



City of Lake Stevens Vision Statement

By 2030, we are a sustainable community around the lake with a vibrant economy, unsurpassed infrastructure and exceptional quality of life.



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CITY COUNCIL REGULAR MEETING AGENDA
Lake Stevens School District Educational Service Center (Admin. Bldg.)
12309 22nd Street NE, Lake Stevens

Tuesday, February 9, 2016 – 7:00 p.m.

NOTE:

WORKSHOP ON VOUCHERS AT 6:45 P.M.

CALL TO ORDER: 7:00 P.M. Mayor

PLEDGE OF ALLEGIANCE Council President

ROLL CALL:

GUEST BUSINESS:

APPROVAL OF AGENDA:

COUNCIL BUSINESS: A Employee Recognition
B Council Reports

MAYOR'S BUSINESS: A Employee Recognition
B Subcommittee Schedules
C Special Meeting / Retreat

CITY DEPARTMENT REPORT

CONSENT AGENDA: *A Approve 2016 Vouchers Barb
*B Approve January 25, 2016 City Council Special Meeting Minutes Barb

PUBLIC MEETING: *A Brookside Division II Final Plat Acceptance and Right of Way Dedication Amy

Lake Stevens City Council Regular Meeting Agenda

February 9, 2016

- ACTION ITEMS:**
- *A Approve Lexipol Update to Chapter 1011-Personnel Complaints Dan
 - *B Approve Lexipol Update to Chapter 1013-Seat Belts Dan
 - *C South Lake Stevens Road – Non-motorized Shoulder Widening Survey Adam
 - *D Approve Supplemental Agreement No. 3 Perteeet, Inc. re 20th Street SE Phase II Right of Way Acquisition Mick
 - *E Approve Professional Services Agreement with Universal Field Services, Inc. Mick

- STUDY SESSION:**
- *A Introduction to Critical Areas Regulations Amy
 - *B Clearing and Grading Permit Regulations Stacie
 - *C Sign Code Updates Stacie
 - *D Sign Fees Russ
 - *E Administrative Authority Russ

EXECUTIVE SESSION

ADJOURN

* ITEMS ATTACHED	** ITEMS PREVIOUSLY DISTRIBUTED	# ITEMS TO BE DISTRIBUTED
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THE PUBLIC IS INVITED TO ATTEND

Special Needs

The City of Lake Stevens strives to provide accessible opportunities for individuals with disabilities. Please contact Steve Edin, City of Lake Stevens ADA Coordinator, (425) 377-3227, at least five business days prior to any City meeting or event if any accommodations are needed. For TDD users, please use the state's toll-free relay service, (800) 833-6384, and ask the operator to dial the City of Lake Stevens City Hall number.

NOTICE:

All proceedings of this meeting are audio recorded, except Executive Sessions

CITY DEPARTMENT REPORT
FEBRUARY 9, 2016 CITY COUNCIL REGULAR MEETING

Finance/City Clerk

- The City's recent audit report is posted on the City's web page within the Finance Reports.

Planning Department

Long Range:

- We have received two citizen-initiated comprehensive plan amendments to the Land Use Map and one city-initiated amendment to the Capital Facilities Plan for new streets and park projects that will be included on the 2016 Docket.
- We have received four rezone requests.
- We have introduced several code amendments to the Planning Commission including Critical Areas updates, Clearing and Grading updates and new Administrative Authority. We will be introducing some Sign Code Amendments, FEMA updates and Stormwater updates in March.
- We have completed the Request for Proposal for the Downtown Subarea Plan which will be distributed this month.
- The Park Board meets on February 8 and will discuss Park Sign Standards, potential Economic Development Activities in Parks and current Park Projects.

Building / Current Planning

- We have received 19 applicants for the building inspector / code enforcement position with several likely candidates. Interviews should begin in the next couple of weeks. The Building Official has been doing approximately ½ of the building inspections with the County completing the rest with an average of about 20 inspections per day.
- We have received 126 building permit applications since the beginning of the year and continue to have large volumes of single-family permit applications.
- We have received 12 land use permit applications this year including Rezones, Comp Plan Amendments, Short Plats and Grading Permit applications.

Economic Development

- Traveled with International Council of Shopping Centers Government Relations to Olympia for a day meeting.
- Working with SBDC and Chamber on brewers' business forum.
- Ongoing meetings with retail prospects and local businesses.

Police Department

- The records department at LSPD has hit an all-time high of 250 passports for the month of January 2016. These numbers are impressive since we only process passports from 1:00 to 4:30 pm, Monday–Friday. The passport office is an ancillary duty for our records staff, who still perform their other duties that are required to be completed. The Police Department will be looking to expand the hours for passports in the future, once we are fully staffed.
- Detective Kerry Bernhard was recently appointed to the position of Detective with LSPD. She was selected after competing for the position with three other candidates and recommended by the interview panel. Detective Bernhard has been with our agency since 2010. She previously worked in Florida as an Officer with Florida Fish & Wildlife. Detective Bernhard will be assigned to the Regional Property Crimes Unit and will officially move to the position on March 1, 2016.
- Officer Michael Hingtgen & Records Specialist Jennifer Anderson were named the 2015 Officer and Employee of the year. They were selected by their peers for their outstanding work and leadership to the department. Officer Hingtgen has been with Lake Stevens PD since 2013 and

previously worked for the Granite Falls Police Department. Records Specialist Jennifer Anderson has been with Lake Stevens PD since 2007 and previously worked in customer service and retail. Both of these individuals are highly motivated and are mentors to many in the organization.

Public Works Department

- Hartford/Centennial Trail Head – the surveyor has been given notice to proceed. It is expected to be completed by early next month. Staff will perform the design. This project will require a transfer of land between the City and the adjacent property owner. This will be performed through an internal process called a boundary line adjustment. It is hoped that if the property owner agrees to accept this boundary line adjustment, the City can perform the construction of the trail in June of this year (early estimated time target).
- 91st Avenue SE and North Lakeshore – Notice to proceed has been issued for surveys on both properties. This work is expected to be completed within 60 days. Once the survey is received, staff will begin the design work on these projects. It is currently anticipated that construction will be performed late this year. Coordination with the adjacent property owners is in process.
- Lundeen House – the City is working with the Chamber President and Vice President to develop a shared facility agreement. The target is to have at least a draft agreement completed by March/April. Site work is starting on the exterior of the building which will include removal of some vegetation and trees, earth work for the ramp, additional parking near the building, additional lighting, and preparation for concrete sidewalks.
- Grade Road Closure – acquisition of the property is in process and notification to the property owner has occurred. The City's website on the status has been upgraded. Once access has been obtained, the Geotech Engineer can begin on site analysis to perform the design and stream relocation plans. The State is the permitting jurisdiction in this case and the design plans are critical for this action. It is hoped that the City can relocate the stream this year during the "fish window" (when no fish are migrating) and get approval to perform construction shortly afterward (outside of the fish window). If approval is not given for work outside the fish window, then the repairs will occur the following year (2017). Staff is making every effort to get approval to perform all the work in 2016.
- City Beautification Plan – with the emphasis on attracting investors to the City of Lake Stevens, a proposed concept of a "City Beautification Plan" will be presented to the Council. The intent of this plan is to highlight Lake Stevens' charm and street appeal. This could include a variety of ways of accomplishing this and it is being proposed at this point as a concept only so that it can be developed through a Council Committee and board. Proposed groups are the Economic Committee and the Arts Board.

Human Resources

- The City submitted its 2016 WellCity Application to AWC. We should hear the results by April. Achieving WellCity status is important as it lowers the City's medical insurance premiums.
- The Wellness Committee is working on the 2016 WellCity work program for our 2017 application.
- A background check on our Public Works Crew Worker (Parks) candidate is underway.
- Recruiting for an Associate Planner to replace Amy Lucas is underway.
- Applicants are being reviewed for the vacant position of Building/Code Compliance Inspector.
- The Police Department is finishing up the background investigation on one Police Officer candidate and the remaining Records Clerk candidate.

BLANKET VOUCHER APPROVAL
2016

Payroll Direct Deposits	2/1/2016	\$142,761.40
Payroll Checks	39753-39754	\$4,109.82
Tax Deposit(s)	2/1/2016	\$57,680.02
Electronic Funds Transfers	ACH	\$171,639.56
Claims	39755-39844	\$182,348.67
Void Checks	38569, 38712, 38502	(\$1,424.28)
Total Vouchers Approved:		\$557,115.19

This 9th day of February 2016:

I, the undersigned, do hereby certify under penalty of perjury that the materials have been furnished, the services rendered or the labor performed as described herein, that any advance payment is due and payable pursuant to a contract or is available as an option for full or partial fulfillment or a contractual obligation, and that the claim is a just, due and unpaid obligation against the City of Lake Stevens, and that I am authorized to authenticate and certify to said claim.

 Finance Director/Auditing Officer

 Mayor

We, the undersigned Council members of the City of Lake Stevens, Snohomish County, Washington, do hereby approve for payment of the above mentioned claims:

 Councilmember



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Checks to be Approved for 1/27/2016 to 2/9/2016

Name	Ck #	Date	Invoice #	Account #	Account Desc	Item Desc	Check Total		
Ace Hardware	39776							Check Total	\$87.91
		2/9/2016	49313	001-012-569-00-31-00	CS-Aging Services-Supplies	Continuity Tester	\$9.76		
			49346	001-012-569-00-31-00	CS-Aging Services-Supplies	Element socket wrench	\$10.85		
			49366	001-012-569-00-31-00	CS-Aging Services-Supplies	Hot water tank thermostats	\$67.30		
ACES	39777							Check Total	\$209.00
		2/9/2016	11345VM	001-005-517-60-31-00	HR-Safety Program	Safety mtg: Safety & Health Attitudes	\$47.94		
				101-016-517-60-31-00	ST-Safety Program	Safety mtg: Safety & Health Attitudes	\$80.53		
				410-016-517-60-31-00	SW-Safety Program	Safety mtg: Safety & Health Attitudes	\$80.53		
Nathan Adams	39755							Check Total	\$750.00
		1/28/2016	2016	001-008-521-20-26-00	LE-Clothing	2016 Clothing Allowance	\$750.00		
AFLAC	0							Check Total	\$1,447.04
		2/9/2016	02/01/2016	001-000-284-00-00-00	Payroll Liability Other	Employee paid Insurance Prem	\$1,447.04		
Alexander Printing	39778							Check Total	\$231.89
		2/9/2016	45466	001-001-511-60-31-00	Legislative - Operating Costs	Business cards-McDaniel/Hilt	\$82.45		
			45548	001-004-514-23-31-00	FI-Office Supplies	Window Security Envelopes	\$149.44		
Assoc of Washington Cities EFT	0							Check Total	\$93,510.08
		2/9/2016	02/01/2016	001-000-283-00-00-00	Payroll Liability Medical	Medical Insurance Premium	\$93,510.20		
				001-013-518-30-20-00	GG-Benefits	Medical Insurance Premium	(\$0.12)		
Wayne Aukerman	39756							Check Total	\$750.00
		1/28/2016	2016	001-008-521-20-26-00	LE-Clothing	2016 Clothing Allowance	\$750.00		
James Barnes	39757							Check Total	\$750.00
		1/28/2016	2016	001-008-521-20-26-00	LE-Clothing	2016 Clothing Allowance	\$750.00		
		39779							Check Total
	2/9/2016	1/25/16 req	001-008-521-20-43-00	LE-Travel & Meetings	Meals for training in Marysville-Barnes	\$18.00			
Kerry Bernhard	39758							Check Total	\$750.00
		1/28/2016	2016	001-008-521-20-26-00	LE-Clothing	2016 Clothing Allowance	\$750.00		
		39780							Check Total
	2/9/2016	1/7/16 req	001-008-521-20-43-00	LE-Travel & Meetings	Meals for training - Bernhard	\$75.00			
Ron Brooks	39759							Check Total	\$750.00
		1/28/2016	2016	001-008-521-20-26-00	LE-Clothing	2016 Clothing Allowance	\$750.00		



Checks to be Approved for 1/27/2016 to 2/9/2016

Name	Ck #	Date	Invoice #	Account #	Account Desc	Item Desc	Check Total		
Cindy Brooks	39781							Check Total	\$636.00
		2/9/2016	3/14-3/18/16	001-008-521-20-43-00	LE-Travel & Meetings	Meals for Training - C Brooks	\$318.00		
			3/7-3/11/16	001-008-521-20-43-00	LE-Travel & Meetings	Meals for Training - C Brooks	\$318.00		
Carquest Auto Parts Store	39782							Check Total	\$227.02
		2/9/2016	2421-233388	001-010-576-80-31-00	PK-Operating Costs	Air Compressor Oil	\$44.26		
				101-016-544-90-31-02	ST-Operating Cost	Air Compressor Oil	\$44.27		
				410-016-531-10-31-02	SW-Operating Costs	Air Compressor Oil	\$44.27		
		2421-233771	001-010-576-80-31-00	PK-Operating Costs	5W-30 Motor Oil	\$31.41			
			101-016-544-90-31-02	ST-Operating Cost	5W-30 Motor Oil	\$31.41			
410-016-531-10-31-02	SW-Operating Costs		5W-30 Motor Oil	\$31.40					
David Carter	39760							Check Total	\$750.00
		1/28/2016	2016	001-008-521-20-26-00	LE-Clothing	2016 Clothing Allowance	\$750.00		
Chad Christensen	39761							Check Total	\$750.00
		1/28/2016	2016	001-008-521-20-26-00	LE-Clothing	2016 Clothing Allowance	\$750.00		
Code Publishing Co	39783							Check Total	\$249.24
		2/9/2016	335416	001-003-514-20-41-00	CC-Professional Services	Electronic code update Ord 948	\$74.77		
			52029	001-003-514-20-41-00	CC-Professional Services	Supplemental code update #9	\$174.47		
Comcast	39784							Check Total	\$93.96
		2/9/2016	1/16 0810218	001-008-521-20-42-00	LE-Communication	Internet service - N Lakeshore Dr	\$93.96		
	39785							Check Total	\$106.14
2/9/2016	1/16 0692756	001-008-521-20-42-00	LE-Communication	Internet service - Market Place	\$106.14				
Comdata Corporation	39786							Check Total	\$604.63
		2/9/2016	20236419	001-008-521-20-32-00	LE-Fuel	Fuel	\$604.63		
Dept of Licensing	0							Check Total	\$3,129.00
		2/9/2016	1425-1503	633-008-586-00-00-00	Gun Permit - State Remittance	Weapons permits	\$1,341.00		
			1507-1614	633-008-586-00-00-00	Gun Permit - State Remittance	Weapons permits	\$1,788.00		
Dept of Retirement (Deferred Comp)	0							Check Total	\$2,240.00
		2/9/2016	02/01/2016	001-000-282-00-00-00	Payroll Liability Retirement	Employee Portion-State Deferre	\$2,240.00		
Dept of Retirement PERS LEOFF	0							Check Total	\$63,038.57
		2/9/2016	02/01/2016	001-000-282-00-00-00	Payroll Liability Retirement	PERS LEOFF Contributions	\$63,038.57		



Checks to be Approved for 1/27/2016 to 2/9/2016

Name	Ck #	Date	Invoice #	Account #	Account Desc	Item Desc	Check Total		
Dicks Towing	39787							Check Total	\$125.58
		2/9/2016	148599	001-008-521-20-31-01	LE-Operating Costs	Evidence towing case 2016-0838	\$125.58		
Steven Edin	39788							Check Total	\$65.10
		2/9/2016	2/1/16 req	001-005-518-10-31-00	HR-Office Supplies	Printer Ink	\$21.64		
				001-008-521-20-31-00	LE-Office Supplies	Flash drives for pulbic records request	\$43.46		
Electronic Federal Tax Pmt System EFTPS	0							Check Total	\$57,680.02
		2/9/2016	02/01/2016	001-000-281-00-00-00	Payroll Liability Taxes	Federal Payroll Taxes	\$57,680.02		
Electronic Business Machines	39789							Check Total	\$239.25
		2/9/2016	AR27168	001-013-518-20-48-00	GG-Repair & Maintenance	Copier maintenance	\$239.25		
Everett Stamp Works	39790							Check Total	\$123.91
		2/9/2016	15367	001-007-558-50-31-01	PL-Operating Costs	Nameplates	\$49.79		
			17527	001-004-514-23-31-00	FI-Office Supplies	Nameplate - Edin	\$20.55		
				001-005-518-10-31-00	HR-Office Supplies	Nameplate - Edin	\$20.56		
			17562	001-001-511-60-31-00	Legislative - Operating Costs	Desk nameplate holder	\$21.12		
			17665	001-007-558-50-31-01	PL-Operating Costs	Nameplate - Trout	\$11.89		
Feldman and Lee	39791							Check Total	\$9,000.00
		2/9/2016	Jan 2016	001-011-515-91-41-00	LG-General Indigent Defense	Public Defender services January 2016	\$9,000.00		
Brandon Fiske	39762							Check Total	\$750.00
		1/28/2016	2016	001-008-521-20-26-00	LE-Clothing	2016 Clothing Allowance	\$750.00		
Donna Foster	39792							Check Total	\$43.79
		2/9/2016	36036	101-016-544-90-31-01	ST-Office Supplies	Address labels	\$6.93		
				410-016-531-10-31-01	SW-Office Supplies	Address labels	\$6.92		
			36044	001-008-521-20-31-01	LE-Operating Costs	Awards Ceremony Invitations	\$29.94		
Frontier	39793							Check Total	\$85.02
		2/9/2016	2/16 4253340835	001-013-518-20-42-00	GG-Communication	Telephone service	\$28.34		
				101-016-543-30-42-00	ST-Communications	Telephone service	\$28.34		
				410-016-531-10-42-00	SW-Communications	Telephone service	\$28.34		
Glens Rental Sales and Service	39794							Check Total	\$614.02
		2/9/2016	S6690	001-010-576-80-31-00	PK-Operating Costs	Chainsaw MS261C-M20 Tag 1023	\$184.76		
				101-016-544-90-31-02	ST-Operating Cost	Chainsaw MS261C-M20 Tag 1023	\$184.76		
				410-016-531-10-31-02	SW-Operating Costs	Chainsaw MS261C-M20 Tag 1023	\$184.77		



Checks to be Approved for 1/27/2016 to 2/9/2016

Name	Ck #	Date	Invoice #	Account #	Account Desc	Item Desc		
Glens Rental Sales and Service	39794	2/9/2016	S6691	001-010-576-80-31-00	PK-Operating Costs	Chains for chainsaw	\$19.91	
				101-016-544-90-31-02	ST-Operating Cost	Chains for chainsaw	\$19.91	
				410-016-531-10-31-02	SW-Operating Costs	Chains for chainsaw	\$19.91	
Grainger	39795						Check Total	\$268.43
		2/9/2016	9002224203	001-010-576-80-31-00	PK-Operating Costs	Alkaline Batteries	\$17.54	
				101-016-544-90-31-02	ST-Operating Cost	Alkaline Batteries	\$17.54	
				410-016-531-10-31-02	SW-Operating Costs	Alkaline Batteries	\$17.54	
			9004003860	001-010-576-80-31-00	PK-Operating Costs	Ballpoint Pens	\$14.11	
				101-016-544-90-31-01	ST-Office Supplies	Ballpoint Pens	\$14.10	
				410-016-531-10-31-01	SW-Office Supplies	Ballpoint Pens	\$14.10	
			9004551678	001-010-576-80-31-00	PK-Operating Costs	Soap Dispenser	\$48.74	
			9004828092	101-016-544-90-31-02	ST-Operating Cost	Light fixtures	\$37.73	
				410-016-531-10-31-02	SW-Operating Costs	Light fixtures	\$37.73	
			9005775904	001-010-576-80-31-00	PK-Operating Costs	Sharps Container	\$10.02	
				101-016-544-90-31-02	ST-Operating Cost	Sharps Container	\$10.03	
				410-016-531-10-31-02	SW-Operating Costs	Sharps Container	\$10.03	
			9006290903	001-012-569-00-31-00	CS-Aging Services-Supplies	Water heater element - Senior Center	\$19.22	
Gavin Heinemann	39763						Check Total	\$750.00
		1/28/2016	2016	001-008-521-20-26-00	LE-Clothing	2016 Clothing Allowance	\$750.00	
Michael Hingtgen	39764						Check Total	\$750.00
		1/28/2016	2016	001-008-521-20-26-00	LE-Clothing	2016 Clothing Allowance	\$750.00	
Home Depot	39796						Check Total	\$242.69
		2/9/2016	132552	001-010-576-80-31-00	PK-Operating Costs	Plywood	\$80.89	
				101-016-544-90-31-02	ST-Operating Cost	Plywood	\$80.90	
				410-016-531-10-31-02	SW-Operating Costs	Plywood	\$80.90	
HWA Geosciences Inc	39797						Check Total	\$1,856.00
		2/9/2016	26245	101-016-544-20-41-00	ST-Prof Srv - Engineering	24th St SW-Prelim Geotechnical Review	\$1,856.00	
IACP	39798						Check Total	\$150.00
		2/9/2016	1001189290	001-008-521-20-49-00	LE-Dues & Memberships	2016 membership-Dan Lorentzen	\$150.00	
Industrial Supply Inc	39799						Check Total	\$93.74
		2/9/2016	571451	001-010-576-80-31-00	PK-Operating Costs	Gloves	\$31.25	



