planned Action Area. The Planned Action designation shall apply to the approximately 98-acre Town Center subarea, which is generally bounded by 230<sup>th</sup> Street SW on the north, 55<sup>th</sup> Avenue W on the east, 237<sup>th</sup> Street SW on the south, and Interstate Highway 5 on the west, and that is specifically shown in Exhibit A, “Planned Action Area,” which is attached hereto and adopted by reference as though fully set forth herein and which shall be available from the department.

B. Environmental document. A Planned Action determination for a site-specific implementing project application shall be based on the environmental analysis contained in the Town Center Planned Action Supplemental EIS issued by the City on July 19, 2019, the EIS Addendum published on April 10, 2013, and the Final Town Center Planned Action EIS published on August 10, 2007. The mitigation measures contained in Exhibit B, which are attached hereto and adopted by reference as though fully set forth herein and which shall be available from the department, are based upon the findings of the Town Center EIS, the EIS Addendum, and the Town Center Plan Update Supplemental EIS, and shall, along with adopted City regulations, provide the framework that the City will use to review and to impose appropriate conditions on qualifying Planned Action projects.

C. Planned Action designated. Land uses and activities described in the Town Center Plan Update Supplemental EIS, subject to the thresholds described in subsection D of this section and the mitigation measures contained in Exhibit B, are designated Planned Actions or Planned Action Projects pursuant to RCW 43.21C.440 and WAC 197-11-172. A development application for a site-specific Planned Action project located within the Town Center Planned Action area shall be designated a Planned Action if it meets the criteria set forth in subsection D of this section and applicable laws, codes, development regulations and standards of the City.

D. Planned Action qualifications. The following thresholds shall be used to determine if a site-specific development proposed within the Town Center Planned Action area is contemplated by the Planned Action and has had its environmental impacts evaluated in the Town Center Plan Update Supplemental EIS, the Planned Action EIS and/or the EIS Addendum:

1. Land Use. The following primary land uses and levels of development described in the Town Center Plan Update Supplemental EIS, along with conditional and accessory uses permitted in the Community Business Downtown District, are considered Planned Actions:

- a. Commercial services;
- b. Commercial retail;
- c. Medical/health care, excluding hospitals and ambulance services;
- d. Recreation/entertainment/cultural, excluding parks and plazas that are not part of an approved site plan for a permitted or conditional use;
- e. Eating/drinking establishments;
- f. Transportation facilities, limited to bus shelters;
- g. Residential, including: motels/hotels, live-work units, attached single family, and multi-family units;
- h. Manufacture, processing or assembly of items that are sold from or displayed in a show/sales room directly fronting the street;

2. Development Thresholds.

a. The following amount of various land uses are contemplated by the Planned Action:

<b>Land Use</b>	<b>Development Amount</b>
Commercial:	625,000 sq. ft.
- Office & Services	410,000 sq. ft.
- Retail	215,000 sq. ft.
Residential	3,000 units

b. If future development proposals in the Town Center Planned Action area exceed the development thresholds specified in this chapter, further environmental review may be required pursuant to WAC 197-11-172. Further, if proposed development would alter the assumptions and analysis in the Town Center Plan Update Supplemental EIS, further environmental review may be required. Provided, that shifting the total build out between categories of uses may be permitted so long as the total build-out does not exceed the aggregate amount of development, trip generation and parking thresholds reviewed in the Supplemental EIS, and so long as the impacts of that development have been identified in the Town Center Plan EIS, EIS Addendum or Supplemental EIS and are mitigated consistent with Exhibit B.

3. Building Heights. Building heights shall be as identified in the applicable Town Center zoning designation(s).

4. Transportation.

a. The maximum net new PM peak hour weekday vehicle trips analyzed in the Town Center Plan Update Supplemental EIS was 930.

<b>Vehicle Trips Generated by Proposed Action</b>	<b>PM Peak Hour</b>
Current Town Center Planned Action Trip Generation	2,475
Increase in Vehicle Trips Generated by Proposed Action	930
Proposed Action Trip Generation	3,405

Source: City of Mountlake Terrace, 2013; Fehr & Peers, 2019.

b. Trip Threshold. Uses or activities that would exceed the maximum trip levels shown above would not qualify as Planned Actions and would require additional environmental review.

c. City Engineer Discretion. The City Engineer or his/her designee shall have discretion to determine incremental and total trip generation, consistent with the Institute of Traffic Engineers (ITE) Trip Generation Manual (latest edition) or an alternative manual accepted by the City Engineer at his sole discretion, for each project permit application proposed under this Planned Action.

d. Traffic Impact Mitigation. All Planned Action projects shall pay, as a condition of approval, their proportionate share of Town Center street and other transportation improvements that have been determined to be necessary to support planned development within the Town Center. Impact fees applicable to each Planned Action project are identified in the schedule, and will be determined according to the methodology contained in the ordinance adopting such impact fees. The City may adjust such fees from time to time.