Checks to be Approved for 1/27/2016 to 2/9/2016

Name	Ck #	Date	Invoice #	Account #	Account Desc	Item Desc		
Industrial Supply Inc	39799	2/9/2016	571451	101-016-544-90-31-02	ST-Operating Cost	Gloves	\$31.25	
				410-016-531-10-31-02	SW-Operating Costs	Gloves	\$31.24	
Dennis Irwin	39765						Check Total	\$750.00
		1/28/2016	2016	001-008-521-20-26-00	LE-Clothing	2016 Clothing Allowance	\$750.00	
J Thayer Company	39800						Check Total	\$158.75
		2/9/2016	1014311-0	001-001-511-60-43-00	Legislative - Travel & Mtgs	Supplies for council retreat	\$19.07	
				001-003-514-20-31-00	CC-Office Supply	Report covers/Toner	\$101.98	
				001-013-518-20-31-00	GG-Operating	Post it flags/Typewriter correction tape	\$37.70	
				1015102-0	GG-Operating	Office supplies	\$67.58	
				c1014311-0	GG-Operating	Office supplies	(\$67.58)	
JJ Polygraph Service LLC	39801						Check Total	\$400.00
		2/9/2016	1243	001-008-521-20-41-00	LE-Professional Services	New employee polygraphs	\$400.00	
Joshua Kilroy	39766						Check Total	\$750.00
		1/28/2016	2016	001-008-521-20-26-00	LE-Clothing	2016 Clothing Allowance	\$750.00	
Lake Stevens Police Guild	39802						Check Total	\$963.00
		2/9/2016	02/01/16	001-000-284-00-00-00	Payroll Liability Other	Employee Paid Union Dues	\$963.00	
Lowes Companies	39803						Check Total	\$260.70
		2/9/2016	907359	001-012-569-00-31-00	CS-Aging Services-Supplies	LED emergency lights at Senior Center	\$124.42	
			997038	001-012-575-50-31-00	CS-Community Center-Ops	HVAC filters for Community Center	\$136.28	
Christopher Lyons	39767						Check Total	\$750.00
		1/28/2016	2016	001-008-521-20-26-00	LE-Clothing	2016 Clothing Allowance	\$750.00	
Robert Miner	39768						Check Total	\$750.00
		1/28/2016	2016	001-008-521-20-26-00	LE-Clothing	2016 Clothing Allowance	\$750.00	
Mick Monken	39804						Check Total	\$77.14
		2/9/2016	1/19/16 req	101-016-543-30-43-00	ST-Travel & Meetings	20th St SE Consultant Selection Committee	\$77.14	
Nationwide Retirement Solution	0						Check Total	\$1,250.00
		2/9/2016	02/01/2016	001-000-282-00-00-00	Payroll Liability Retirement	Employee Portion-Nationwide	\$1,250.00	
Office of The State Treasurer	39805						Check Total	\$8,043.95
		2/9/2016	01/2016	633-000-586-00-00-15	Vehicle License Fraud Account	January 2016 State Court Fees	\$15.76	
				633-007-586-00-00-02	Building - State Bl	January 2016 State Court Fees	\$166.50	
				633-008-586-00-00-03	Public Safety And Ed. 1986	January 2016 State Court Fees	\$3,705.38	



Checks to be Approved for 1/27/2016 to 2/9/2016

Name	Ck #	Date	Invoice #	Account #	Account Desc	Item Desc		
Office of The State Treasurer	39805	2/9/2016	01/2016	633-008-586-00-00-04	Public Safety And Education	January 2016 State Court Fees	\$2,218.79	
				633-008-586-00-00-05	Judicial Information System-Ci	January 2016 State Court Fees	\$887.91	
				633-008-586-00-00-08	Trauma Care	January 2016 State Court Fees	\$323.32	
				633-008-586-00-00-09	School Zone Safety	January 2016 State Court Fees	\$64.15	
				633-008-586-00-00-10	Public Safety Ed #3	January 2016 State Court Fees	\$134.38	
				633-008-586-00-00-11	Auto Theft Prevention	January 2016 State Court Fees	\$450.92	
				633-008-586-00-00-12	HWY Safety Act	January 2016 State Court Fees	\$10.30	
				633-008-586-00-00-13	Death Inv Acct	January 2016 State Court Fees	\$9.96	
			633-008-586-00-00-14	WSP Highway Acct	January 2016 State Court Fees	\$56.58		
Pacific Power Batteries	39806						Check Total	\$54.14
		2/9/2016	11332851	001-008-521-20-31-01	LE-Operating Costs	Battery return	(\$42.15)	
			11332854	001-008-521-20-31-01	LE-Operating Costs	Battery	\$46.50	
			12223921	001-010-576-80-31-00	PK-Operating Costs	Car chargers	\$16.59	
				101-016-544-90-31-02	ST-Operating Cost	Car chargers	\$16.60	
				410-016-531-10-31-02	SW-Operating Costs	Car chargers	\$16.60	
Kristen Parnell	39769						Check Total	\$750.00
		1/28/2016	2016	001-008-521-20-26-00	LE-Clothing	2016 Clothing Allowance	\$750.00	
	39807						Check Total	\$75.00
		2/9/2016	2/29-3/4/16	001-008-521-20-43-00	LE-Travel & Meetings	Meals at training - Parnell	\$75.00	
Perteet Engineering Inc	39808						Check Total	\$26,148.92
		2/9/2016	20110012.015-1	001-007-558-50-41-00	PL-Professional Servic	Wetland Rating Comp for CAO Update	\$1,440.93	
			20120176.001-8	301-016-544-40-41-00	Street Op - Planning -Design	20th Street SE Phase II-Seg 1	\$24,707.99	
Port Supply	39809						Check Total	\$93.48
		2/9/2016	4198	001-008-521-21-31-00	LE-Boating Operating	Hull Cleaner/Winch/Fasteners	\$93.48	
Prothman	39810						Check Total	\$11,213.67
		2/9/2016	2016-5167	001-002-513-11-41-00	AD-Professional Services	Municipal Consulting services	\$5,047.00	
			2016-5177	001-007-558-50-41-00	PL-Professional Servic	Planning Director Search installment 1	\$6,166.67	
Purchase Power	39811						Check Total	\$390.56
		2/9/2016	01/24/16	001-007-558-50-42-00	PL-Communication	Postage	\$29.40	
				001-013-518-20-42-00	GG-Communication	Postage	\$357.26	
				101-016-543-30-42-00	ST-Communications	Postage	\$1.95	



Checks to be Approved for 1/27/2016 to 2/9/2016

Name	Ck #	Date	Invoice #	Account #	Account Desc	Item Desc		
Purchase Power	39811	2/9/2016	01/24/16	410-016-531-10-42-00	SW-Communications	Postage	\$1.95	
Check Total							\$366.79	
Republic Services 197	39812	2/9/2016	0197-001918382	101-016-542-30-45-00	ST-Rentals-Leases	Dumpster Rental - City Shop	\$7.91	
				101-016-544-90-31-02	ST-Operating Cost	Dumpster services - City Shop	\$175.49	
				410-016-531-10-31-02	SW-Operating Costs	Dumpster services - City Shop	\$175.49	
				410-016-531-10-45-00	SW-Equipment Rental	Dumpster Rental - City Shop	\$7.90	
	Check Total							\$264.50
		39813	2/9/2016	0197-001918206	001-010-576-80-31-00	PK-Operating Costs	Dumpster svcs - Lundeen Park	\$250.86
					001-010-576-80-45-00	PK-Equipment Rental	Dumpster rental - Lundeen Park	\$13.64
	Check Total							\$122.32
		39814	2/9/2016	0197-001918982	001-013-518-20-31-00	GG-Operating	Dumpster services - City Hall	\$107.32
					001-013-518-20-45-00	GG-Equipment Rental	Dumpster rental - City Hall	\$15.00
Check Total							\$90.00	
Katie Rivers	39815	2/9/2016	3/21-3/28/16	001-008-521-20-43-00	LE-Travel & Meetings	Meals for training - Rivers	\$90.00	
Check Total							\$750.00	
Richard Rutherford	39770	1/28/2016	2016	001-008-521-20-26-00	LE-Clothing	2016 Clothing Allowance	\$750.00	
Check Total							\$147.42	
Safeguard Pest Control Inc	39816	2/9/2016	49362	001-008-521-50-48-00	LE -Repair & Maint Facilities	Pest control - N Lakeshore Dr	\$49.14	
			49370	001-008-521-50-48-00	LE -Repair & Maint Facilities	Pest control - Grade Rd	\$49.14	
			49989	001-008-521-50-48-00	LE -Repair & Maint Facilities	Pest control - Grade Rd	\$49.14	
Check Total							\$750.00	
Gleb Shein	39771	1/28/2016	2016	001-008-521-20-26-00	LE-Clothing	2016 Clothing Allowance	\$750.00	
Check Total							\$36,184.26	
Snohomish County Auditor	39817	2/9/2016	I-VR-8	001-001-511-80-51-01	Legislative-Voter Reg Fees	Lake Stevens portion of Voter Registration	\$36,184.26	
Check Total							\$3,142.52	
Snohomish County PUD	39818	2/9/2016	100201851	001-010-576-80-47-00	PK-Utilities	200493443	\$16.70	
			104395210	101-016-542-63-47-00	ST-Lighting - Utilities	200178218	\$225.12	
			104395766	101-016-542-63-47-00	ST-Lighting - Utilities	205320781	\$70.83	
			121008998	001-010-576-80-47-00	PK-Utilities	205395999	\$153.46	
			130932798	001-008-521-50-47-00	LE-Utilities	202766820	\$845.87	



Checks to be Approved for 1/27/2016 to 2/9/2016

Name	Ck #	Date	Invoice #	Account #	Account Desc	Item Desc	
Snohomish County PUD	39818	2/9/2016	130933814	001-010-576-80-47-00	PK-Utilities	203599006	\$358.29
				101-016-543-50-47-00	ST-Utilities	203599006	\$358.29
				410-016-531-10-47-00	SW-Utilities	203599006	\$358.30
			140748345	101-016-542-63-47-00	ST-Lighting - Utilities	202013249	\$126.44
			147357185	001-008-521-50-47-00	LE-Utilities	203033030	\$64.76
			147361424	001-010-576-80-47-00	PK-Utilities	202340527	\$11.57
				101-016-542-63-47-00	ST-Lighting - Utilities	202340527	\$11.57
				410-016-531-10-47-00	SW-Utilities	202340527	\$11.56
			153894922	101-016-542-63-47-00	ST-Lighting - Utilities	202342622	\$79.83
			153901983	101-016-542-63-47-00	ST-Lighting - Utilities	202988481	\$258.11
			157095108	101-016-542-63-47-00	ST-Lighting - Utilities	203582010	\$124.12
			166777991	101-016-542-63-47-00	ST-Lighting - Utilities	203728159	\$67.70
Snohomish County Sherrifs Office	39819	Check Total					\$1,806.00
		2/9/2016	2015-2947	001-008-523-60-51-00	LE-Jail	Prisoner housing Nov 2015	\$840.00
			2015-2968	001-008-523-60-51-00	LE-Jail	Prisoner housing Dec 2015	\$966.00
Snohomish County Treasurer	39820	Check Total					\$140.92
		2/9/2016	Jan 2016	633-008-586-00-00-01	Crime Victims Compensation	January 2016 Crime Victims Compensation	\$140.92
Snopac	39821	Check Total					\$26,017.48
		2/9/2016	8029	001-008-528-00-51-00	LE-Snopac Dispatch	Dispatch services	\$26,017.48
Sonsray Machinery LLC	39822	Check Total					\$384.21
		2/9/2016	P03867-09	101-016-544-90-31-02	ST-Operating Cost	Bearing for PW45	\$192.11
				410-016-531-10-31-02	SW-Operating Costs	Bearing for PW45	\$192.10
Sound Publishing Inc	39823	Check Total					\$138.08
		2/9/2016	EDH677953	001-013-518-30-41-01	GG-Advertising	Ordinance 948	\$24.20
			EDH678511	001-013-518-30-41-01	GG-Advertising	Cancellation & special mtg notice City Council mtgs	\$32.80
			EDH678829	001-001-511-60-49-02	Legislative-C.C.Retreat	City Notice - Council Retreat	\$27.64
			EDH679435	001-013-518-30-41-01	GG-Advertising	Notice of Special meeting-City Council	\$53.44
John Spencer	39824	Check Total					\$255.00
		2/9/2016	AWC Conv	001-001-511-60-43-00	Legislative - Travel & Mtgs	AWC Convention - Olympia	\$109.20
			Leg mtg	001-001-511-60-43-00	Legislative - Travel & Mtgs	Meeting with Legislators-Olympia	\$97.20
			Retreat	001-001-511-60-49-02	Legislative-C.C.Retreat	Council Retreat mileage - Spencer	\$48.60



Checks to be Approved for 1/27/2016 to 2/9/2016

Name	Ck #	Date	Invoice #	Account #	Account Desc	Item Desc	Check Total		
Standard Insurance Company	0							Check Total	\$5,023.01
		2/9/2016	02/01/2016	001-000-284-00-00-00	Payroll Liability Other	Life/Disability Ins Premiums	\$148.00		
				001-002-513-11-20-00	AD-Benefits	Life/Disability Ins Premiums	\$0.00		
				001-003-514-20-20-00	CC-Benefits	Life/Disability Ins Premiums	\$111.28		
				001-004-514-23-20-00	FI-Benefits	Life/Disability Ins Premiums	\$113.71		
				001-005-518-10-20-00	HR-Benefits	Life/Disability Ins Premiums	\$70.67		
				001-006-518-80-20-00	IT-Benefits	Life/Disability Ins Premiums	\$139.15		
				001-007-558-50-20-00	PL-Benefits	Life/Disability Ins Premiums	\$379.46		
				001-007-559-30-20-00	PB-Benefits	Life/Disability Ins Premiums	\$134.10		
				001-008-521-20-20-00	LE-Benefits	Life/Disability Ins Premiums	\$2,604.37		
				001-010-576-80-20-00	PK-Benefits	Life/Disability Ins Premiums	\$29.54		
				001-013-518-30-20-00	GG-Benefits	Life/Disability Ins Premiums	\$27.88		
				101-016-542-30-20-00	ST-Benefits	Life/Disability Ins Premiums	\$638.34		
				401-070-535-10-20-00	SE-Benefits	Life/Disability Ins Premiums	\$21.69		
		410-016-531-10-20-00	SW-Benefits	Life/Disability Ins Premiums	\$604.82				
Barbara Stevens	39825							Check Total	\$48.60
		2/9/2016	2/2/16 req	001-001-511-60-49-02	Legislative-C.C.Retreat	Council retreat mileage - B Stevens	\$48.60		
Robert Summers	39772							Check Total	\$750.00
		1/28/2016	2016	001-008-521-20-26-00	LE-Clothing	2016 Clothing Allowance	\$750.00		
		39826							Check Total
		2/9/2016	1/22/16 req	001-008-521-20-43-00	LE-Travel & Meetings	Supplies for Police oral boards	\$20.44		
Summit Law Group	39827							Check Total	\$457.50
		2/9/2016	77169	101-016-542-30-41-02	ST-Professional Service	Legal services - union contract	\$228.75		
				410-016-531-10-41-01	SW-Professional Services	Legal services - union contract	\$228.75		
Tacoma Screw Products Inc	39828							Check Total	\$46.45
		2/9/2016	18103996	001-010-576-80-31-00	PK-Operating Costs	Screws/lock pins/washers	\$15.49		
				101-016-544-90-31-02	ST-Operating Cost	Screws/lock pins/washers	\$15.48		
				410-016-531-10-31-02	SW-Operating Costs	Screws/lock pins/washers	\$15.48		
Teamsters Local No 763	39829							Check Total	\$702.00
		2/9/2016	02/01/16	001-000-284-00-00-00	Payroll Liability Other	Union Dues	\$702.00		



Checks to be Approved for 1/27/2016 to 2/9/2016

Name	Ck #	Date	Invoice #	Account #	Account Desc	Item Desc	Check Total		
Dean Thomas	39830							Check Total	\$352.00
		2/9/2016	1/24-1/29/16	001-008-521-20-43-00	LE-Travel & Meetings	Training travel expenses - D Thomas	\$352.00		
Trinity Contractors Inc	39831							Check Total	\$3,000.00
		2/9/2016	Pmt 5	309-016-595-61-63-01	Sidewalk Construction	N Davies Sidewalk Project	\$3,000.00		
ULINE	39832							Check Total	\$131.27
		2/9/2016	73975271	001-008-521-20-31-01	LE-Operating Costs	Sharps Containers	\$131.27		
United Way of Snohomish Co	39833							Check Total	\$61.68
		2/9/2016	Jan 2016	001-000-284-00-00-00	Payroll Liability Other	Employee Contributions	\$61.68		
UPS	39834							Check Total	\$7.91
		2/9/2016	74Y42036	001-008-521-20-42-00	LE-Communication	Evidence shipping	\$7.91		
Craig Valvick	39773							Check Total	\$750.00
		1/28/2016	2016	001-008-521-20-26-00	LE-Clothing	2016 Clothing Allowance	\$750.00		
Michelle Vanderwalker	39835							Check Total	\$90.00
		2/9/2016	3/21-3/28/16	001-008-521-20-43-00	LE-Travel & Meetings	Meals for training - Vanderwalker	\$90.00		
Verizon Northwest	39836							Check Total	\$2,627.25
		2/9/2016	9759378119	001-001-513-10-42-00	Executive - Communication	Wireless phone service	\$70.25		
				001-002-513-11-42-00	AD-Communications	Wireless phone service	\$152.37		
				001-003-514-20-42-00	CC-Communications	Wireless phone service	\$74.11		
				001-005-518-10-42-00	HR-Communications	Wireless phone service	\$52.60		
				001-006-518-80-42-00	IT-Communications	Wireless phone service	\$125.20		
				001-007-558-50-42-00	PL-Communication	Wireless phone service	\$227.33		
				001-007-559-30-42-00	PB-Communication	Wireless phone service	\$60.04		
				001-008-521-20-42-00	LE-Communication	Wireless phone service	\$1,466.01		
				001-010-576-80-42-00	PK-Communication	Wireless phone service	\$133.11		
				101-016-543-30-42-00	ST-Communications	Wireless phone service	\$133.11		
410-016-531-10-42-00	SW-Communications	Wireless phone service	\$133.12						
Jerad Wachtveitl	39837							Check Total	\$18.00
		2/9/2016	3/9/16	001-008-521-20-43-00	LE-Travel & Meetings	Meals for training - Wachtveitl	\$18.00		
Steve Warbis	39774							Check Total	\$750.00
		1/28/2016	2016	001-008-521-20-26-00	LE-Clothing	2016 Clothing Allowance	\$750.00		



Checks to be Approved for 1/27/2016 to 2/9/2016

Name	Ck #	Date	Invoice #	Account #	Account Desc	Item Desc	Check Total		
Washington Assoc of Sheriffs and Poli	39838							Check Total	\$305.00
		2/9/2016	2016-00257	001-008-521-20-49-00	LE-Dues & Memberships	2016 Dues - Lorentzen	\$305.00		
Washington Audiology Services	39839							Check Total	\$2,627.60
		2/9/2016	47835	001-008-521-20-41-00	LE-Professional Services	Hearing exams & training - employees	\$896.74		
				101-016-542-30-41-02	ST-Professional Service	Hearing exams & training - employees	\$206.93		
				410-016-531-10-41-01	SW-Professional Services	Hearing exams & training - employees	\$206.93		
		47846	001-008-521-20-41-00	LE-Professional Services	Hearing exams & training - employees	\$905.41			
			101-016-542-30-41-02	ST-Professional Service	Hearing exams & training - employees	\$205.79			
410-016-531-10-41-01	SW-Professional Services		Hearing exams & training - employees	\$205.80					
Washington State Support Registry	0							Check Total	\$402.46
		2/9/2016	02/01/2016	001-000-284-00-00-00	Payroll Liability Other	Employee Paid Child Support	\$402.46		
Washington State Treas Office	39840							Check Total	\$921.90
		2/9/2016	Q4 2015	111-008-586-00-00-00	Disbursement to State	State portion of seizures and forfeitures	\$921.90		
Washington Teamsters Welfare Trust EFT	0							Check Total	\$1,599.40
		2/9/2016	02/01/2016	001-000-283-00-00-00	Payroll Liability Medical	Teamsters Dental Ins Premiums	\$1,599.40		
Weed Graafstra & Associates Inc	39841							Check Total	\$11,879.50
		2/9/2016	148	001-011-515-30-41-00	LG-Professional Service	Legal services - General matters	\$11,879.50		
Neil Chad Wells	39775							Check Total	\$750.00
		1/28/2016	2016	001-008-521-20-26-00	LE-Clothing	2016 Clothing Allowance	\$750.00		
Western Conference of Teamsters Pension Trust	39842							Check Total	\$1,943.24
		2/9/2016	Jan 2016	001-000-282-00-00-00	Payroll Liability Retirement	Employee Contributions - Teamster Pension	\$1,943.24		
WFOA	39843							Check Total	\$50.00
		2/9/2016	1330595639378 85	001-004-514-23-49-00	FI-Miscellaneous	2016 Membership - B Stevens	\$50.00		
Zachor and Thomas Inc PS	39844							Check Total	\$8,923.20
		2/9/2016	660	001-011-515-30-41-01	PG-Prosecutor Fees	Prosecutor retainer - Jan 2016	\$8,923.20		
Total							\$411,668.25		



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**CITY OF LAKE STEVENS
CITY COUNCIL SPECIAL MEETING MINUTES**

Monday, January 25, 2016

Lake Stevens School District Educational Service Center (Admin. Bldg.)
12309 22nd Street N.E. Lake Stevens

CALL TO ORDER: 7:00 p.m. by Mayor John Spencer

COUNCILMEMBERS PRESENT: Kim Daughtry, Sam Low, Kurt Hilt, Todd Welch, Rauchel McDaniel, Kathy Holder, Marcus Tageant

COUNCILMEMBERS ABSENT: None.