5. Elements of the Environment and Degree of Impacts. A proposed project that would result in a significant change in the type or degree of impacts to any of the elements of the environment analyzed in the Town Center Plan Planned Action EIS, EIS Addendum and/or Supplemental EIS, would not qualify as a Planned Action.

6. Changed Conditions. Should environmental conditions change significantly from those analyzed in the Planned Action EIS and EIS Addendum, the City's SEPA Responsible Official may determine that the Planned Action designation is no longer applicable until supplemental environmental review is conducted.

7. Additional Mitigation Fees. The City may adopt and apply such other fees as may be deemed necessary and appropriate to mitigate impacts to other capital facilities in the Town Center and to accommodate planned growth. Such fees, if adopted, shall be in addition to the fee required in item (4)(d) of this subsection, and shall apply only to required improvements that are not addressed in this subsection.

E. Planned Action review criteria.

1. The City's SEPA Responsible Official may designate as "planned actions", pursuant to RCW 43.21C.030, applications that meet all of the following conditions:

a. The proposal is located within the planned action area identified in Exhibit A, pursuant to subsection A of this section;

b. The proposed uses and activities are consistent with those described in the Planned Action EIS and EIS Addendum, and subsection D of this section;

c. The proposal is within the Planned Action thresholds and other criteria of subsection D of this section of this ordinance;

d. The proposal is consistent with the City of Mountlake Terrace Comprehensive Plan and the Town Center Subarea Plan;

e. The proposal's significant adverse environmental impacts have been identified in the Planned Action EIS, EIS Addendum and/or Supplemental EIS;

f. The proposal's significant impacts of the proposal have been mitigated by application of the measures identified in Exhibits B and C, and other applicable city regulations, together with any modifications or variances or special permits that may be required;

g. The proposal complies with all applicable local, state and/or federal laws and regulations, and the Responsible Official determines that these constitute adequate mitigation; and

h. The proposal is not an essential public facility as defined by RCW 36.70A.200, unless the essential public facility is part of or accessory to a residential, office, school, commercial, recreational, service or industrial development that is designated as a planned action.

2. The City shall base its decision on designation on review of a SEPA checklist, or an alternative form developed consistent with applicable provisions of RCW 43.21C, and review of the application and supporting documentation.

3. A proposal that meets the criteria of this section shall be considered to qualify and be designated as a planned action, consistent with the requirements or RCW 43.21C.440, WAC 197-11-164 et seq, and this ordinance.

F. Effect of Planned Action

1. Designation as a planned action project means that a qualifying proposal has been reviewed in accordance with this ordinance and found to be consistent with its development parameters and thresholds, and with the environmental analysis contained in the Planned Action EIS, EIS Addendum and Supplemental EIS.

2. Upon determination by the City's SEPA Responsible Official that the proposal meets the criteria of Section 3.D and qualifies as a planned action, the proposal shall not require a SEPA threshold determination, preparation of an EIS, or be subject to further review pursuant to SEPA.

G. Planned Action permit process. Applications for planned actions shall be reviewed pursuant to the following process.

1. Development applications shall meet the applicable requirements of Mountlake Terrace Municipal Code (MTMC) Titles 12 through 19. Applications for planned actions shall be made on forms provided by the City and shall include a SEPA checklist, or a Planned Action SEPA checklist.

2. The City's Planning and Community Development Director shall determine whether the application is complete as provided in MTMC 19.110.030.

3. If the application is for a project within the Planned Action Area defined in Exhibit A, the application will be reviewed to determine if it is consistent with the criteria of this ordinance and thereby qualifies as a Planned Action project. The SEPA Responsible Official shall notify the applicant of his/her decision. If the project is determined to qualify as a Planned Action, it shall proceed in accordance with the applicable permit review procedures specified in MTMC 19.110.090, except that no SEPA threshold determination, EIS or additional SEPA review shall be required. The decision of the SEPA Responsible Official regarding qualification as a Planned Action shall be final.