STAFF MEMBERS PRESENT: Interim City Administrator Mary Swenson, Finance Director/City Clerk Barb Stevens, Interim Planning and Community Development Director Russ Wright, Public Works Director Mick Monken, Human Resources Director Steve Edin, Police Chief Dan Lorentzen, Senior Planner Stacie Pratschner, Deputy City Clerk Kathy Pugh and City Attorney Cheryl Beyer; Building Official Mark Stiffen, Police Support Officer Cindy Brooks, Records Specialist Michelle Vanderwalker

OTHERS: James Zachor, Sr. & H. James Zachor, Jr.

Guest Business. None.

New Employee Introductions: Police Chief Dan Lorentzen introduced Police Support Officer Cindy Brooks, who is returning to the position, and Records Specialist Michelle Vanderwalker.

Interim Planning Director Russ Wright introduced Mark Stiffen, the City's new Building Official.

City Department Report.

Mayor Spencer noted a change to the Consent Agenda, saying that Items (G) Approve Updates to Lexipol Chapter 10-Personnel Complaints and (H) Approve Updates to Lexipol Chapter 1013-Seat Belts are being removed and will be brought back for consideration at the next Council meeting.

Consent Agenda.

MOTION: Moved by Councilmember Low, seconded by Councilmember Tageant, to approve the Consent Agenda without Items (G) and (H) as follows: (A) 2015 Vouchers [Electronic Funds Transfers (ACH) of \$23,311.78, Claims Check Nos. 39673-39719 totaling \$123,008.59, Void Check Nos. 39603 and 39563 totaling \$1,135.81, Total Vouchers Approved: \$145,184.56]; (B) 2016 Vouchers [Payroll Direct Deposits of \$142,616.24, Payroll Check Nos. 39671-39672 totaling \$4,261.83, Tax Deposits of \$59,140.20, Electronic Funds Transfers of \$3,892.46, Claims Check Nos. 39720-39752 totaling \$141,861.58, Total Vouchers Approved: \$351,772.31]; (C) January 12, 2016 City Council Workshop Meeting Minutes; (D) January 12, 2016 City Council Regular Meeting Minutes; (E) Resolution 2016-02 Accepting an Anonymous Donation;

(F) Marysville Jail Contract Amendment No. 12; and (I) Award Bid and Authorize Mayor to Enter into Contract with Advantage Building Services for Janitorial Services. On vote the motion carried (7-0-0-0).

Public Meeting.

Dunroven Plat: Hold Public Meeting and Accept Final Plat and Associated Right-of-Way:
City Clerk Barb Stevens read the Rules of Procedure for Public Meetings for the record.

Senior Planner Pratschner presented the Staff Report and said that tonight's action is to hold a public meeting pursuant to LSMC §14.18.035(a) and to accept by motion the Dunroven Ranch subdivision final plat and associated right-of-way dedication. Planner Pratschner briefly reviewed the application and associated public process. She then responded to Councilmembers' questions.

MOTION: Councilmember Welch moved, Councilmember Holder seconded, to accept the Dunroven Ranch subdivision final plat and associated right-of-way dedication. On vote the motion carried (7-0-0-0).

Action Items.

Zachor & Thomas, P.S. – City Prosecutor/Domestic Violence Coordinator Professional Services Agreement: Police Chief Lorentzen presented the Staff Report and noted that Zachor & Thomas has provided prosecutor services to the City for many years. He commented that this year's Professional Services Agreement includes a 5% increase for services over the 2015 contract and also includes funds to partner with the cities of Marysville and Arlington for a Domestic Violence Coordinator. Chief Lorentzen thought the City would be paying for approximately ten to twelve hours a week for the Domestic Violence Coordinator. He then responded to Councilmembers' questions.

MOTION: Councilmember Daughtry moved, Councilmember Welch seconded, to approve the Professional Services Agreement with Zachor & Thomas, P.S. for City Prosecutor services and Domestic Violence Coordinator services. On vote the motion carried (7-0-0-0).

Contract with Prothman Company: Interim City Administrator Mary Swenson presented the staff report and said this contract is for Prothman Company to conduct an executive search for a Planning and Community Services Director. She then responded to Councilmembers' question.

MOTION: Councilmember Welch moved, Councilmember Hilt seconded, to authorize the Mayor to enter into a contract with Prothman Company to conduct an executive search for a new Planning and Community Services Director. On vote the motion carried (7-0-0-0).

Supplemental Agreement No. 1 with Otak, Inc. for the Hartford Trail Connection Survey:
Public Works Director Mick Monken presented the Staff Report and said this is the first supplement to the Master On-Call Professional Services Agreement with Otak, Inc. for surveying services. He reviewed the proposal to complete this piece of the Hartford Trail Connection and the need for a survey, and then responded to Councilmembers' questions.

MOTION: Councilmember Welch moved, Councilmember Holder seconded, to approve Supplemental Agreement No. 1 to the Master On-Call Professional Services Agreement for Surveying Services with Otak, Inc. On vote them motion carried (7-0-0-0).

Discussion Items: None.

Council Person's Business: Councilmembers reported on the following meetings: Councilmember Daughtry: Snohomish County Committee for Improved Transportation (SCCIT), Legislative Breakfast, Community Transit (CT); Councilmember Low: SCCIT, CT, AWC Action Days, Retreat; Councilmember Hilt: CT, and separate meeting with CT regarding trestle issues and local service within city limits; Councilmember Holder: Met with Economic Development Coordinator Jeanie Ashe regarding the Economic Development subcommittee; Councilmember Tageant: Chamber of Commerce and Lundeen Park Building, CT.

Mayor's Business: Lundeen House and Chamber of Commerce; retreat agenda; Interim City Administrator costs to date; Lake Stevens Rotary presentation.

Interim City Administrator Mary Swenson noted Council is attending Association of Washington Cities (AWC) City Action Days and reminded Council that no discussion regarding City business should take place while travelling together to this meeting, and also during any other upcoming travel times.

Interim Planning and Community Development Director Wright provided a brief update on the status of permit applications.

Chief Lorentzen provided a brief update on the homeless issue and said there is a plan to develop a regional approach to addressing this situation.

Executive Session: Mayor Spencer announced an executive session for 15 minutes to discuss a personnel matter and pending litigation beginning at 7:45 p.m. and ending at 8:00 p.m. with no action to follow.

Council reconvened at 8:00 p.m.

Adjourn:

Moved by Councilmember Welch, seconded by Councilmember Tageant, to adjourn the meeting at 8:00 p.m. On vote the motion carried (7-0-0-0)

John Spencer, Mayor

Kathy Pugh, Deputy City Clerk



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LAKE STEVENS CITY COUNCIL

STAFF REPORT

Council Agenda Date: February 9, 2016

Subject: Final Plat – Brookside Division II (AKA Holly Division 3) (LUA2016-0002)

Contact Person/Department: Amy Lucas / Planning and Development **Budget Impact:** N/A

RECOMMENDATION(S)/ACTION REQUESTED OF COUNCIL:

1. **ACTION:** Hold a public meeting pursuant to LSMC 14.18.035(a); and
2. **MOTION:** Accept Brookside Division II subdivision and associated right-of-way dedication (LUA2016-0002) by motion.

SUMMARY: Public meeting and City Council acceptance of the final plat of Brookside Division II – a proposed 13 lot subdivision on 3.76 acres.

BACKGROUND: Final Plats are Type V Quasi-Judicial decisions per Table 14.16A-I LSMC. The City Council accepts final plats, following a public meeting and dedication of right-of-way, when the subdivision's proponent has met municipal requirements for preliminary plats (Chapter 14.18 LSMC), completed applicable conditions of approval and met the requirements of Chapter 58.17 RCW.

Snohomish County issued a SEPA Determination of Non-Significance for the project October 1, 2007, and later approved the preliminary subdivision on June 2, 2008. The city annexed the property in 2010 and approved both a one-year original plat extension and an additional plat extension due to expire June 2, 2016. The city of Lake Stevens has approved revised construction plans for the subdivision as of November 12, 2015. The proponent submitted an application for Final Plat approval on January 11, 2016. The city issued a Notice of Application and Public Meeting for the final subdivision on January 26, 2016.

Planning and Community Development have prepared a final plat recommendation for City Council's review and consideration along with the final plat map. Staff concludes the final subdivision meets the requirements of the Lake Stevens Municipal Code, conditions of approval and the requirements of Chapter 58.17 RCW (Subdivisions-Dedications). Staff recommends Council approve the final plat and accept the right-of-way dedications.

RECOMMENDATION & CONDITIONS:

The Planning and Community Development Department recommends **APPROVAL**, of the Final Plat for Brookside Division II along with dedication of right-of-way as shown, subject to the listed conditions:

1. The proponent or successor shall record the approved subdivision (final plat) as depicted in **Exhibit B** – all recording fees shall be the obligation of the subdivision proponent.
2. The proponent or successor shall provide conformed copies of the approved final plat to the city of Lake Stevens after recording with Snohomish County.

3. The proponent or successor must comply with any federal, state, or local statutes, ordinances, or regulations applicable to this project. Failure to meet or maintain strict compliance with these regulations and conditions shall be grounds for revocation of this permit.

APPLICABLE CITY POLICIES: Chapter 14.18 LSMC - Subdivisions, Boundary Line Adjustments and Binding Site Plans and Chapter 14.16B LSMC

BUDGET IMPACT: None at the time of subdivision; however, the city will collect impact fees for schools, parks, and traffic when building permits are issued.

ATTACHMENTS: Attachment 1 - Final Plat Recommendation with exhibits

Attachment 1



**Planning and Community Development
 Type V Permit: Final Plat**

Brookside Division II (AKA Holly Division 3)

LUA2016-0002

A. PROJECT DESCRIPTION AND REQUEST

Project Description:

Final plat application for the Brookside Division II (AKA Holly Div. 3), a proposed 13 lot subdivision, received January 11, 2016. Snohomish County approved the preliminary subdivision on June 2, 2008 after an open record hearing and issuance of an environmental determination of non-significance. The city annexed the property in 2010 and approved both a one-year original plat extension and an additional plat extension due to expire June 2, 2016.

The city of Lake Stevens approved revised construction plans for the subdivision November 12, 2015. The proponent has met the requirements for final plat approval and has installed required improvements or provided necessary financial securities before recording. Along with the final plat approval, the proponent will dedicate rights-of-way (new roads) to the city of Lake Stevens.

B. GENERAL INFORMATION

1. Property Owner/ Applicant: 1LR LLC / Natural 9 Holdings LLC
2. Contact Person: Tim Bruggman
 Golden Eagle Development
 PO Box 1377
 Monroe, WA 98272
3. Project Location: West of 103 Ave SE, East of SR 9 and south of South Lake Stevens Road
4. Comprehensive Plan Land Use Designations, Zoning Designation and Existing Land Uses of the Site and Surrounding Area:

AREA	LAND USE DESIGNATION	ZONING	EXISTING USE
Project Site	Medium Density Residential	Urban Residential	Residential / Underdeveloped
North of Site	High Density Residential	High Urban Residential	Residential
South of Site	Medium Density Residential	Urban Residential	Residential / Underdeveloped
East of Site	Medium Density Residential	Urban Residential	Residential / Underdeveloped
West of Site	High Density Residential	High Urban Residential	Residential / Underdeveloped

5. Public Utilities and Services Provided by:

Water:	Snohomish County PUD	Gas:	Puget Sound Energy
Sewer:	Lake Stevens Sewer District	Cable TV:	Comcast
Garbage:	Allied Waste or Waste Management	Police:	City of Lake Stevens
Storm Water:	City of Lake Stevens	Fire:	Lake Stevens Fire District
Telephone:	Frontier	School:	Lake Stevens School District
Electricity:	Snohomish County PUD	Hospital:	Providence Hospital

Attachment 1

C. ENVIRONMENTAL REVIEW

Snohomish County issued a SEPA Determination of Non-Significance for the project on October 1, 2007.

D. FINDINGS OF FACT

1. Application Process: The city of Lake Stevens received a final plat application on January 11, 2016 (**Exhibit A**) associated materials (e.g, title report, closing calculations, plat name certification and declaration of covenants, conditions and restrictions) and a final plat map (**Exhibit B**) for the Brookside Division II Subdivision.
2. Public Notification: City staff issued a Notice of Application and Public Meeting for the project on January 26, 2016 (**Exhibit C**). City staff mailed the notice to property owners within 300 feet, posted the subject property, and posted at City Hall. At the time that this staff report was prepared, no comments have been received.

This staff report meets the requirements of LSMC 14.16B.535 as the written recommendation to the City Council for decision.

3. Density and Dimensional Standards: Density and dimensional standard review was completed during preliminary plat approval by Snohomish County and subsequent minor revisions by the city. The city has confirmed the proposed final plat complies with the preliminary plat approval. No encroachments have been identified by the city during review.
4. Stormwater Management: Stormwater impacts were reviewed during preliminary plat approval and construction plan approval. City staff has reviewed and inspected all required stormwater improvements.
5. Traffic Impacts: Snohomish County reviewed the initial traffic impacts for this project during preliminary plat approval. As the city of Lake Stevens is now the permitting authority and responsible for determining consistency with prior land use decisions and verifying concurrency, the Planning and Community Director and Public Works Director have determined that payment of traffic impact fees will be paid under the city's traffic impact fee program per Chapter 14.120 LSMC to the city of Lake Stevens and will fulfill the intent of the Hearing Examiner's Condition.
6. Public Roads and Frontage Improvements: Access to new lots within the subdivision will be from a new public road, constructed to applicable Snohomish County standards. The new road and required frontage improvements have been constructed to the approved plans. In addition, the proponent will dedicate new internal roads to the city.
7. Utilities: Public utilities have been installed to serve all of the proposed lots in the proposed subdivision. The Snohomish County PUD (water and electricity) and Lake Stevens Sewer District have granted approval for the utility improvements.
8. Fire Department Review: The Fire Marshall for the Lake Stevens Fire District has reviewed the proposed subdivision and approved the design as shown on the final plat drawings.
9. Impact Fees: Impact fees for schools, parks and traffic are required for the lots in the proposed subdivision and were defined in the preliminary plat approval or as revised and shall be collected at the time of building permit issuance.

E. CONCLUSIONS

1. The city has confirmed that all required improvements for subdivision approval have been installed as approved by the Public Works Director and the Director of Planning and Community Development.
2. The proposed subdivision documents submitted to the city of Lake Stevens meet all requirements of the Preliminary Plat Approval issued by Snohomish County and the city's standards for Final Plat Approval.

- 3. The subdivision, as proposed, is consistent with all applicable requirements, permit processing procedures, and other applicable codes.

F. RECOMMENDATION & CONDITIONS

The Planning and Community Development Department recommends **APPROVAL**, of the Final Plat for Brookside Division II along with dedication of right-of-way as shown, **subject to the listed conditions:**

- 1. The proponent or successor shall record the approved subdivision (final plat) as depicted in **Exhibit B** – all recording fees shall be the obligation of the subdivision proponent.
- 2. The proponent or successor shall provide conformed copies of the approved final plat to the city of Lake Stevens after recording with Snohomish County.
- 3. The proponent or successor must comply with any federal, state, or local statutes, ordinances, or regulations applicable to this project. Failure to meet or maintain strict compliance with these regulations and conditions shall be grounds for revocation of this permit.

G. APPEALS

Per LSMC 14.16B.740, to appeal the Council’s decision interested parties must file an appeal application, with all required fees, within 14 days of the date of issuance of this permit. An appeal of this decision would be heard by the Snohomish County Superior Court.