4. Public notice and review for projects that qualify as Planned Actions shall be provided pursuant to RCW 43.21C.440(3)(b) and MTMC 19.110.080 and 19.110.090.

5. Development Agreement. To provide additional certainty, the City or an applicant may request consideration and execution of a development agreement for a qualifying Planned Action project. The development agreement may address review procedures applicable to a planned action project, permitted uses, mitigation measures, payment of impact fees, design standards, phasing, vesting of development rights, and any other topic that may properly be considered in a development agreement consistent with RCW 36.70B.170 et seq.

6. If a project is determined to not qualify as a Planned Action, the SEPA Responsible Official shall so notify the applicant and prescribe a SEPA review procedure consistent with the City's SEPA regulations and the requirements of state law. The notice shall describe the elements of the application that result in failure to qualify as a Planned Action.

7. Projects that fail to qualify as Planned Actions may incorporate or otherwise use relevant elements of the Town Center Plan Update Supplemental EIS, as well as other relevant SEPA documents, to meet their SEPA requirements. The SEPA Responsible Official may limit the scope of SEPA review for the non-qualifying project to those issues and environmental impacts

not previously addressed in the EIS, EIS Addendum and Supplemental EIS prepared for the Town Center Plan and Planned Action.

**19.90.040 Monitoring and review.**

A. The City shall monitor the progress of development in the designated Planned Action area to ensure that it is consistent with the assumptions of this ordinance and the Planned Action EIS and EIS Addendum regarding the type and amount of development and associated impacts, and with the mitigation measures and improvements planned for the Town Center.

B. This Planned Action chapter and its underlying ordinance shall be reviewed no later than December 1, 2024 by the SEPA Responsible Official to determine the continuing relevance of its assumptions and findings with respect to environmental conditions in the Planned Action area, the impacts of development, and required mitigation measures. Based upon this review, the City may propose amendments to this ordinance and/or may supplement or revise the Town Center Supplemental EIS.

**Section 3. Conflict.** In the event of a conflict between this Ordinance or any mitigation measure imposed thereto, and any ordinance or regulation of the City, the provisions of this Ordinance shall control.

**Section 4. Severability.** Should any term or provision of this ordinance be found to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other term or provision of this Ordinance.

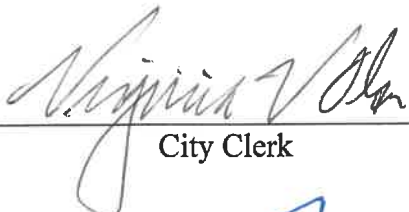
**Section 5. Effective Date.** This Ordinance shall take effect five days after its adoption and publication as required by law.

**Section 6. Expiration.** This Ordinance shall expire ten (10) years from the date of adoption unless it is extended by the City Council following a report from the SEPA Responsible Official and a public hearing.

**Section 7. Publication.** This Ordinance or a summary thereof consisting of the title shall be published in the official newspaper of the City.