H. EXHIBITS

- A. Final Plat Application received January 11, 2016
- B. Final Plat of Brookside Division II
- C. Notice of Application and Public Meeting issued January 26, 2016



 Amy Lucas, Associate Planner

2/03/16

 Date

Distributed to the Following Parties:

- 1. Lake Stevens City Council
- 2. Tim Bruggman, contact

Attachment 1

Exhibit A



JAN 11 2016

Planning and Community Development
 1812 Main Street, P O Box 257
 Lake Stevens WA 98258
 Phone Number (425) 377-3235

To Be Completed By Staff	
Date of Application:	<u>1-11-16</u>
Staff Initials:	<u>CH</u>
Permit Number:	<u>WA2016-0002</u>

**TYPE IV, V AND VI - COUNCIL DECISIONS
 LAND USE DEVELOPMENT APPLICATION**

CHECK ONE		
TYPE IV – Quasi-judicial <input type="checkbox"/> Essential Public Facility <input type="checkbox"/> Planned Neighborhood Development <input type="checkbox"/> Rezone – Site Specific Zoning Map Amendment <input type="checkbox"/> Secure Community Transition Facility <input type="checkbox"/> Type IV Other: _____	TYPE V – Quasi-judicial <input checked="" type="checkbox"/> Final Plats <input type="checkbox"/> Plat Alterations <input type="checkbox"/> Plat Vacations <input type="checkbox"/> Right-of-Way Vacations <input type="checkbox"/> Type V Other: _____	TYPE VI – Legislative <input type="checkbox"/> Comprehensive Plan Amendment, Map and Text <input type="checkbox"/> Development Agreements <input type="checkbox"/> Land Use Code Amendments <input type="checkbox"/> Rezones – Area Wide Zoning Map Amendments <input type="checkbox"/> Type VI Other: _____

ARE ANY LOWER LEVEL PERMITS REQUIRED? Yes No Describe: _____

Property Information	Site Address: <u>9924 South Lake Stevens Rd</u>			
	Assessor Parcel No: <u>004571-000 04720</u>	Area of property	Square Feet:	Acres: <u>3.22</u>
	Land Use Designation: <u>Medium Density</u>	Zoning: <u>Urban Residential</u>		
	Number of Buildings on Site/: <u>0</u>	Number to be Retained: <u>0</u>		
	Existing Impervious Surface Area: <u>—</u>	Proposed Impervious Surface Area: <u>—</u>		
Applicant	Name/Company: <u>Ty Beck / LLB Holdings LLC</u>			
	Address: <u>10515 20th St SE Ste 130</u>	City/State/Zip: <u>Lake Stevens WA 98258</u>		
	Phone: <u>425-377-9262</u>	Applicants relationship to owner: <u>Same</u>		
	Fax:	Email: <u>tbeck@superiorconcrete.net</u>		
Primary Contact	Name/Company: <u>Tom Bruggeman / Golden Eagle Development Services</u>			
	Address: <u>Po Box 1377</u>	City/State/Zip: <u>Mornore WA 98272</u>		
	Phone: <u>425-308-3519</u>	Email: <u>tbb@goldeneagleds.com</u>		
	Fax:			

Exhibit A

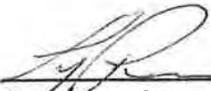
Property Owner	Name/Company: <i>TV Rock / ILR Holdings LLC</i>				
	Address: <i>10515 20th St SE Suite 130</i>		City/State/Zip: <i>Lake Stevens WA 99258</i>		
	Phone: <i>425-377-9262</i>		Email: <i>trcoh@superiorconcrete.net</i>		
	Fax:				
Project Description	Grading Quantities		Cut: <i>_____</i>		Fill: <i>_____</i>
	Proposed project/land use (attach additional sheets if necessary):				
	<i>13 Residential Lots Holly Div 3 - New Brookside Div 2</i>				
Building Information	Gross Floor Area of Existing and Proposed Buildings:				
	Bldg 1:	Bldg: 2	Bldg 3:	Bldg 4:	Bldg 5:
	Gross Floor Area by Use of Buildings (please describe use as well as floor area):				
	Use 1:				
	Use 2:				
	Use3:				
	Use4:				

You may not begin any activity based on this application until a decision, including the resolution of any appeal, has been made. Conditions or restrictions may be placed on your permit if it is approved. After the City has acted on your application, you will receive notice of the outcome. If an appeal is filed, you may not begin any work until the appeal is settled. You may also need approvals from other agencies; please check this before beginning any activity.

This application expires 180 days after the last date that additional information is requested (LSMC 14316A.245)

If you suspect that your site contains a stream or wetland or is adjacent to a lake, you may need a permit from the state or federal government.

I DECLARE UNDER PENALTY OF THE PERJURY LAWS THAT THE INFORMATION I HAVE PROVIDED ON THIS APPLICATION IS TRUE, CORRECT AND COMPLETE.



 Signature of Property Owner/Agent

 Date of Application

By affixing my signature I certify that I am the legal owner of the property for which this application is issued or an authorized agent of the owner.

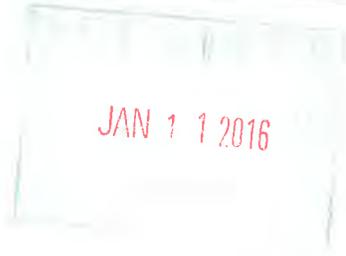
Exhibit A



Planning and Community Development
1812 Main Street, P O Box 257
Lake Stevens WA 98258
Phone Number (425) 377-3235

To be completed by staff

Date of Application: 1-11-16
Staff Initials: CH
Permit Number: WA 2016-0002



STATEMENT OF OWNERSHIP/APPLICANT AUTHORITY

I certify or declare under penalty of perjury under the laws of the state of Washington that:

1. This application is authorized by the all the land owners with authority to bind the land/property;
2. That the developer is operating under the landowner's authority;
3. That the developer and/or landowner is either an individual or a duly formed and qualified corporation, partnership, or other legal entity; and
4. That the person signing all applications or other legal documents is authorized by the legal entity and/or landowner to do so; and
5. That the application and submittals are true and correct to the best of my information.

Applicant

Signature: [Signature]

Name: ICR Holdings LLC

Address: 10515 20th St SE Ste 130
Lake Stevens WA 98258

Phone: 425-377-9262

Email address: fresh@superiorconcrete.net

Property Owner(s)

Signature: [Signature]

Name: ICR Holdings LLC

Address: 10515 20th St SE Ste 130
Lake Stevens WA 98258

Phone: 425-377-9262

Email address: fresh@superiorconcrete.net

Signature: _____

Name: _____

Address: _____

Phone: _____

Email address: _____

Exhibit A

NOTE ON ENTERING PROPERTY

The City of Lake Stevens may enter onto the property, which is the subject of this application during the hours of 7:00 a.m. to 5:00 p.m., Monday – Friday, for the sole purpose of inspecting the limited area of the property, which is necessary to process this application. In the event the City determines that such an inspection is necessary during a different time or day, the City employees or agents will contact applicant verbally or in writing at least 24 hours before entering.

LEGAL DESCRIPTION

CHICAGO TITLE COMPANY

**PLAT CERTIFICATE
SCHEDULE A**

(Continued)

Order No.: 5610885

LEGAL DESCRIPTION

NEW LOT 3 CITY OF LAKE STEVENS BOUNDARY LINE ADJUSTMENT RECORDED UNDER AUDITOR'S FILE NUMBER 201506170091 AND DEPICTED ON SURVEY RECORDED UNDER AUDITOR'S FILE NUMBER 201506175001, BEING A PORTION OF TRACTS 43 AND 46 PLAT OF GLENWOOD DIVISION B ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 7 OF PLATS PAGE 47, RECORDS OF SNOHOMISH COUNTY, WASHINGTON

SITUATE IN THE COUNTY OF SNOHOMISH, STATE OF WASHINGTON.

DEDICATION

KNOW ALL MEN (PERSONS) BY THESE PRESENTS THAT **LTR LLC, A WASHINGTON LIMITED LIABILITY CORPORATION**, THE UNDESIGNED OWNERS, IN FEE SIMPLE OF THE LAND HEREBY PLATTED DECLARE THIS PLAT AND DEDICATE TO THE USE OF THE PUBLIC FOREVER ALL STREETS, AVENUES, PLACES AND SEWER EASEMENTS OR WHATEVER PUBLIC PROPERTY THERE IS SHOWN ON THE PLAT AND THE USE FOR ANY AND ALL PUBLIC PURPOSES NOT INCONSISTENT WITH THE USE THEREOF FOR PUBLIC HIGHWAY PURPOSES. ALSO, THE RIGHT TO MAKE ALL NECESSARY SLOPES FOR CUTS AND FILLS UPON LOTS, BLOCKS, TRACTS, ETC., SHOWN ON THIS PLAT IN THE REASONABLE ORIGINAL GRADING OF ALL THE STREETS, AVENUES, PLACES, ETC., SHOWN HERON. ALSO, THE RIGHT TO DRAIN ALL STREETS OVER AND ACROSS ANY LOT OR LOTS WHERE WATER MIGHT TAKE A NATURAL COURSE AFTER THE STREET OR STREETS ARE GRADED. ALSO, ALL CLAIMS FOR DAMAGE AGAINST ANY GOVERNMENTAL AUTHORITY ARE WAIVED WHICH MAY BE ASSOCIATED TO THE ADJACENT LAND BY THE ESTABLISHMENT, CONSTRUCTION, DRAINAGE, AND MAINTENANCE OF SAID ROADS.

FOLLOWING ORIGINAL REASONABLE GRADING OF ROADS AND WAS HERON. NO DRAINAGE WATERS ON ANY LOT OR LOTS SHALL BE DIVERGED OR BLOCKED FROM THEIR NATURAL COURSE SO AS TO DISCHARGE UPON ANY PUBLIC ROAD RIGHTS-OF-WAY TO HINDER PROPER ROAD DRAINAGE. THE OWNER OF ANY LOT OR LOTS, PRIOR TO MAKING AN ALTERATION IN THE DRAINAGE SYSTEM AFTER THE RECORDING OF THE PLAT, MUST MAKE APPLICATION TO AND RECEIVE APPROVAL FROM THE DIRECTOR OF THE DEPARTMENT OF PUBLIC WORKS FOR SAID ALTERATION, ANY ENCLOSING OF DRAINAGE WATERS IN CULVERTS OR DRAINS OR REROUTING THEREOF ACROSS ANY LOT AS MAY BE UNDERTAKEN BY OR FOR THE OWNER OF ANY LOT SHALL BE DONE BY AND AT THE EXPENSE OF SUCH OWNER.

TRACTS 998 AND 999 ARE HEREBY SUBJECTED AND CONNECTED TO THE BROOKSIDE DIVISION 2 HOMEOWNERS ASSOCIATION (HOA) UPON RECORDING OF THIS PLAT SUBJECT TO AN EMERGENCY MAINTENANCE EASEMENT GRANTED AND CONNECTED TO CITY OF LAKE STEVENS OWNERSHIP AND MAINTENANCE OF SAID TRACT CONSISTENT WITH CITY CODE SHALL BE THE RESPONSIBILITY OF THE HOA UNLESS AND UNTIL TRACT OWNERSHIP BY ALL LOTS WITHIN THIS SUBDIVISION IS AUTHORIZED PURSUANT TO A FINAL PLAT ALTERATION. USE OF SAID TRACT IS RESTRICTED TO THAT SPECIFIED IN THE APPROVED FINAL PLAT. THE HOA AND THE OWNERS OF ALL LOTS WITHIN THE SUBDIVISION SHALL COMPLY WITH THOSE CITY REGULATIONS AND CONDITIONS OF FINAL SUBDIVISION APPROVAL SPECIFIED ON THE PLAT. THE HOA SHALL REMAIN IN EXISTENCE UNLESS AND UNTIL ALL LOTS WITHIN THIS SUBDIVISION HAVE DISPOSED, THEN EACH LOT SHALL HAVE AN EQUAL AND UNDIVIDED OWNERSHIP INTEREST IN THE TRACT PREVIOUSLY OWNED BY THE HOA AS WELL AS RESPONSIBILITY FOR MAINTAINING THE TRACT MEMBERSHIP IN THE HOA AND PAYMENT OF DUES OR OTHER ASSESSMENTS FOR MAINTENANCE PURPOSES SHALL BE A REQUIREMENT OF LOT OWNERSHIP, AND SHALL REMAIN AN APPURTENANCE TO AND INSEPARABLE FROM EACH LOT. THIS COVENANT SHALL BE BINDING UPON AND INURE TO THE BENEFIT OF THE HOA, THE OWNERS OF ALL LOTS WITHIN THE SUBDIVISION AND ALL OTHERS HAVING ANY INTEREST IN THE TRACT OR LOTS.

PUBLIC DRAINAGE EASEMENTS DESIGNATED ON THE PLAT ARE HEREBY RECEIVED FOR AND GRANTED TO THE CITY OF LAKE STEVENS, EXCEPT THOSE DESIGNATED ON THE PLAT AS PRIVATE DRAINAGE EASEMENTS, FOR THE RIGHT OF INGRESS AND EGRESS AND THE RIGHT TO EXCAVATE, CONSTRUCT, OPERATE, MAINTAIN, REPAIR AND/OR REBUILD AN ENCLOSED OR OPEN CHANNEL, STORMWATER CONVEYANCE SYSTEM AND/OR OTHER DRAINAGE FACILITIES, UNDER, UPON OR THROUGH THE DRAINAGE EASEMENT.

IN WITNESS WHEREOF, WE SET OUR HANDS AND SEALS THIS _____ DAY OF _____, 2016
LTR LLC, A WASHINGTON LIMITED LIABILITY COMPANY

BY: **TY RECH, OWNER**

IN WITNESS WHEREOF, WE SET OUR HANDS AND SEALS THIS _____ DAY OF _____, 2016.
NATURAL 9 HOLDINGS LLC, A WASHINGTON LIMITED LIABILITY COMPANY

BY: **TIM KANTZ, OWNER**

ACKNOWLEDGMENTS

STATE OF WASHINGTON)
COUNTY OF SNOHOMISH) SS

I CERTIFY THAT I KNOW OR HAVE SATISFACTORY EVIDENCE THAT **TY RECH** THE PERSON WHO APPEARED BEFORE ME, AND SAID PERSON ACKNOWLEDGED THAT THEY SIGNED THIS INSTRUMENT ON OATH STATING THAT HE OR SHE WAS AUTHORIZED TO EXECUTE THE INSTRUMENT AND ACKNOWLEDGED IT AS THE **OWNER OF LTR LLC, A WASHINGTON LIMITED LIABILITY COMPANY** TO BE THE FREE AND VOLUNTARY ACT AND DEED OF SUCH PARTY FOR THE USE AND PURPOSES MENTIONED IN THIS INSTRUMENT.

NOTARY SIGNATURE _____ DATED: _____

(PRINT NAME) _____
NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON
RESIDING AT _____
MY APPOINTMENT EXPIRES: _____

STATE OF WASHINGTON)
COUNTY OF SNOHOMISH) SS

I CERTIFY THAT I KNOW OR HAVE SATISFACTORY EVIDENCE THAT **TIM KANTZ** IS THE PERSON WHO APPEARED BEFORE ME, AND SAID PERSON ACKNOWLEDGED THAT THEY SIGNED THIS INSTRUMENT ON OATH STATING THAT HE OR SHE WAS AUTHORIZED TO EXECUTE THE INSTRUMENT AND ACKNOWLEDGED IT AS THE **OWNER OF NATURAL 9 HOLDINGS LLC, A WASHINGTON LIMITED LIABILITY COMPANY**, TO BE THE FREE AND VOLUNTARY ACT AND DEED OF SUCH PARTY FOR THE USE AND PURPOSES MENTIONED IN THIS INSTRUMENT.

NOTARY SIGNATURE _____ DATED: _____

(PRINT NAME) _____
NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON
RESIDING AT _____
MY APPOINTMENT EXPIRES: _____

EASEMENTS, RESTRICTIONS AND CONDITIONS

(PER CHICAGO TITLE COMPANY PLAT CERTIFICATE UNDER ORDER NO. 5610885, DATED DECEMBER 17, 2015)

1. THE LOTS WITHIN THIS SUBDIVISION WILL BE SUBJECT TO SCHOOL IMPACT MITIGATION FEES FOR THE LAKE STEVENS SCHOOL DISTRICT NO. 4 TO BE DETERMINED BY THE CERTIFIED AMOUNT WITHIN THE BASE FEE SCHEDULE IN EFFECT AT THE TIME OF BUILDING PERMIT APPLICATION, AND TO BE COLLECTED PRIOR TO BUILDING PERMIT ISSUANCE, IN ACCORDANCE WITH THE PROVISIONS OF SCC 30.66C.010. CREDIT SHALL BE GIVEN FOR ONE EXISTING PARCEL. LOT ONE SHALL RECEIVE CREDIT.
2. THE CITY REQUIRES THE NEW LOT MITIGATION PAYMENTS IN THE AMOUNT SHOWN BELOW FOR EACH SINGLE-FAMILY RESIDENTIAL BUILDING PERMIT:
\$2,917 PER LOT FOR MITIGATION OF IMPACTS ON CITY ROADS PAID TO THE CITY,
\$100.01 PER LOT FOR MITIGATION OF IMPACTS TO STATE HIGHWAYS PAID TO WSDOT. (WSDOT #J001-8-SR 2/SR 9 INTERCHANGE).

THESE PAYMENTS ARE DUE PRIOR TO OR AT THE TIME OF BUILDING PERMIT ISSUANCE. NOTICE OF THESE MITIGATION PAYMENTS OBLIGATIONS SHALL BE CONTAINED IN ANY DEEDS INVOLVING THIS SUBDIVISION OR THE LOTS THEREIN, ONCE A BUILDING PERMIT HAS BEEN ISSUED ON A LOT, ALL MITIGATION PAYMENTS FOR THAT LOT SHALL BE DEEMED PAID.

3. "ALL NATIVE GROWTH PROTECTION AREAS SHALL BE LEFT PERMANENTLY UNDISTURBED IN A SUBSTANTIALLY NATURAL STATE. NO CLEARING, GRADING, FILLING, BUILDING, CONSTRUCTION OR PLACEMENT OR ROAD CONSTRUCTION OF ANY KIND SHALL OCCUR EXCEPT REMOVAL OF HAZARDOUS TREES. THE ACTIVITIES AS SET FORTH IN SCC 30.91N.010 ARE ALLOWED WHEN APPROVED BY THE COUNTY."

4. THE DEVELOPER SHALL PAY THE CITY \$1,351.22 PER NEW DWELLING UNIT AS MITIGATION FOR PARKS AND RECREATION IMPACTS. IN ACCORDANCE WITH CHAPTER 20.66A SCC, PROVIDED HOWEVER, THE DEVELOPER MAY ELECT TO POSTONE PAYMENT OF THE MITIGATION REQUIREMENT UNTIL ISSUANCE OF BUILDING PERMIT FOR THAT LOT. THE ELECTION TO POSTPONE PAYMENT SHALL BE NOTED BY A COVENANT PLACED ON THE FACE OF THE RECORDED PLAT AND INCLUDED IN THE DEED FOR EACH AFFECTED LOT WITHIN THE SUBDIVISION.

5. SUBJECT TO COVENANTS, CONDITIONS, RESTRICTIONS, DEDICATIONS, AGREEMENTS, EASEMENTS, MAINTENANCE PROVISIONS AND NOTES, AS CONTAINED IN SNOHOMISH COUNTY SHORT PLAT NUMBER SP102(3-79), RECORDED UNDER RECORDING NUMBER 79008080430.

6. SUBJECT TO THE EFFECT OF RECORD OF SURVEY FOR BOUNDARY LINE ADJUSTMENT RECORDED UNDER AUDITOR'S FILE NUMBER 200809235161, SAID INSTRUMENT HAS NOT BEEN APPROVED BY SNOHOMISH COUNTY, OR SIGNED BY THE RECORD OWNERS.

7. SUBJECT TO HOLLY DIVISION I DEVELOPER EXTENSION AGREEMENT AND THE TERMS, CONDITIONS AND PROVISIONS CONTAINED THEREIN AS RECORDED UNDER RECORDING NUMBER 200612210397.

8. ADDENDUM RECORDED UNDER AUDITOR'S FILE NUMBER 200806130353, 200912150730, 201103160261, 201201310382, 201212130701, 201404240556, 201501080398, 201511130145.

8. SUBJECT TO HOLLY DIVISION II DEVELOPER EXTENSION AGREEMENT AND THE TERMS, CONDITIONS AND PROVISIONS CONTAINED THEREIN AS RECORDED UNDER RECORDING NUMBER 200612210398.
ADDENDUM RECORDED UNDER AUDITOR'S FILE NUMBER 200806300700, 200912150731, 201103160262, 201201310384, 201212130704, 201404240557, 201501080390, 201511130146.

9. SUBJECT TO HOLLY DIVISION IV DEVELOPER EXTENSION AGREEMENT AND THE TERMS, CONDITIONS AND PROVISIONS CONTAINED THEREIN AS RECORDED UNDER RECORDING NUMBER 200612210399.

10. ADDENDUM RECORDED UNDER AUDITOR'S FILE NUMBER 200806130353, 200912150733, 201103160264, 201201310382, 201212130702, 201404240559, 201501080392, 201507100580.

10. SUBJECT TO HOLLY DIVISION III DEVELOPER EXTENSION AGREEMENT AND THE TERMS, CONDITIONS AND PROVISIONS CONTAINED THEREIN AS RECORDED UNDER RECORDING NUMBER 200705090851.
ADDENDUM RECORDED UNDER AUDITOR'S FILE NUMBER 200912150732, 201103160263, 201201310385, 201212130703, 201404240558, 201501080391, 201511130147.

11. SUBJECT TO EASEMENT TO PUGET SOUND ENERGY AND THE TERMS AND CONDITIONS THEREOF AS RECORDED UNDER RECORDING NUMBER 2015062020543.

12. SUBJECT TO AFFIDAVIT OF BOUNDARY LINE ADJUSTMENT AND THE EFFECT THEREOF AS RECORDED UNDER RECORDING NUMBER 201506170091 AND RELATED SURVEY RECORDED UNDER AUDITOR'S FILE NUMBER 201506175001.

13. SUBJECT TO DEED OF TRUST AND THE TERMS AND CONDITIONS THEREOF AS RECORDED UNDER RECORDING NUMBER 201408140300.

14. SUBJECT TO DEED OF TRUST AND THE TERMS AND CONDITIONS THEREOF AS RECORDED UNDER RECORDING NUMBER 201505150552.

15. SUBJECT TO SUBORDINATION AND RECOGNITION AGREEMENT AND THE TERMS, CONDITIONS AND PROVISIONS CONTAINED THEREIN AS RECORDED UNDER RECORDING NUMBER 201505200366.

16. SUBJECT TO EASEMENT TO THE LAKE STEVENS SEWER DISTRICT AND THE TERMS AND CONDITIONS THEREOF AS RECORDED UNDER RECORDING NUMBER 201511240624.

PLANNING AND COMMUNITY DEVELOPMENT SUBDIVISION APPROVAL

EXAMINED AND APPROVED THIS _____ DAY OF _____, 2016.
LAKE STEVENS PLANNING AND COMMUNITY DEVELOPMENT DIRECTOR _____

APPROVAL OF PUBLIC IMPROVEMENTS

EXAMINED AND APPROVED THIS _____ DAY OF _____, 2016.
LAKE STEVENS PUBLIC WORKS DIRECTOR _____

CITY COUNCIL APPROVAL

EXAMINED, FOUND TO BE IN CONFORMITY WITH APPLICABLE ZONING AND OTHER LAND USE CONTROLS, AND APPROVED THIS _____ DAY OF _____, 2016.
LAKE STEVENS MAYOR _____ DATE _____

CERTIFICATE OF CITY TREASURER

I HEREBY CERTIFY THAT ALL MONIES AND DEBTS PERTAINING TO THIS DIVISION WERE PAID TO THE CITY OF LAKE STEVENS BY THE _____ DAY OF _____, 2016.

FINANCE DIRECTOR _____ DATE _____

TREASURER'S CERTIFICATE

I HEREBY CERTIFY THAT ALL STATE AND COUNTY TAXES HERETOFORE LEVIED AGAINST THE PROPERTY DESCRIBED HEREIN, ACCORDING TO THE BOOKS AND RECORDS OF MY OFFICE, HAVE BEEN FULLY PAID AND DISCHARGED, INCLUDING _____ TAXES.
TREASURER, SNOHOMISH COUNTY _____

AUDITOR'S CERTIFICATE

FILED FOR RECORD AT THE REQUEST OF PACIFIC COAST SURVEYS, INC. THIS _____ DAY OF _____, 2016, AT _____ MANIFES PAST _____ AND RECORDED IN VOLUME _____ OF PLATS, PAGES _____, RECORDS OF SNOHOMISH COUNTY, WASHINGTON.

AUDITOR, SNOHOMISH COUNTY _____

BY: _____
DEPUTY COUNTY AUDITOR _____

LAND SURVEYOR'S CERTIFICATE

THIS MAP CORRECTLY REPRESENTS A SURVEY MADE BY ME OR UNDER MY DIRECTION IN CONFORMANCE WITH THE REQUIREMENTS OF THE SURVEY REORDING ACT AT THE REQUEST OF TY RECH, IN MAY, 2015. I HEREBY CERTIFY THAT THE PLAT OF BROOKSIDE DIVISION 2 IS BASED UPON AN ACTUAL SURVEY AND SUBDIVISION OF SECTION 30, TOWNSHIP 29 NORTH, RANGE 6 EAST, W.M. AS REQUIRED BY THE STATE STATUTES; THAT THE DISTANCES, COURSES AND ANGLES ARE SHOWN HERON CORRECTLY; THAT THE MONUMENTS ARE SET AND THE LOT AND BLOCK CORNERS ARE STAKED CORRECTLY ON THE GROUND; THAT I FULLY COMPLIED WITH THE PROVISIONS OF THE STATE AND LOCAL STATUTES AND REGULATIONS GOVERNING PLATTING.



DARREN J. RIDDLE
PROFESSIONAL LAND SURVEYOR
CERTIFICATE NO. 37536

A.F. NO. _____ DATE _____
SHEET 1 OF 3

Pacific Coast Surveys, Inc. LAND SURVEYING & MAPPING P.O. BOX 13619 MILL CREEK, WA 98082 PH. 425.508.4951 FAX 425.357.3577 www.PCSurveys.net	PLAT OF BROOKSIDE DIV. 2 LUA2016-0002	SCALE 1" = 40'	JOB NO. 14-770
		DRAWN BY DATE DRAWING FILE NAME	1:26:16 147701pm-2.dwg

DRAINAGE FACILITY MAINTENANCE COVENANT

WE, THE OWNERS AND CONTRACT PURCHASERS OF THE LANDS HEREIN PLATTED (GRANTOR), AGREE THAT THE OBLIGATIONS OF GRANTOR SHALL INURE TO THE BENEFIT OF AND BE BINDING UPON THE HEIRS, SUCCESSORS, AND ASSIGNS. GRANTOR AGREES THAT THIS COVENANT TOUCHES AND CONCERNS THE LAND DESCRIBED HEREIN AND SHALL RUN WITH THE LAND.

GRANTOR BY EXECUTION OF THIS COVENANT ACKNOWLEDGES THAT THE BENEFITS OF THIS COVENANT INURE TO GRANTOR, DOWNSTREAM PROPERTY OWNERS, AND THE GENERAL PUBLIC, AND THAT THE CITY OF LAKE STEVENS (CITY) AS THIRD-PARTY BENEFICIARY OF THIS COVENANT HAS THE RIGHT, BUT NOT THE OBLIGATION, TO ENFORCE THIS COVENANT ON BEHALF OF DOWNSTREAM PROPERTY OWNERS AND THE GENERAL PUBLIC. CITY REQUIRES THIS COVENANT TO PROTECT PRIVATE AND PUBLIC PROPERTY, PRIVATE AND PUBLIC DRAINAGE INFRASTRUCTURE, AND NATURAL RESOURCES OF DOWNSTREAM PROPERTY OWNERS AND THE GENERAL PUBLIC.

GRANTOR, IN CONSIDERATION OF THE APPROVAL OF THIS SUBDIVISION, HEREBY COVENANTS TO PERFORM REGULAR MAINTENANCE UPON THE DRAINAGE FACILITIES INSTALLED, OR TO BE INSTALLED, UPON GRANTOR'S PROPERTY. REGULAR MAINTENANCE SHALL INCLUDE, AT A MINIMUM, ANNUAL INSPECTION OF THE STORM WATER DRAINAGE SYSTEM, AS APPLICABLE. THE SYSTEM SHALL INCLUDE THE STORM WATER CONVEYANCE SYSTEM PIPES, DITCHES, SWALES, AND CATCH BASINS; STORM WATER FLOW REGULATION SYSTEM DETENTION PONDS, VALUITS, PIPES, RETENTION PONDS, FLOW REGULATION AND CONTROL STRUCTURES; INFILTRATION SYSTEMS AND WATER QUALITY CONTROL SYSTEM.

THE SCOPE OF THIS COVENANT AND RIGHT OF ENTRY SHALL BE ADEQUATE TO PROVIDE FOR THE ACCESS, INSPECTION, AND MAINTENANCE OF THE STORM WATER DRAINAGE SYSTEM, AND SHALL BE SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

1. CITY SHALL HAVE THE PERPETUAL RIGHT OF ENTRY ACROSS ADJACENT LANDS OF THE GRANTOR FOR PURPOSES OF INSPECTING, AUDITING, OR CONDUCTING REQUIRED MAINTENANCE OF THE DRAINAGE FACILITY.
2. IF CITY INSPECTION DETERMINES THAT MAINTENANCE IS NOT PERFORMED, CITY SHALL ENDORSE TO PROVIDE GRANTOR REASONABLE ADVANCE NOTIFICATION OF THE NEED TO PERFORM THE MAINTENANCE AND A REASONABLE OPPORTUNITY FOR GRANTOR TO PERFORM IT. IN THE EVENT THAT GRANTOR FAILS TO COMPLETE THE REQUIRED MAINTENANCE WITHIN A REASONABLE TIME PERIOD, CITY SHALL HAVE THE RIGHT TO PERFORM OR CONTRACT WITH OTHERS TO PERFORM IT AT THE SOLE EXPENSE OF THE GRANTOR. IF CITY IN ITS SOLE DISCRETION DETERMINES THAT AN IMMINENT OR PRESENT DANGER EXISTS, REQUIRED MAINTENANCE AND/OR REPAIR MAY BEGIN IMMEDIATELY AT GRANTOR'S EXPENSE WITHOUT PRIOR NOTICE TO GRANTOR. IN SUCH EVENT, CITY SHALL PROVIDE GRANTOR WITH A WRITTEN STATEMENT AND ACCOUNTING OF ALL WORK PERFORMED AND THE FEES, CHARGES, AND EXPENSES INCURRED IN MAKING SUCH REPAIRS. GRANTOR SHALL AGREE TO REIMBURSE CITY OR PAY CITY'S VENDORS DIRECTLY FOR ALL REASONABLE FEES, CHARGES, AND EXPENSES IDENTIFIED IN CITY'S STATEMENT.
3. IF CITY IS REQUIRED TO ACT AS A RESULT OF GRANTOR'S FAILURE TO COMPLY WITH THIS COVENANT, CITY MAY REMOVE ANY OBSTRUCTIONS AND/OR INTERFERENCES THAT IN THE SOLE OPINION OF CITY IMPAIR THE OPERATION OF THE DRAINAGE FACILITY OR THE MAINTENANCE THEREOF. GRANTOR AGREES TO HOLD CITY, ITS OFFICERS, EMPLOYEES, AND AGENTS HARMLESS FROM ANY AND ALL CLAIMS, ACTIONS, SUITS, LIABILITY, LOSS, EXPENSES, DAMAGES AND JUDGMENTS OF ANY NATURE WHATSOEVER, INCLUDING COSTS AND ATTORNEY'S FEES, INCURRED BY THE REMOVAL OF VEGETATION OR PHYSICAL INTERFERENCE FROM THE DRAINAGE FACILITY.
4. WHEN EXERCISING THE MAINTENANCE PROVISIONS OF THE COVENANT, IN THE EVENT OF NONPAYMENT, CITY MAY BRING SUIT TO RECOVER SUCH COSTS, INCLUDING ATTORNEY'S FEES, AND UPON OBTAINING A JUDGMENT, SUCH AMOUNT SHALL BECOME A LIEN AGAINST THE PROPERTY OF GRANTOR AS PROVIDED IN RCW 4.56.190.
5. GRANTOR COVENANTS THAT ALL OF THE OWNERS, CONTRACT PURCHASERS AND LIEN HOLDERS OF THE PROPERTY DESCRIBED HEREIN HAVE SIGNED THE DEDICATION AND/OR DECLARATION OF THIS SUBDIVISION, THAT THEY HAVE THE RIGHT TO GRANT THIS COVENANT ON THE PROPERTY, AND THAT THE TITLE TO THE PROPERTY IS FREE AND CLEAR OF ANY ENCUMBRANCES WHICH WOULD INTERFERE WITH THE ABILITY TO GRANT THIS COVENANT.

10 FOOT FRONTAGE UTILITY EASEMENT

AN EASEMENT IS HEREBY RESERVED FOR AND GRANTED TO ALL UTILITIES SERVING THE SUBJECT PLAT AND THEIR RESPECTIVE SUCCESSORS AND ASSIGNS, UNDER AND UPON THE EXTERIOR TEN (10) FEET PARALLEL WITH AND ADJOINING THE STREET FRONTAGE OF ALL LOTS, TRACTS AND COMMON AREAS IN WHICH TO INSTALL, LAY, CONSTRUCT, RENEW, OPERATE AND MAINTAIN UNDERGROUND CONDUITS, CABLES, PIPES AND WIRES WITH NECESSARY FACILITIES AND OTHER EQUIPMENT FOR THE PURPOSE OF SERVING THIS SUBDIVISION AND OTHER PROPERTY WITH ELECTRICITY, TELEPHONE, GAS, TELEVISION CABLE, AND OTHER UTILITY SERVICES, TOGETHER WITH THE RIGHT TO ENTER UPON THE LOTS, TRACTS AND COMMON AREAS AT ALL TIMES FOR THE PURPOSE HEREIN STATED.

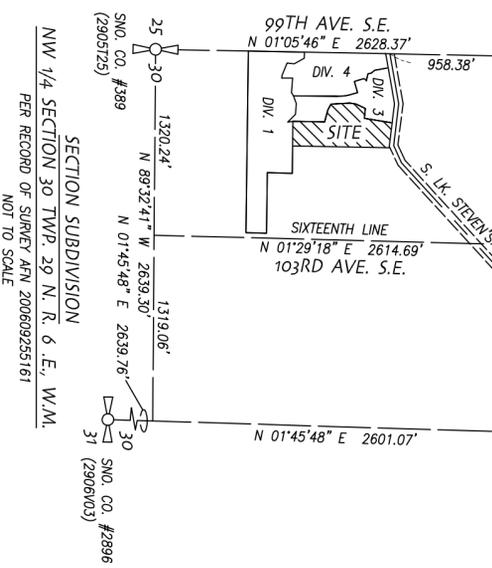
LAKE STEVENS SEWER DISTRICT EASEMENT PROVISIONS

- 1). THE 15' WIDE SEWER EASEMENT WITHIN LOTS 2 AND 3 AND TRACT 998 AS SHOWN ON SHEET 3 OF 3 IS HEREBY GRANTED AND CONVERTED TO THE LAKE STEVENS SEWER DISTRICT.

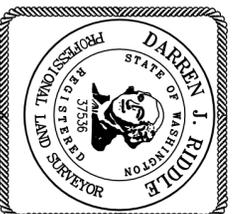
LEGAL DESCRIPTION

NEW LOT 3 OF CITY OF LAKE STEVENS BOUNDARY LINE ADJUSTMENT RECORDED UNDER AUDITOR'S FILE NUMBER 201506170091 AND DEPICTED ON SURVEY RECORDED UNDER AUDITOR'S FILE NUMBER 201506175001, BEING A PORTION OF TRACTS 43, 46 PLAT OF GLENWOOD DIVISION B ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 7 OF PLATS PAGE 47, RECORDS OF SNOHOMISH COUNTY, WASHINGTON.

FOUND 5 X 5 CONC. MON. W/INVERTED MANL. AT GROUND SURFACE. SMO. CO. #389 (APRIL 2015)
FOUND 5 X 5 CONC. MON. W/3" BRASS DISK. DOWN 0.6'. SMO. CO. #345 (HEW1) (APRIL 2015)



SECTION SUBDIVISION
NW 1/4 SECTION 30 TWP. 29 N., R. 6 E., W.M.
PER RECORD OF SURVEY A/N 200609235161
NOT TO SCALE



Pacific Coast Surveys, Inc.
LAND SURVEYING & MAPPING
P.O. BOX 13619
MILL CREEK, WA 98082
PH. 425.508.4951 FAX 425.357.3577
www.PCSurveys.net

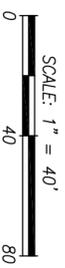
PLAT OF
BROOKSIDE DIV. 2
LUA2016-0002
NW 1/4, NW 1/4, SEC.30, T.29N., R.6E., W.M.
SW 1/4, NW 1/4, SEC.30, T.29N., R.6E., W.M.
DRAWN BY DATE DRAWING FILE NAME SCALE JOB NO.
NCM 1.26.16 147701pm-2.dwg 1"=40' 14-770

A.F. NO. _____ SHEET
2 of 3

Exhibit B

LEGEND

- SET 1/2" X 24" REBAR W/CAP STAMPED "L.S. 37536"
- FOUND REBAR/CAP AS NOTED
- ⊗ FOUND CASED CONC. MON. AS NOTED
- ⊙ SET CASED CONC. MON. STAMPED "PCS - 37536"
- ⊕ RIGHT OF WAY CENTERLINE
- ⊖ OFFSET DISTANCE TO CORNER ON LINE



EQUIPMENT & PROCEDURES

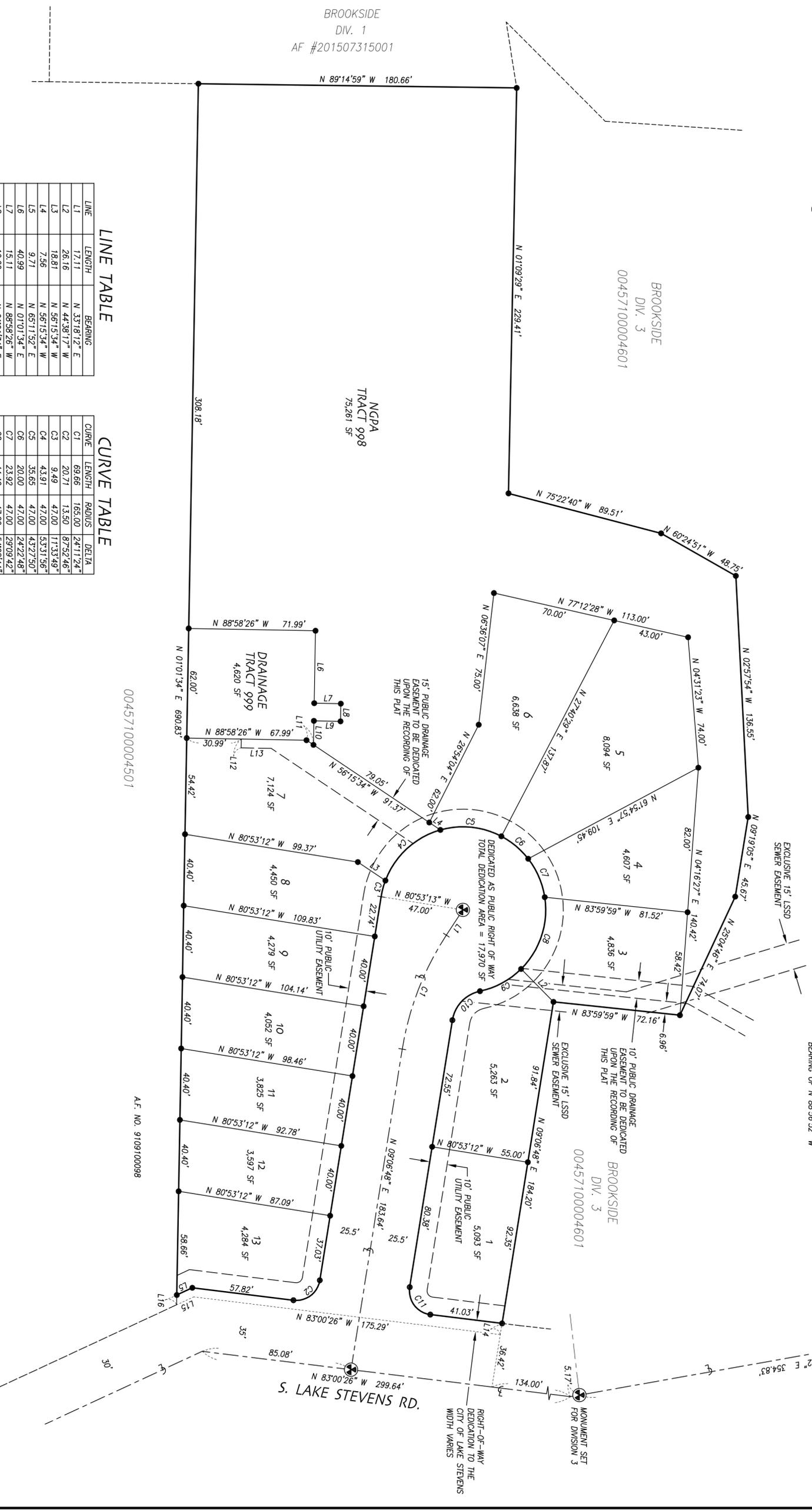
METHOD OF SURVEY:
SURVEY PERFORMED BY FIELD TRAVERSE

INSURUMENTATION:
LEICA TOPP 1201 ROBOTIC ELECTRONIC TOTAL STATION

PRECISION:
METERS OR EXCEEDS STATE STANDARDS WAC 332-130-090

BASIS OF BEARING:
THE MONUMENTED NORTH LINE OF THE NW 1/4 SECTION 30, AS THE BEARING OF N 88°56'52" W

25
19
30
19
24
FOUND CASED CONC. MON. W/3" BRASS DISK, DOWN 0.6'. SNO. CO. #345 (HEW1) (APRIL, 2015)