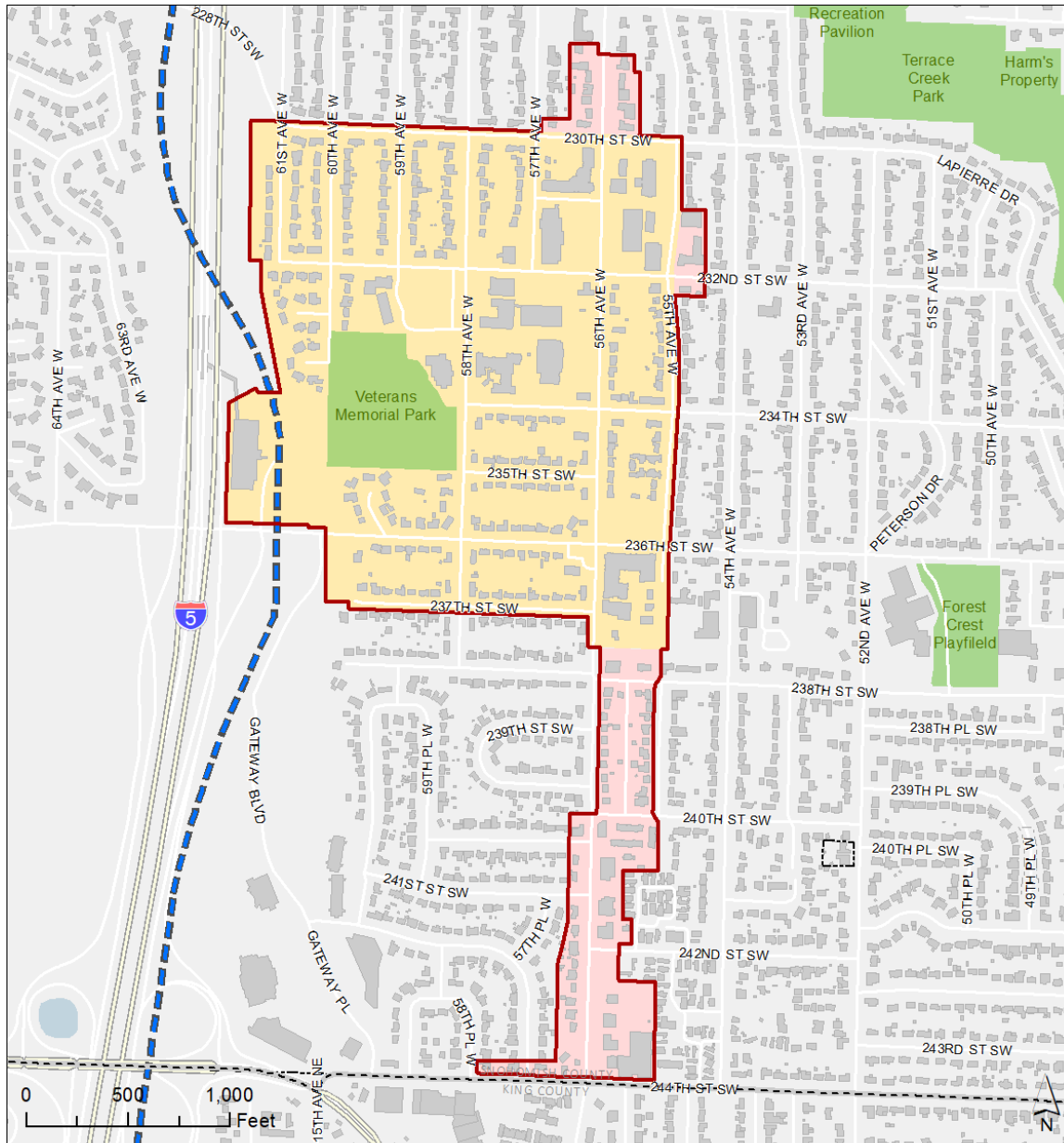
PASSED by the City Council of the City of Mountlake Terrace this 26<sup>th</sup> day of September, 2019 and signed into authentication of its passage this 26<sup>th</sup> day of September, 2019.

  
Mayor Kyoko Matsumoto Wright

ATTEST:   
City Clerk

APPROVED AS TO FORM:   
Gregory G. Schrag, City Attorney

### EXHIBIT A PLANNED ACTION AREA



**Planned Action Ordinance Area**

- |                   |                                          |
|-------------------|------------------------------------------|
| County Boundary   | Planned Action Area                      |
| City Boundary     | <b>Proposed Town Center Designations</b> |
| Urban Growth Area | Town Center Core                         |
| Water Body        | Town Center Reserve                      |
| Light Rail Route  |                                          |





**EXHIBIT B****TOWN CENTER PLAN UPDATE  
PLANNED ACTION MITIGATION MEASURES**

The Planned Action EIS has identified significant beneficial and adverse impacts that are anticipated to occur with the future development of the Planned Action Area, together with a number of possible measures to mitigate those significant adverse impacts. Please see Final EIS Chapter 1 Summary for a description of impacts, mitigation measures, and significant unavoidable adverse impacts.

A Mitigation Document is provided in this **Exhibit B** to establish specific mitigation measures based upon significant adverse impacts identified in the Planned Action EIS. The mitigation measures in this **Exhibit B** shall apply to Planned Action Project applications that are consistent with the Proposed Action Alternative reviewed in the Planned Action EIS and which are located within the Planned Action Area (see **Exhibit A**). These mitigation measures are in addition to the application of City development regulations and requirements of City, state, and federal agencies.

Where a mitigation measure includes the words “shall” or “will,” inclusion of that measure in Planned Action Project application plans is mandatory in order to qualify as a Planned Action Project. Where “should” or “would” appear, the mitigation measure may be considered by the project applicant as a source of additional mitigation, as feasible or necessary, to ensure that a project qualifies as a Planned Action Project. Unless stated specifically otherwise, the mitigation measures that require preparation of plans, conduct of studies, construction of improvements, conduct of maintenance activities, etc., are the responsibility of the applicant or designee to fund and/or perform.