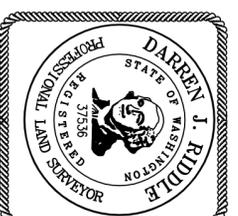


LINE TABLE

LINE	LENGTH	BEARING
L1	17.11	N 33°18'12" E
L2	26.16	N 44°38'17" W
L3	18.81	N 56°15'34" W
L4	7.96	N 56°15'34" W
L5	9.71	N 65°11'52" E
L6	40.99	N 01°01'34" E
L7	15.11	N 88°58'26" W
L8	10.00	N 01°01'34" E
L9	15.11	N 88°58'26" W
L10	13.58	N 01°01'34" E
L11	4.75	N 56°15'34" W
L12	5.00	N 01°01'34" E
L13	17.03	N 88°58'26" W
L14	6.41	N 09°06'48" E
L15	10.71	N 65°11'52" E
L16	5.55	N 01°01'34" E

CURVE TABLE

CURVE	LENGTH	RADIUS	DELTA
C1	69.66	165.00	124.1124°
C2	20.71	13.50	87°52'46"
C3	9.49	47.00	117°33'49"
C4	43.91	47.00	53°31'56"
C5	35.65	47.00	43°27'50"
C6	20.00	47.00	124°22'48"
C7	23.92	47.00	28°09'42"
C8	44.42	47.00	34°08'44"
C9	26.88	47.00	37°45'47"
C10	24.09	20.00	69°00'35"
C11	21.71	13.50	92°07'14"



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PLAT OF
BROOKSIDE DIV. 2
LUA2016-0002
NW 1/4, NW 1/4, SEC.30, T.29N., R.6E., W.M.
SW 1/4, NW 1/4, SEC.30, T.29N., R.6E., W.M.
DRAWN BY DATE DRAWING FILE NAME SCALE JOB NO.
NCM 1.26.16 147701pm-2.dwg 1"=40' 14-770

A.F. NO. _____ SHEET 3 OF 3

Exhibit C



**NOTICE OF LAND USE APPLICATION /
NOTICE OF PUBLIC MEETING
Final Subdivision**

PROJECT NAME/ FILE NUMBER: Brookside Division IV Final Plat / LUA2016-0002
APPLICANT: 1 LR Holdings, LLC
PROJECT LOCATION: 10024 South Lake Stevens Road, Lake Stevens, WA 98258 /
APN 00457100004600
DATE OF APPLICATION: January 11, 2016
NOTICE OF APPLICATION ISSUED: January 26, 2016

PROPOSED PROJECT DESCRIPTION:

- Creation of a thirteen (13) lot plat in the Urban Residential Zone on a 3.76 acre site, accessed from a new public road via South Lake Stevens Road;
- Final Plat Approval - Snohomish County issued a SEPA DNS on October 1, 2007. Original Hearing Examiner decision of approval issued by Snohomish County on December 26, 2007;
- The application for Final Plat approval was received on January 11, 2016 and determined to be complete at the time of submittal. The applicant will submit necessary financial securities and install all required improvements prior to the recording of the plat; and
- Long Subdivision / Type V Decision - The Lake Steven's City Council will consider acceptance of the subdivision and a right-of-way dedication at a public meeting scheduled for Tuesday, February 9, 2016 at 7 pm at the Lake Stevens School District Educational Service Center.

PUBLIC REVIEW AND COMMENT:

Interested parties may submit written comments before the February 9, 2016 meeting or testify at the public meeting. Comments can be submitted to City Hall, Attn: Amy L. Lucas, PO Box 257, Lake Stevens, WA 98258 or by email at alucas@lakestevenswa.gov. Persons who submit written or oral testimony may appeal the decision.

The project file, including the staff report, site map and recommendations is available for review at the Permit Center, located behind City Hall, Monday-Friday 8:30 am- 4:30 pm. Limited materials are available at: <http://www.ci.lake-stevens.wa.us/index.aspx?nid=380>.

For additional information please contact the Department of Community Development at 425-377-3223.

It is the City's goal to comply with the American with Disabilities Act. The City offers its assistance to anyone with special needs, including the provision of TDD services.

Distribution: Applicant
Posted at Permit Center, City Hall, Subject Property and Website
Mailed to property Owners within 300 feet of project site
Published in Everett Herald



LAKE STEVENS CITY COUNCIL
STAFF REPORT

Council Agenda Date: January 25th 2016

Subject: Police Department Policies correlating to City Polices/Policy 1011 Personnel Complaints

Contact Person/Department: Lt. Lambier

Budget Impact: N/A

RECOMMENDATION(S)/ACTION REQUESTED OF COUNCIL: City Council review and approval of revised LSPD Policy 1011.

SUMMARY/BACKGROUND: Additional definitions and an outline of the disciplinary matrix have been added to the existing policy.

New sub-section: 1011.12.1 Progressive Discipline. This subsection outlines the expectation of progressive discipline when applicable in disposition of sustained personnel complaints/documentated personnel issues.

New Section: 1011.18 Disciplinary Matrix. This section outlines the defied range of action taken in the disposition of sustained personnel complaints/documentated personnel issues.

These additions to the policy have been developed in conjunction with, reviewed and approved by the Lake Stevens Police Guild.

APPLICABLE CITY POLICIES: P-10-95

BUDGET IMPACT: N/A

ATTACHMENTS:

- ▶ Exhibit A: City of Lake Stevens Personnel Rules and Polies: P-10-95
- ▶ Exhibit B: Revised copy of LSPD Policy 1011

EXHIBIT A

City of Lake Stevens
Personnel Rules and Policies

RULES, PRACTICES AND PROGRESSIVE CORRECTIVE ACTION

City Policy No.: P-10-95
Effective: 7-1-95
Revised: 2-9-04; 6-22-15

It is the policy of the City that certain rules governing conduct be defined and that any corrective action taken is fair and consistent to ensure the proper rights of all employees are recognized and protected.

A. RULES DEFINED

Unacceptable employee behavior shall be cause for corrective action, up to and including termination of employment, depending on the City's judgment and discretion regarding the severity of the infraction(s). Examples of unacceptable behavior include but are not limited to:

1. Failure to carry out work related instructions given by a Supervisor.
2. Insubordination.
3. Violation of City policies, procedures, regulations and rules specified in this manual or otherwise specified.
4. Falsification of City records and reports, including but not limited to time records, City documents and employment application.
5. Malicious or careless acts which result in personal injury, property damage or expenses, or any failure to observe safety rules and regulations.
6. Disorderly physical conduct or verbally threatening, harassing, insulting or abusing other employees or a member of supervision.
7. Introduction, being under the influence of, use and possession of alcoholic beverages or controlled substances on City property. This includes hallucinogenic drugs or other drugs when not prescribed by a medical doctor. Personal prescription medications are allowable to the extent that work performance and the safety of others is not adversely affected.
8. Any abuse of alcoholic beverages or controlled substances which adversely affects an employee's work performance.
9. Unauthorized use, possession, removal, neglect or willful damage to any City property, equipment, records, materials or supplies.
10. Using tobacco products in City buildings, parks or in City vehicles.

City of Lake Stevens
Personnel Rules and Policies

11. Distribution of unauthorized literature or solicitation by employees on City premises during working time.
12. Excessive absenteeism or tardiness, including abuse of Sick Leave. Includes failure to report to work without notice or if the reason for absence is considered invalid.
13. Failure to report to work for three (3) consecutive workdays without prior notification to the City in the absence of a bona fide reason will be considered job abandonment.
14. Improper handling of cash or other financial transactions.
15. Sleeping or otherwise slacking on the job.
16. Failure to report immediately to your Supervisor any accident or injury which occurs on the job.
17. Misuse of City vehicles, telephones, cellular phones, FAX equipment, copy equipment and/or any City owned equipment.
18. Misuse of computer equipment/software in violation of copyright/license agreements or for personal gain and/or entertainment.
19. Disregarding the rights of other employees - harassment, endangerment or any other basis prohibited by law. (Revised 2/9/04)
20. Any violation of the City's Workplace Violence Policy.
21. Any violation of the City's policies against unlawful discrimination, harassment, or retaliation.
22. Failure to disclosure any conflict or potential conflict of interest to the City.

B. CORRECTION ACTION

In the event that an employee's performance or conduct is not up to the standards set by the City, the following procedure of Corrective Action shall be implemented to achieve correction and/or avoid recurrence. Although progressive discipline may be used when the City considers it appropriate, the following procedures may be skipped, eliminated, modified or repeated at the City's absolute discretion subject to the provisions of a collective bargaining agreement.

1. Verbal Warning: Employees may be notified verbally by their supervisor for a less serious offense or unacceptable trend in performance or conduct. A memorandum covering the conversation will be prepared by the supervisor for inclusion in the employee's personnel file.

City of Lake Stevens
Personnel Rules and Policies

2. Written Reprimand: Should an employee's inadequate performance or conduct not improve following verbal notification, or in the event of a more serious offense, a formal written reprimand may be prepared and issued to the employee by the supervisor.
 - a. The City Administrator shall approve the written reprimand prior to any discussion with the employee.
 - b. The original copy of the written reprimand form shall be issued to the employee and a copy placed in the employee's personnel file.
3. Suspension without pay: An employee may be suspended without pay should an employee's performance or conduct not improve following written reprimand, or in the event of a more serious offense warranting suspension without pay as the initial level of discipline.
 - a. The City Administrator shall approve the suspension prior to any discussion with the Employee.
 - b. The original copy of the suspension form shall be issued to the employee and a copy placed in the employee's personnel file.
4. Demotion. An employee may be demoted should an employee's performance or conduct not improve following suspension, or in the event of a more serious offense warranting a demotion as the initial level of discipline.
 - a. The City Administrator shall approve the demotion prior to any discussion with the Employee.
 - b. The original copy of the demotion form shall be issued to the employee and a copy placed in the employee's personnel file.
5. Termination: Should the employee fail to correct deficiencies after verbal and written notifications of inadequate performance or conduct, including suspensions or demotions, or in the event of a more serious offense warranting termination as the initial level of discipline, the employee may be terminated.
6. Suspension with pay: An employee may be suspended with pay when the department head, with the prior concurrence of the City Administrator or designee:
 - a. Determines the situation or violation poses a risk to persons or property or disruption to City operations.
 - b. When it becomes advisable to remove the employee from the work environment until the situation can be investigated and a decision reached regarding an appropriate course of action.

City of Lake Stevens
Personnel Rules and Policies

7. At Will Employment: The application of this correction procedure does not alter any employee's at will status.

C. ADMINISTRATION

The City Administrator or designee shall be responsible for the administration of the Rules, Practices and Progressive Corrective Action Administrative Procedure.

Lake Stevens Police Department

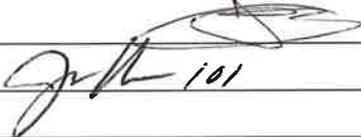
Policy Modification

Review and Authorization Form

Policy Number 1011

Modified by: LAMBIERZ 1-11-16
Name Date

Routing:

Administrative Services	
Office of Professional Standards	
Police Guild	
Commander	<u>101</u>

Chief's Authorization:  1/17/16
Date

Lexipol Updated by: _____
Name Date

Policy
1011**Lake Stevens Police Department**
Policy Manual

Personnel Complaints

1011.1 PURPOSE AND SCOPE

This policy provides guidelines for the reporting, investigation and disposition of complaints regarding the conduct of members of the Lake Stevens Police Department. This policy shall not apply to any questioning, counseling, instruction, informal verbal admonishment or other routine or unplanned contact of a member in the normal course of duty, by a supervisor or any other member, nor shall this policy apply to a criminal investigation.

1011.2 POLICY

The Lake Stevens Police Department takes seriously all complaints regarding the service provided by the Department and the conduct of its members.

The Department will accept and address all complaints of misconduct in accordance with this policy and applicable federal, state and local law, municipal and county rules and the requirements of any memorandum of understanding or collective bargaining agreements.

It is also the policy of this department to ensure that the community can report misconduct without concern for reprisal or retaliation.

1011.2.1 COMPLAINT/INTERNAL AFFAIRS LOG

The OPS Lieutenant shall maintain a log of all formal personnel complaints received by the department. This log should contain the date the complaint was received and the number assigned, the name of the complainant, the name of the accused employee, the name of the assigned investigator, the allegation and the complaint disposition.

Complaint investigations are assigned identifiers beginning with the letters PC, followed by two digits representing the year, a dash and then a number sequence in the order the complaint was received (e.g. PC13-001).

Internal Affairs investigations are assigned identifiers beginning with the letter IA, followed by two digits representing the year, a dash and then a number sequence in the order the complaint was received (e.g. IA13-001).

This log is maintained in accordance with current records retention schedules.

1011.3 PERSONNEL COMPLAINTS

Personnel complaints include any allegation of misconduct or improper job performance that, if true, would constitute a violation of department policy or of federal, state or local law, policy or rule. Personnel complaints may be generated internally or by the public.

Inquiries about conduct or performance that, if true, would not violate department policy or federal, state or local law, policy or rule may be handled informally by a supervisor and shall not be considered a personnel complaint. Such inquiries generally include clarification regarding policy, procedures or the response to specific incidents by the Department.

Lake Stevens Police Department

Policy Manual

Personnel Complaints

1011.3.1 COMPLAINT CLASSIFICATIONS

Personnel complaints shall be classified in one of the following categories:

Informal - A matter in which the Shift Sergeant is satisfied that appropriate action has been taken by a supervisor of rank greater than the accused member.

Formal - A matter in which a supervisor determines that further action is warranted. Such complaints may be investigated by a supervisor of rank greater than the accused member or referred to the Office of Professional Standards, depending on the seriousness and complexity of the investigation.

Incomplete - A matter in which the complaining party either refuses to cooperate or becomes unavailable after diligent follow-up investigation. At the discretion of the assigned supervisor or the Office of Professional Standards, such matters may be further investigated depending on the seriousness of the complaint and the availability of sufficient information.

1011.3.2 SOURCES OF COMPLAINTS

The following applies to the source of complaints:

- (a) Individuals from the public may make complaints in any form, including in writing, by email, in person or by telephone.
- (b) Any department member becoming aware of alleged misconduct shall immediately notify a supervisor.
- (c) Supervisors shall initiate a complaint based upon observed misconduct or receipt from any source alleging misconduct that, if true, could result in disciplinary action.
- (d) Anonymous and third-party complaints should be accepted and investigated to the extent that sufficient information is provided.
- (e) Tort claims and lawsuits may generate a personnel complaint.

1011.4 AVAILABILITY AND ACCEPTANCE OF COMPLAINTS

1011.4.1 COMPLAINT FORMS

Personnel complaint forms will be maintained in a clearly visible location in the public area of the police facility and be accessible through the department website. Forms may also be available at other City facilities.

Personnel complaint forms in languages other than English may also be provided, as determined necessary or practicable.

1011.4.2 ACCEPTANCE

All complaints will be courteously accepted by any department member and promptly given to the appropriate supervisor. Although written complaints are preferred, a complaint may also be filed orally, either in person or by telephone. Such complaints will be directed to a supervisor. If a supervisor is not immediately available to take an oral complaint, the receiving member shall

Lake Stevens Police Department

Policy Manual

Personnel Complaints

obtain contact information sufficient for the supervisor to contact the complainant. The supervisor, upon contact with the complainant, shall complete and submit a complaint form as appropriate.

Although not required, complainants should be encouraged to file complaints in person so that proper identification, signatures, photographs or physical evidence may be obtained as necessary.

1011.5 DOCUMENTATION

Supervisors shall ensure that all formal and informal complaints are documented on a complaint form. The supervisor shall ensure that the nature of the complaint is defined as clearly as possible.

All complaints and inquiries should also be documented in a log that records and tracks complaints. The log shall include the nature of the complaint and the actions taken to address the complaint. On an annual basis, the Department should audit the log and send an audit report to the Chief of Police or the authorized designee.

1011.6 ADMINISTRATIVE INVESTIGATIONS

Allegations of misconduct will be administratively investigated as follows.

1011.6.1 SUPERVISOR RESPONSIBILITIES

In general, the primary responsibility for the investigation of a personnel complaint shall rest with the member's immediate supervisor, unless the supervisor is the complainant or has any personal involvement regarding the alleged misconduct. The Operations Commander may direct that another supervisor investigate any complaint.

A supervisor who becomes aware of alleged misconduct shall take reasonable steps to prevent aggravation of the situation.

The responsibilities of supervisors include, but are not limited to:

- (a) Ensuring that upon receiving or initiating any formal complaint, a complaint form is completed.
 1. The original complaint form will be directed to the OPS Lieutenant who will take appropriate action and/or determine who will have responsibility for the investigation.
 2. In circumstances where the integrity of the investigation could be jeopardized by reducing the complaint to writing or where the confidentiality of a complainant is at issue, a supervisor shall orally report the matter to the Operations Commander who will initiate appropriate action.
- (b) Responding to all complaints in a courteous and professional manner.
- (c) Resolving those personnel complaints that can be resolved immediately.
 1. Follow-up contact with the complainant should be made within 24 hours of the Department receiving the complaint.
 2. If the matter is resolved and no further action is required, the supervisor will note the resolution on a complaint form and forward the form to the OPS Lieutenant.

Lake Stevens Police Department

Policy Manual

Personnel Complaints

- (d) Ensuring that upon receipt of a complaint involving allegations of a potentially serious nature, the OPS Lieutenant and Operations Commander are notified as soon as practicable.
- (e) Promptly contacting the OPS Lieutenant for direction regarding their roles in addressing a complaint that relates to sexual, racial, ethnic or other forms of prohibited harassment or discrimination.
- (f) Forwarding unresolved personnel complaints to the OPS Lieutenant, who will determine whether to contact the complainant or assign the complaint for investigation.
- (g) Informing the complainant of the investigator's name and the complaint number within three days after assignment.
- (h) Investigating a complaint as follows:
 - 1. Making reasonable efforts to obtain names, addresses and telephone numbers of witnesses.
 - 2. When appropriate, ensuring immediate medical attention is provided and photographs of alleged injuries and accessible uninjured areas are taken.
- (i) Ensuring that the procedural rights of the accused member are followed.
- (j) Ensuring interviews of the complainant are generally conducted during reasonable hours.

1011.6.2 ADMINISTRATIVE INVESTIGATION PROCEDURES

Whether conducted by a supervisor or a member of the Office of Professional Standards, the following applies to employees:

- (a) Interviews of an accused employee shall be conducted during reasonable hours and preferably when the employee is on-duty. If the employee is off-duty, he/she shall be compensated.
- (b) Unless waived by the employee, interviews of an accused employee shall be at the Lake Stevens Police Department or other reasonable and appropriate place.
- (c) No more than two interviewers should ask questions of an accused employee.
- (d) Prior to any interview, an employee should be informed of the nature of the investigation.
- (e) All interviews should be for a reasonable period and the employee's personal needs should be accommodated.
- (f) No employee should be subjected to offensive or threatening language, nor shall any promises, rewards or other inducements be used to obtain answers. Any employee refusing to answer questions directly related to the investigation may be ordered to answer questions administratively and may be subject to discipline for failing to do so.
- (g) The interviewer should record all interviews of employees and witnesses. The employee may also record the interview. If the employee has been previously interviewed, a copy of that recorded interview shall be provided to the employee prior to any subsequent interview.
- (h) All employees subjected to interviews that could result in discipline have the right to have an uninvolved representative present during the interview. However, in order to maintain the integrity of each individual's statement, involved employees shall not consult or meet with a representative or attorney collectively or in groups prior to being interviewed.

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- (i) All employees shall provide complete and truthful responses to questions posed during interviews.
- (j) No employee may be compelled to submit to a polygraph examination, nor shall any refusal to submit to such examination be mentioned in any investigation.
- (k) An employee covered by civil service shall be provided a written statement of all accusations with a duplicate statement filed with the civil service commission (RCW 41.12.090; RCW 41.14.120).

1011.6.3 GENERAL GUIDELINES-INTERNAL AFFAIRS INVESTIGATION

Investigations will be conducted in compliance with this policy and the respective collective bargaining agreement.

Whether conducted by a supervisor or an assigned member of Investigations , the following procedures shall be followed with regard to the accused employee(s):

- (a) An IA number should be obtained from the OPS Lieutenant to ensure proper tracking.
- (b) Interviews of accused employees shall be conducted during reasonable hours and, if the employee is off-duty, the employee shall be compensated.
- (c) No more than two interviewers may ask questions of an accused employee.
- (d) Prior to any interview, an employee shall be informed of the nature of the investigation.
- (e) All interviews shall be for a reasonable period and the employee's personal needs shall be accommodated.
- (f) No employee shall be subjected to offensive or threatening language, nor shall any promises, rewards or other inducements be used to obtain answers. Any employee refusing to answer questions directly related to the investigation may be ordered to answer questions administratively or be subject to discipline for insubordination. Nothing administratively ordered may be provided to a criminal investigator.
- (g) Absent circumstances preventing it, the interviewer should record all interviews of employees and witnesses. The employee may also record the interview.
- (h) If the allegations involve potential criminal conduct, the employee shall be advised of his/her Constitutional rights. This admonishment shall be given administratively whether or not the employee was advised of these rights during any separate criminal investigation.
- (i) All employees subjected to interviews that could result in punitive action shall have the right to have an uninvolved representative present during the interview. However, in order to maintain the integrity of each individual employee's statement, involved employees shall not consult or meet with a representative or attorney collectively or in groups prior to being interviewed.

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- (j) All employees shall provide complete and truthful responses to questions posed during interviews.
- (k) No employee may be compelled to submit to a polygraph examination, nor shall any refusal to submit to such examination be mentioned in any investigation.

1011.6.4 COMPLAINT INVESTIGATION FORMAT

Investigations of personnel complaints shall be detailed, complete and thorough. Recognizing that each investigation is different and varying reporting formats may be appropriate, most report will contain the following sections:

Background - Investigator explains why he/she is conducting the investigation. Include the identity of the employee(s), the identity of the assigned investigator(s), the initial date and source of the complaint.

Summary Of Allegations - List the allegations separately (including applicable policy sections) with a very brief summary of the evidence relevant to each allegation. A separate recommended finding should be provided for each allegation. This section should include a description of how the allegations came to the attention of the employer.

Investigative Steps/Narrative - Investigator's narrative of the investigative steps taken, evidence collected, interviews conducted, documents obtained/reviewed and other relevant information discovered.

Findings - The investigator makes a finding regarding the allegations. The findings should be supported by specific information regarding the facts and evidence upon which the findings are based. If sufficient evidence to make a definitive finding does not exist there should be an explanation to that effect.

Conclusion - A brief synopsis of the essential aspects of the report and the recommended disposition on the allegations (see Policy Manual §1020.7).

Exhibits - A separate list of exhibits (recordings, photos, documents, etc.) should be attached to the report.

1011.6.5 ADMINISTRATIVE REVIEW

An administrative review is an informal process utilized by Command Staff in determining whether or not an incident warrants a formal investigation. An Administrative Review of an incident is not an investigation.

Administrative Reviews are conducted on occasion when incidents or employee actions appear to involve the potential of employee misconduct but specific allegations of misconduct are not readily apparent. The review enables the administration to determine if a formal investigation is warranted by a review of available documents and, if applicable, conversations with involved parties. Officers will not normally be interviewed or contacted for the purpose of an Administrative Review. If an initial review of the incident and available documentation indicates the likelihood of a violation of department policy, the matter under review will be classified as a Complaint Investigation or an

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Internal Affairs Investigation. The time taken to make this determination does not affect the normal timelines associated with a Complaint Investigation or Internal Affairs Investigation.

Any documentation relating to an Administrative Review that does not result in a Complaint or an Internal Affairs Investigation will be maintained by the Human Resources Director.

1011.6.6 EMPLOYEE PRIVACY EXPECTATIONS

Any employee may be compelled to disclose personal financial information pursuant to proper legal process; if such information tends to indicate a conflict of interest with official duties; or, if the employee is assigned to or being considered for a special assignment with a potential for bribes.

Employees shall have no expectation of privacy when using telephones, computers, radios or other communications provided by the Department.

Assigned lockers and storage spaces may only be administratively searched in the employee's presence, with the employee's consent, with a valid search warrant or where the employee has been given reasonable notice that the search will take place.

All other departmentally assigned areas (e.g., desks, office space, assigned vehicles) may be administratively searched by a supervisor, in the presence of an uninvolved witness, for non-investigative purposes. (e.g., obtaining a needed report or radio). An investigative search of such areas shall only be conducted upon a reasonable suspicion that official misconduct is involved.

1011.6.7 ADMINISTRATIVE INVESTIGATION FORMAT

Administrative investigations shall be thorough, complete and essentially follow this format:

Introduction - Include the identity of the members, the identity of the assigned investigators, the initial date and source of the complaint.

Synopsis - Provide a brief summary of the facts giving rise to the investigation.

Summary - List the allegations separately, including applicable policy sections, with a brief summary of the evidence relevant to each allegation. A separate recommended finding should be provided for each allegation.

Evidence - Each allegation should be set forth with the details of the evidence applicable to each allegation provided, including comprehensive summaries of member and witness statements. Other evidence related to each allegation should also be detailed in this section.

Conclusion - A recommendation regarding further action or disposition should be provided.

Exhibits - A separate list of exhibits (e.g., recordings, photos, documents) should be attached to the report.

1011.6.8 DISPOSITIONS

Each personnel complaint shall be classified with one of the following dispositions:

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Unfounded - When the investigation discloses that the alleged acts did not occur or did not involve department members. Complaints that are determined to be frivolous will fall within the classification of unfounded.

Exonerated - When the investigation discloses that the alleged act occurred but that the act was justified, lawful and/or proper.

Not sustained - When the investigation discloses that there is insufficient evidence to sustain the complaint or fully exonerate the member.

Sustained - When the investigation discloses sufficient evidence to establish that the act occurred and that it constituted misconduct.

If an investigation discloses misconduct or improper job performance that was not alleged in the original complaint, the investigator shall take appropriate action with regard to any additional allegations.

1011.6.9 COMPLETION OF INVESTIGATIONS

Every investigator or supervisor assigned to investigate a personnel complaint or other alleged misconduct shall proceed with due diligence in an effort to complete the investigation within six months from the date of discovery by an individual authorized to initiate an investigation.

1011.7 ADMINISTRATIVE SEARCHES

Assigned lockers, storage spaces and other areas, including desks, offices and vehicles, may be searched as part of an administrative investigation upon a reasonable suspicion of misconduct.

Such areas may also be searched any time by a supervisor for non-investigative purposes, such as obtaining a needed report, radio or other document or equipment.

1011.8 ADMINISTRATIVE LEAVE

When a complaint of misconduct is of a serious nature, or when circumstances indicate that allowing the accused to continue to work would adversely affect the mission of the Department, the Chief of Police or the Operations Commander may temporarily assign an accused employee to administrative leave. When an employee has been placed on Administrative Leave, the Operations Commander will forward any such notice to the Human Resources Department.

Any employee placed on administrative leave:

- (a) May be required to relinquish any department badge, identification, assigned weapons and any other department equipment.
- (b) Shall be required to continue to comply with all policies and lawful orders of a supervisor.
- (c) May be temporarily reassigned to a different shift, generally a normal business-hours shift, during the investigation. The employee may be required to remain available for contact at all times during such shift, and will report as ordered.

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1011.9 CRIMINAL INVESTIGATION

Where a member is accused of potential criminal conduct, a separate investigator shall be assigned to investigate the criminal allegations apart from any administrative investigation. Any separate administrative investigation shall be stayed, pending the outcome of the criminal investigation.

The Chief of Police shall be notified as soon as practicable when a member is accused of criminal conduct. The Chief of Police may request a criminal investigation by an outside law enforcement agency.

A member accused of criminal conduct shall be provided with all rights afforded to a civilian. The member should not be administratively ordered to provide any information in the criminal investigation.

No information or evidence administratively coerced from a member may be provided to anyone involved in conducting the criminal investigation or to any prosecutor.

The Lake Stevens Police Department may release information concerning the arrest or detention of any member, including an officer, that has not led to a conviction. No disciplinary action should be taken until an independent administrative investigation is conducted.

1011.10 POST-ADMINISTRATIVE INVESTIGATION PROCEDURES

Upon completion of a formal investigation, an investigation report should be forwarded to the Operations Commander. The Operations Commander may modify any classification or recommendation for disciplinary action.

1011.10.1 COMMANDER RESPONSIBILITIES

Upon receipt of any completed personnel investigation, the Operations Commander shall review the entire investigative file, the member's personnel file and any other relevant materials.

The Operations Commander may make recommendations regarding the disposition of any allegations and the amount of discipline, if any, to be imposed.

Prior to forwarding recommendations to the Chief of Police, the Operations Commander may return the entire investigation to the assigned investigator or supervisor for further investigation or action.

When forwarding any written recommendation to the Chief of Police, the Operations Commander shall include all relevant materials supporting the recommendation. Actual copies of a member's existing personnel file need not be provided and may be incorporated by reference.

1011.10.2 CHIEF OF POLICE RESPONSIBILITIES

Upon receipt of any written recommendation for disciplinary action, the Chief of Police shall review the recommendation and all accompanying materials. The Chief of Police may modify any recommendation and/or may return the file to the Operations Commander for further investigation or action.

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Once the Chief of Police is satisfied that no further investigation or action is required by staff and determines disciplinary action is warranted, the Chief of Police shall provide the member with a written notice and the following:

- (a) Access to all of the materials considered by the Chief of Police in recommending the proposed discipline.
- (b) An opportunity to respond orally or in writing to the Chief of Police within five days of receiving the notice.
 - (a) Upon a showing of good cause by the member, the Chief of Police may grant a reasonable extension of time for the member to respond.
 - (b) If the member elects to respond orally, the presentation shall be recorded by the Department. Upon request, the member shall be provided with a copy of the recording.

1011.11 PRE-DISCIPLINE EMPLOYEE RESPONSE

The pre-discipline process is intended to provide the accused employee with an opportunity to present a written or oral response to the Chief of Police after having had an opportunity to review the supporting materials and prior to imposition of any recommended discipline. The employee shall consider the following:

- (a) The response is not intended to be an adversarial or formal hearing.
- (b) Although the employee may be represented by an uninvolved representative or legal counsel, the response is not designed to accommodate the presentation of testimony or witnesses.
- (c) The employee may suggest that further investigation could be conducted or the employee may offer any additional information or mitigating factors for the Chief of Police to consider.
- (d) In the event that the Chief of Police elects to cause further investigation to be conducted, the employee shall be provided with the results prior to the imposition of any discipline.
- (e) The employee may thereafter have the opportunity to further respond orally or in writing to the Chief of Police on the limited issues of information raised in any subsequent materials.

1011.12 DISCIPLINE

Once the member has completed his/her response or if the member has elected to waive any such response, the Chief of Police shall consider all information received in regard to the recommended discipline. The Chief of Police shall render a timely written decision to the member and specify the grounds and reasons for discipline and the effective date of the discipline. Once the Chief of Police has issued a written decision, the discipline shall become effective.

The Chief of Police will consult with the City Administrator prior to issuing any discipline resulting in a suspension, demotion, or termination.

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1011.12.1 PROGRESSIVE DISCIPLINE

The administration of discipline is generally expected to be progressive in nature, with relatively minor violations of rules resulting in minor disciplinary action for first offenders. Repetitive similar violations, or more serious violations, would generally result in progressively more serious forms of discipline being administered. Nothing in this policy is intended to preclude the administration of more serious forms of discipline, including termination, for a first time offense when warranted by the seriousness of the offense.

1011.13 RESIGNATIONS/RETIREMENTS PRIOR TO DISCIPLINE

In the event that a member tenders a written resignation or notice of retirement prior to the imposition of discipline, it shall be noted in the file. The tender of a resignation or retirement by itself shall not serve as grounds for the termination of any pending investigation or discipline.

1011.14 POST-DISCIPLINE APPEAL RIGHTS

Non-probationary employees have the right to appeal a suspension without pay, punitive transfer, demotion, reduction in pay or step, or termination from employment. The employee has the right to appeal using the procedures established by any collective bargaining agreement, Civil Service Rules, and/or personnel rules.

In the event of punitive action against an employee covered by civil service, the appeal process shall be in compliance with RCW 41.12.090 and RCW 41.14.120.

1011.15 PROBATIONARY EMPLOYEES AND OTHER MEMBERS

At-will and probationary employees and members other than non-probationary employees may be disciplined and/or released from employment without adherence to any of the procedures set out in this policy, and without notice or cause at any time. These individuals are not entitled to any rights under this policy. However, any of these individuals released for misconduct should be afforded an opportunity solely to clear their names through a liberty interest hearing, which shall be limited to a single appearance before the Chief of Police or the authorized designee.

Any probationary period may be extended at the discretion of the Chief of Police in cases where the individual has been absent for more than a week. When the Chief of Police determines that additional time to review the individual is appropriate, he/she will notify the Civil Service Commission of the reason for the extension.

1011.16 RETENTION OF PERSONNEL INVESTIGATION FILES

All personnel complaints shall be maintained in accordance with the established records retention schedule and as described in the Personnel Files Policy.

1011.17 NOTIFICATION TO CRIMINAL JUSTICE TRAINING COMMISSION (CJTC) CERTIFICATION BOARD

Upon termination of a peace officer for any reason, including resignation, the Department shall, within 15 days of the termination, notify the CJTC on a personnel action report form provided

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by the commission. The Department shall, upon request of the CJTC, provide such additional documentation or information as the commission deems necessary to determine whether the termination provides grounds for revocation of the peace officer's certification (RCW 43.101.135).

1011.18 DISCIPLINARY MATRIX

The matrix below will determine the range of action taken to include discipline for suspected allegations.

Minor Policy Violations:

- 1st Offense = Coaching/Counseling (PIR) to Written Reprimand
- 2nd Offense = Written Reprimand to 8-32 Hours Suspension
- 3rd Offense = 32 Hours to 112 Hours Suspension

Major Policy Violations:

- 1st Offense = Written Reprimand to Demotion or Termination
- 2nd Offense = 112 Hours – 160 Hours Suspension to Demotion or Termination
- 3rd Offense = 160 Hours Suspension to Demotion or Termination

Major Policy Violations may include:

- Insubordination
- Dishonesty
- Committing a Crime
- Civil Rights Violation
- Conflict of Interest
- Workplace Discrimination/Harassment
- Negligent/Dangerous Acts
- CIJS Violations

Minor Policy Violations would include any policy violation that did not include the actions listed under Major Policy Violations. Nothing in this policy is intended to preclude the administration from determining that an unforeseen action by an employee, not listed under Major Policy Violations, would not be subject to that same disciplinary matrix as a major policy violation.

While a Coaching and Counseling is NOT a disciplinary step, it is considered an acceptable first step to addressing minor policy violations that the administration feels can be addressed without formal discipline. The form of documentation for this will be the Performance Incident Review (PIR). A PIR will remain in the employee's supervisor's file for the duration of the calendar year that the incident occurred. PIR's shall be noted on an employee's annual performance review, after which the PIR will be purged from the employees personnel file. A sustained complaint for

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any violations that were resolved with a PIR, within a 24 month time period, shall be considered a 2nd offense.



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LAKE STEVENS CITY COUNCIL
STAFF REPORT

Council Agenda Date: January 25th 2016

Subject: Police Department Policies correlating to City Polices/Policy 1013 Seat Belts

Contact Person/Department: Lt. Lambier **Budget Impact:** N/A

RECOMMENDATION(S)/ACTION REQUESTED OF COUNCIL: City Council review and approval of revised LSPD Policy 1013.

SUMMARY/BACKGROUND: The existing policy has been revised and in some sections, re-written to clarify purpose and scope, provide definitions and address specific issues such as transporting of children, vehicles manufactured without seat belts and vehicle air bags. These changes are “best practice” and supported by LEXIPOL.

These changes to the policy have been reviewed and approved by the Lake Stevens Police Guild.

APPLICABLE CITY POLICIES: P-1-99

BUDGET IMPACT: N/A

ATTACHMENTS:

- ▶ Exhibit A: City of Lake Stevens Personnel Rules and Polices P-1-99
- ▶ Exhibit B: Revised copy of LSPD Policy 1013

EXHIBIT A

City of Lake Stevens
Personnel Rules and Policies

VEHICLE POLICY

City Policy No.: P-1-99
Effective: 7-1-95
Revised: 6-22-15

It is the policy of the City of Lake Stevens to provide vehicles for business use, to allow employees to drive on City business, and to reimburse employees for business use of personal vehicles according to the guidelines below.

VEHICLE USE

A. PROCEDURE

The term "vehicles" as used in these guidelines includes, but is not limited to, cars, trucks, backhoes, front end loaders, graders, and any motorized transportation or equipment.

1. Employees may not drive any city vehicles for city business without prior approval of their supervisor. Paragraph 4 deals with regular use of city vehicles.

Employees driving on city business are required to notify their supervisor should their operator's license be restricted, changed, suspended or revoked by official state agency action. Failure to notify their supervisor shall be grounds for disciplinary action which may include termination.

2. Employees holding the jobs designated as requiring regular driving for business shall have in their possession a motor vehicle operator's license valid for the State of Washington.

With City Administrator or department director approval, the City will reimburse employees the cost of acquiring special endorsements to their driver's license, when required solely for the operation of City of Lake Stevens equipment.

Employees must, if driving is a condition of employment, be able to meet the driver approval standards of their policy at all times. Employees required to drive on city business shall be subject to suspension or termination in the event their operator's license is suspended or revoked by official state agency action. In no case will the employee be allowed to operate city vehicles until such suspension is lifted.

3. City vehicles may be permanently assigned to those departments which have demonstrated a continued need for them.
4. Employees who need transportation in the course of their normal work may be assigned a city vehicle for their use. Employees who drive city vehicles on a regular basis need only get approval initially for driving the specific vehicles associated with their position. This

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includes vehicles assigned to specific departments or specific tasks. Specific examples include public works vehicles such as backhoes, dump trucks, road mowers, generator truck, crew vehicles, etc. All other employees needing transportation for city business may use vehicles assigned to their department or can schedule to use other city vehicles. As a last alternative, when no city vehicles are available, employees may use their own vehicles for business purposes provided insurance requirements outlined in Item 8 of this section have been met.

5. Employees who drive a city vehicle on city business must, in addition to meeting the approval requirements above, exercise due diligence to drive safely and to maintain the security of the vehicle and its contents. This includes no cell phone usage, smoking, or other activities that may distract an employee from safely driving a City vehicle. In addition, such drivers must make sure that the vehicle meets any city or legal standards for insurance, maintenance, and drivability. Employees are also responsible for the cost of any driving infractions or fines as a result of their driving.
6. Employees are not permitted, under any circumstances, to operate a city vehicle, or a personal vehicle for city business, when any physical or mental impairment causes the employee to be unable to drive safely. This prohibition includes, but is not limited to, circumstances in which the employee is temporarily unable to operate a vehicle safely or legally because of injury, illness, or medication.
7. Non-employee non-business associates are prohibited from riding as passengers in city vehicles.
8. Employees who use their personal vehicle for approved business purposes will receive a mileage allowance equal to the Internal Revenue Service (IRS) optional mileage allowance for such usage. This allowance is to compensate for the cost of gasoline, oil, depreciation, and insurance. Employees who operate personal vehicles for city business shall obtain auto liability coverage for bodily injury and property damage with a special endorsement for business use, when determined to be necessary by the insuring agent.
9. Employees driving on city business may claim reimbursement for parking fees and tolls actually incurred, and employees driving city vehicles may charge or claim reimbursement for gasoline and other expenses directly incurred for business purposes which are not included in the IRS allowance. Charges and claims for mileage allowance for vehicle use reimbursement must be approved by the employee's supervisor and submitted to the finance department for voucher preparation.
10. Private use of city vehicles is prohibited. Employees who are on call on a 24-hour basis may be authorized by the City Administrator to take a city vehicle home so they can respond as soon as possible need to provide written acknowledgement that they fully understand that the vehicle is used only as part of emergency response.