Any and all references to decisions to be made or actions to be taken by the City’s SEPA Responsible Official may also be performed by the City’s SEPA Responsible Official’s authorized designee.

**Air Quality*****Short Term***

Construction activities related to development approved under the Planned Action could generate fugitive dust, which would be subject to Puget Sound Clean Air Authority (PSCAA) Regulation I. Applicants shall follow best management practices (BMPs) to control fugitive dust. These include, but are not limited to:

- Use water sprays or other non-toxic dust control methods on unpaved roadways.
- Minimize vehicle speed while traveling on unpaved surfaces.
- Prevent track out of mud onto public streets.
- Cover soil piles when practical.
- Minimize work during periods of high winds when practical.

Burning of slash or demolition debris shall not be permitted without express approval from PSCAA. No slash burning is anticipated for any construction projects in the City.

Mobile construction equipment and portable stationary engines would emit air pollutants including NO<sub>x</sub>, CO, and diesel particulate matter. These emissions would be temporary and localized. It is highly unlikely that the temporary emissions would cause ambient concentrations at adjoining parcels to approach the National Ambient Air Quality Standards (NAAQS) limits. However, applicants shall use the following measures to minimize air quality and odor issues caused by tailpipe emissions:

- Maintain the engines of construction equipment according to manufacturers' specifications.
- Minimize idling of equipment while the equipment is not in use.

### ***Long Term***

Where applicable, all project-specific SEPA and NEPA documentation for individual new roadway improvement projects, are required to conduct CO hot spot modeling (as required under WAC 173-420) to demonstrate that the projects would not cause localized impacts related to increased CO emissions from vehicle tailpipes at congested intersections.

All stationary emission sources associated with new commercial facilities shall be required to register with PSCAA (Regulation I and Regulation II).

### **Land Use Patterns and Policies**

No mitigation measures beyond compliance with Comprehensive Plan, Town Center Plan, and Zoning Code.

### **Aesthetics**

No mitigation measures beyond compliance with Comprehensive Plan, Town Center Plan, Zoning Code, and development regulations.

### **Public Services**

The City will construct a plaza in the Town Center of approximately 20,000 square feet. This is needed in part to provide a gathering space for the entire community and in part to meet recreational needs of additional residents and workers in the Planned Action area, thereby reducing impacts on existing parks. Park impact fees for the plaza, pursuant to Chapter 18.35 MTMC, shall be collected. Development of the plaza may be funded through a combination of grants, city funds, impact fees, and developer contributions.

All Planned Action Project Applications shall be distributed for comment by the City to the South Snohomish County Fire & Rescue Fire Marshall. Project applications shall be conditioned to meet Fire Marshall recommendations and any associated mitigation agreements. Conditions may include, but are not limited to:

- Mandatory installation of fire sprinklers, water system improvements, or building access requirements that would provide improved access for emergency vehicles.
- Design of frontage streetscape improvements to avoid impeding emergency vehicle access
- Mitigation agreement addressing potential staffing and equipment needs at nearby fire stations.

**Transportation**

Consistent with 19.90.030 (D)(4) Planned Action Project Applications shall pay a fair share mitigation fee for capital improvements not otherwise addressed by the City's transportation impact fee based on the share of PM peak hour trips generated and distributed to the following intersections:

- 230<sup>th</sup> Street SW / 56<sup>th</sup> Avenue W
- 234<sup>th</sup> Street SW / 56<sup>th</sup> Avenue W

**Utilities**

- Water: The City may require Planned Action Project Applications to extend, replace, upgrade, or relocate water mains to serve proposals to meet adopted standards of service consistent with the Town Center Plan Update Final SEIS and City of Mountlake Terrace Comprehensive Water System Plan.
- Sewer: The City will prepare plans for use of its remaining sewer treatment capacity, as per the agreement with the City of Edmonds, when the 85% utilization rate is reached.
- Power and Natural Gas: Mitigation requirements for power and natural gas services will be determined by service providers in consultation with the City on a case-by-case basis as the Planned Action is implemented.
- Telecommunications: All Planned Action Project Applications shall be distributed for comment by the City to the provider of telecommunication facilities that have existing wireless communication facilities in the Planned Action Area in Exhibit A. The City may condition Planned Action Project Applications that exceed 60 feet to provide for continuous telecommunication service, such as through relays or pole relocation.