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B. RESPONSIBILITIES

1. An employee shall be designated “Fleet Manager,” who has the authority to inspect any vehicle, arranges approved repairs, orders and has installed approved equipment and supplies, and maintains documentation on each vehicle. The Fleet Manager will report problems and vehicle performance information to the designated Department Head..
2. Vehicles are to be serviced by approved vendors. Service and repairs are scheduled by the Fleet Manager. If a vehicle should breakdown in the field, or outside the city, the employee may contact a convenient tow company to tow the vehicle to the city parking area or a vendor.
3. Employees must report any collisions, theft, or malicious damage involving a city vehicle or a personal vehicle used on city business to their supervisor and the Fleet Manager regardless of the extent of damage or lack of injuries. If the Fleet Manager is involved in a collision, the report should be to the Human Resources Director. Such reports must be made as soon as possible, but no later than forty-eight hours after the incident.
4. Employees involved in a collision will refrain from making statements concerning liability or fault to other parties involved in the collision. Statements made to investigating authorities should be confined to factual observations.
5. The driver and all passengers in city vehicles so equipped will wear seat belts.

C. SPECIAL ENDORSEMENTS

1. Employees designated to drive City vehicles that require a commercial driver’s license (CDL) will be required to obtain a commercial driver’s license within 90 days of employment, or as directed by the department.
2. The City will pay for CDL application and for annual CDL license renewals as long as said employee remains in a position to require said endorsement.
3. The City will also pay for the cost of reasonable and necessary training, and for the required physical examination.

D. DRUG AND ALCOHOL POLICY/CITY VEHICLES

The City has a “Drug Free Work Place Policy” that is in effect and shall cover all use of City vehicles. The Policy shall also include drivers involved in accidents while driving City vehicles. Any violation of the City Drug Free Work Place Policy, including suspension of driving privileges for Driving Under the Influence (DUI), refusing to submit to an alcohol or drug test, or leaving the scene of an accident or any other violations that restrict, suspend or revoke an employee’s Driver’s License, may be grounds for termination.

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E. DRUG AND ALCOHOL TESTING POLICY/EMPLOYEES WITH CDL's

I. PURPOSE

The City of Lake Stevens is dedicated to providing quality, dependable and economical municipal services to the residents of Lake Stevens. Part of our mission is to ensure that the services are delivered safely, efficiently, and effectively by establishing a drug and alcohol-free work environment, and to ensure that the workplace remains free from the effects of drugs and alcohol in order to promote the health and safety of employees and the general public. In keeping with this mission, The City of Lake Stevens declares that the unlawful manufacture, distribution, dispensation, possession or use of controlled substances or misuse of alcohol is prohibited for all employees.

Additionally, the purpose of this policy is to establish guidelines to maintain a drug and alcohol-free workplace in compliance with the Drug-Free Workplace Act of 1988, and the Omnibus Transportation Employee Testing Act of 1991. This policy is intended to comply with all applicable federal regulations governing workplace anti-drug and alcohol programs in the motor carrier industry. Specifically, the Federal Motor Carrier Safety Administration (FMCSA) of the U.S. Department of Transportation has published 49 CFR Part 382, as amended, that mandates urine drug testing and breath alcohol testing for safety-sensitive positions, and prohibits performance of safety-sensitive functions when there is a positive test result. The U.S. Department of Transportation (USDOT) has also published 49 CFR Part 40, as amended, which sets standards for the collection and testing of urine and breath specimens.

This policy sets forth the City of Lake Stevens alcohol and drug testing program and the testing and reporting requirements as required by those regulations.

II. APPLICABILITY

This drug and alcohol testing policy applies to all safety-sensitive employees (full- or part-time) of the City who are required to have and maintain a Commercial Driver's License in order to perform the duties of the job. Contractors performing functions for the City involving the use of a vehicle requiring a Commercial Driver's License, will be subject to specific alcohol and drug testing as required by federal regulations.

III. DEFINITIONS

ACCIDENT - Accident means an occurrence involving a commercial vehicle on a public road which results in (1) a fatality; (2) bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or (3) one or more motor vehicles incurring disabling damage requiring the vehicle to be transported away from the scene by a tow truck or other vehicle.

DRIVER - This term includes all employees whose positions may involve driving a commercial

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vehicle and that require the possession of a Commercial Driver's License.

COMMERCIAL VEHICLE - A commercial vehicle is one that either: 1) has a gross vehicle weight of over 26,000 pounds (including combined weight if towed unit weighs over 10,000 pounds); 2) is designed to transport 16 or more persons, including the driver; or 3) is used to transport hazardous materials, as provided under the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the Hazardous Materials Regulations.

DRUGS - For the purposes of this policy, in accordance with the applicable federal regulations, "drugs" refers to the following five substances: marijuana (THC), cocaine, opiates, phencyclidine (PCP), and amphetamines.

MEDICAL REVIEW OFFICER (MRO) - The Medical Review Officer is the licensed physician responsible for receiving and interpreting laboratory results from the urine drug tests.

SAFETY SENSITIVE POSITION - For purposes of this policy, these are positions associated with the driving of commercial vehicles.

SUBSTANCE ABUSE PROFESSIONAL (SAP) - A Substance Abuse Professional is a licensed physician, or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission or by the International Certification Reciprocity Consortium/Alcohol and Other Drug Abuse) with knowledge of and clinical experience in the diagnosis and treatment of alcohol and drug-related disorders.

IV. EDUCATION AND TRAINING

Every covered employee will receive a copy of this policy and will have the ready access to the corresponding federal regulations including 49 CFR Parts 382 and 40, as amended. In addition, all covered employees will receive educational materials and/or on-site training on the signs and symptoms of drug use and alcohol misuse, including the effects and consequences of drug use and alcohol misuse on personal health

All supervisory personnel or city officials who are in a position to determine employee's fitness for duty will receive 60 minutes of reasonable suspicion training on the physical, behavioral, and performance indicators of probable drug use and 60 minutes of additional reasonable suspicion training on the physical, behavioral, speech, and performance indicators of probable alcohol misuse.

V. PROHIBITED SUBSTANCES

Prohibited substances addressed by this policy include the following:

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Illegally Used Controlled Substances or Drugs under the Drug-Free Workplace Act of 1988, any drug or any substance identified in Schedule I through V of Section 202 of the Controlled Substance Act (21 U.S.C. 812), and as further defined by 21 CFR 1300.11 through 1300.15 is prohibited at all times in the workplace unless a legal prescription has been written for the substance. This includes, but is not limited to: marijuana, amphetamines, opiates, phencyclidine (PCP), and cocaine, as well as any drug not approved for medical use by the U.S. Drug Enforcement Administration or the U.S. Food and Drug Administration. Illegal use includes use of any illegal drug, misuse of legally prescribed drugs, and use of illegally obtained prescription drugs. Also, the medical use of marijuana, or the use of hemp-related products, as which cause drug or drug metabolites to be present in the body above the minimum thresholds is a violation of this policy.

Federal Motor Carrier Safety Administration drug testing regulations (49 CFR Part 382) require that all covered employees be tested for marijuana, cocaine, amphetamines, opiates, and phencyclidine as described in Section VII of this policy. Illegal use of these five drugs is prohibited at all times, and thus covered employees may be tested for these drugs anytime that they are on duty.

Legal Drugs: The appropriate use of legally prescribed drugs and non-prescription medications is not prohibited. However, the use of any substance which carries a warning label that indicates mental functioning, motor skills, or judgment may be adversely affected must be reported to the designated supervisor and the employee is required to provide a written release from his/her doctor or pharmacist indicating that the employee can perform his/her safety-sensitive functions.

Alcohol: The use of beverages containing alcohol (including any mouthwash, medication, food or candy) or any other substances such that alcohol is present in the body while performing safety-sensitive job functions is prohibited. An alcohol test can be performed on a covered employee under 49 CFR Part 382 just before, during, or just after the performance of safety-sensitive job functions.

VI. PROHIBITED CONDUCT

The following conduct regarding alcohol and drug use or abuse is prohibited:

All covered employees are prohibited from reporting for duty or remaining on duty any time there is a quantifiable presence of a prohibited drug in the body above the minimum thresholds defined in 49 CFR Part 40, as amended.

Each covered employee is prohibited from consuming alcohol while performing safety-sensitive job functions or while on-call to perform safety-sensitive job functions. If an on-call employee has consumed alcohol, they must acknowledge the use of alcohol at the time

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that they are called to report for duty. The covered employee will subsequently be relieved of his/her on-call responsibilities and subject to discipline.

The City of Lake Stevens shall not permit any covered employee to perform or continue to perform safety-sensitive functions if it has actual knowledge that the employee is using alcohol.

Each covered employee is prohibited from reporting to work or remaining on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.04 or greater regardless of when the alcohol was consumed.

No covered employee shall consume alcohol for eight (8) hours following involvement in an accident or until he/she submits to the post-accident drug/alcohol test, whichever occurs first.

No covered employee shall consume alcohol within four (4) hours prior to the performance of safety-sensitive job functions.

Consistent with the Drug-Free Workplace Act of 1988, all City of Lake Stevens employees are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of prohibited substances in the workplace including City premises, vehicles, while in uniform, or while on city business.

VII. TESTING REQUIREMENTS

Analytical urine drug testing and breath testing for alcohol will be conducted as required by 49 CFR Part 40, as amended. All covered employees shall be subject to the following testing, as defined below, and as described in the Drug & Alcohol Testing Procedures:

A. Pre-employment Drug Testing

All individuals who are covered by this policy must pass a drug test as a post-offer condition of employment. Additionally, a non-covered employee shall not be placed, transferred or promoted into a covered position until the employee takes a drug test with verified negative results. Applicants are required to report previous DOT-covered employer drug and alcohol test results—Failure to do so will result in the employment offer being rescinded.

B. Reasonable Suspicion Testing

Employees subject to this policy shall submit to a drug and/or alcohol test when the City reasonably suspects that this policy (except the prohibitions against possession, transfer or sale of alcohol) may have been or is presently being violated. A referral for testing will be

City of Lake Stevens Personnel Rules and Policies

based on contemporaneous, articulable observations. Such referrals will be made by supervisory personnel who have received training concerning the signs and symptoms of drug and alcohol use.

Alcohol testing for reasonable suspicion may only be conducted just before, during or after an employee operates a commercial vehicle. If removed from duty based on reasonable suspicion of alcohol use and an alcohol test is not administered within eight hours, the employee will not be allowed to perform or continue to perform covered functions until:

- 1) An alcohol test is administered and the driver's breath alcohol concentration measures less than 0.02; or
- 2) 24 hours have elapsed following the determination that there is reasonable suspicion to believe that the employee has violated this policy concerning the use of alcohol.

C. Post-Accident Testing

Following an accident (as defined above) involving a commercial vehicle, the driver is required to submit to alcohol and drug tests when the driver receives a citation under state or local law for a moving traffic violation, or where a fatality occurs as a result of the accident. Testing should occur as soon as possible, but may not exceed eight hours after the accident for alcohol testing and 32 hours after the accident for drug testing.

A driver who is subject to post-accident testing must remain readily available for such testing and may not take any action to interfere with testing or the results of testing. Drivers who do not comply with post-accident testing requirements will be considered to have refused to submit to testing and will be subject to sanctions for refusal to test as provided in this policy.

D. Random Testing

Employees covered by this policy will be subject to random, unannounced alcohol and drug testing.

E. Return to Duty Testing

Employees who have violated this policy, including those who have tested positive on a drug or alcohol test, and who under the discipline policy are allowed to return to work, must test negative prior to being released for duty. A return to duty test following alcohol misuse may not exceed an alcohol concentration of 0.02. All employees who go for return –to-duty testing must have their collections observed per 49 CFR 40.67(b).

F. Follow-up Testing

City of Lake Stevens
Personnel Rules and Policies

An employee who is referred for assistance related to alcohol misuse and/or use of drugs is subject to unannounced follow-up testing for a period not to exceed 60 months as directed by a Substance Abuse Professional and the City. The number and frequency of follow-up testing will be determined by the Substance Abuse Professional and the City, but will not be less than six tests in the first 12 months following the employee's return to duty. All employees who go for follow-up testing must have their collections observed per 49 CFR 40.67(b).

G. Split Sample Testing

Employees who test positive for drugs may request a second test of the remaining portion of the split sample within 72 hours of notification of a positive test result by the Medical Review Officer.

H. Retest for Dilute Test Results

Employees who render a dilute test that is positive for drugs will be treated as a verified test positive. Employees who render a dilute test that is negative may be subject to a retest, as specified in the Drug & Alcohol Testing Procedures.

VIII. REFUSAL TO TAKE AN ALCOHOL OR DRUG TEST

No employee shall refuse to submit to an alcohol or drug test as directed under this policy. A refusal to submit shall include, but is not limited to:

- a. Failure to provide adequate breath for testing without a valid medical explanation after the employee has received notice of the requirement for breath testing in accordance with the procedures manual;
- b. Failure to provide adequate urine for drug testing without a valid medical explanation after the employee has received notice of the requirement for urine testing in accordance with the procedures manual;
- c. Engaging in conduct that obstructs the testing process.

Refusal to submit to a test shall be considered the same as a positive test result.

IX. SECURING INFORMATION FROM PREVIOUS EMPLOYERS

If a person is to be hired into a position subject to this policy and during the previous two years has worked as a driver of a commercial vehicle, that person must authorize a request of all employers of the driver within the past two years to release information on the following:

City of Lake Stevens
Personnel Rules and Policies

- a. Positive alcohol or drug tests
- b. Refusal to be tested

The City will make a good faith effort to obtain and review the information from prior employers within 30 days of the person performing safety sensitive duties for the first time.

If the information obtained from previous employer indicates either a positive test or that a refusal to be tested occurred within the past two years, that person would not be permitted to drive commercial vehicles unless subsequent information indicates that an evaluation by a Substance Abuse Professional was made and return to duty testing was administered.

X. CONFIDENTIALITY AND RECORD RETENTION

All records related to drug and alcohol testing will be maintained in a secure location with controlled access. These records will be kept separate from records pertaining to all other employees.

XI. CONSEQUENCES OF ENGAGING IN PROHIBITED CONDUCT OR POSITIVE DRUG OR ALCOHOL TESTS

A. Discipline

An employee will be subject to appropriate disciplinary action as specified in the Drug Free Workplace policy # P-23-95 up to and including termination from employment if:

- a. the employee tests positive for prohibited substances as outlined in Section V.
- b. results from an alcohol test indicate a breath alcohol level of 0.02 or greater; and/or,
- c. the employee has engaged in prohibited conduct as outlined in Section VI.

All employees regardless of disciplinary action taken will be advised of resources available to the employee in evaluating or resolving problems associated with drug use or alcohol misuse.

The following provisions apply to those employees who are not terminated for their policy violations:

B. Positive Test Result and/or Engaging in Prohibited Conduct.

If an employee tests positive for drugs or has an alcohol test that indicates a breath alcohol level of .04 or greater from a random, reasonable suspicion or post-accident test, or engages in prohibited conduct as outlined in Section VI, the employee will be immediately removed

City of Lake Stevens
Personnel Rules and Policies

from duties requiring the driving of a commercial vehicle. The employee will not be permitted to return to work unless he/she:

1. Has been evaluated by a qualified Substance Abuse Professional; and,
2. If recommended by a Substance Abuse Professional, has properly followed any rehabilitation prescribed; and,
3. Has his/her Commercial Driver's License re-activated by the Washington State Department of Licensing; and,
4. Has a verified negative result on a return-to-duty alcohol (<0.02) and/or drug test.

Upon completion of a recommended rehabilitation program and successful return to work, an employee will be subject to follow-up random testing for up to sixty (60) months as recommended by the Substance Abuse Professional and the City with a minimum of six such unscheduled tests within the first twelve months of returning to duty.

C. Alcohol Concentration of 0.02 but less than 0.04

Employees having a breath alcohol concentration of at least 0.02 but less than 0.04, shall be removed from duty requiring the driving of a commercial vehicle for at least 24 hours.

XII. EMPLOYEE ASSISTANCE PROGRAM/VOLUNTARY REFERRAL

The City supports employees who volunteer for treatment of alcohol or drug abuse. Employees are encouraged to seek treatment voluntarily and to utilize the Employee Assistance Program. Any employee who comes forth and notifies the City of alcohol or drug abuse problems will be given the assistance extended to employees with any other illness. Any such program, however, may not interfere with the tests required by these rules. For example, a driver may not identify himself/herself as unfit to drive after having been notified of a random or reasonable suspicion test and expect to avoid the consequences for a positive test or a refusal to test. In addition, voluntarily seeking assistance does not excuse any failure to comply with all of the provisions of this policy or other policies of the city.

Sick leave, vacation leave or leave of absence without pay may be granted for treatment and rehabilitation as in other illnesses. Insurance coverage for treatment will be provided to the extent of individual coverage. Confidentiality of information will be maintained as much as possible at all times.

F. OBTAINING DRIVER'S ABSTRACT

City of Lake Stevens
Personnel Rules and Policies

1. The City shall establish a method of obtaining and evaluating the Driver's Abstract using a Driving Record Request form utilizing the Driver Evaluation Point System (forms attached) to determine if current employees or potential employees are eligible, based on the outcome of the evaluation, to operate city vehicles within the scope of employment.
2. The employee shall be required to obtain a copy of their Abstract of Driving Record whenever request by the employer. The employee may obtain copies of their Abstract of Driving Record from any Washington Department of Licensing office or the appropriate department in any relevant state.
3. Nothing in this procedure will prevent the city from investigating the manner in which city employees operate motor vehicles of the city or for city business.

G. ADMINISTRATION

The Fleet Manager, under the direction of the designated Department Director, is responsible for the administration of the Vehicle Use Administrative Procedure.

Handwritten initials/signature in blue ink, possibly "J.S."

Lake Stevens Police Department Policy Modification

Review and Authorization Form

Policy Number 1013

Modified by: Lexipol 11/2015
Name Date

Routing:

Administrative Services	
Office of Professional Standards	
Police Guild	<i>[Signature]</i>
Commander	<i>[Signature]</i> 101

Chief's Authorization: [Signature] 11/19/15
Date

Lexipol Updated by: _____
Name Date

Seat Belts

1013.1 PURPOSE AND SCOPE

~~The use of seat belts and other safety restraints significantly reduces the chance of death or injury in case of a traffic collision. This~~ This policy establishes guidelines for the use of seat belt and child safety seat use to assure maximum operator and passenger safety, thus minimizing the possibility of death or injury as a result of motor vehicle crashes belts and child restraints. This policy will apply to all employees ~~members~~ operating or riding in department vehicles(RCW 46.61.688, RCW 46.61.687).

1013.1.1 DEFINITIONS

Definitions related to this policy include:

Child restraint system - An infant or child passenger restraint system that meets Federal Motor Vehicle Safety Standards (FMVSS) and regulations set forth in 49 CFR 571.213 and RCW 46.61.687(6).

1013.2 WEARING OF SAFETY RESTRAINTS POLICY

~~All members shall wear properly adjusted safety restraints when operating or riding in a seat equipped with restraints, in any vehicle owned, leased or rented by this department, while on- or off-duty, or in any privately owned vehicle while on-duty. The member driving such a vehicle shall ensure that all other occupants, including non-members, are also properly restrained.~~

~~Exceptions to the requirement to wear safety restraints may be made only in exceptional situations where, due to unusual circumstances, wearing a seat belt would endanger the member or the public. Members must be prepared to justify any deviation from this requirement.~~

It is the policy of the Lake Stevens Police Department that members use safety and child restraint systems to reduce the possibility of death or injury in a motor vehicle collision.

1013.2.1 TRANSPORTING CHILDREN

~~An approved child safety restraint system should be used for all children of age, size or weight for which such restraints are required by law. In the event an appropriate approved child safety restraint system is not available the child may be transported by sworn personnel however the child should be restrained in a seat belt(RCW 46.61.687(1)).~~

~~The rear seat passenger area in cage-equipped vehicles has reduced clearance which may interfere with the proper use of child safety restraint systems. Because of limited rear seat clearance in these vehicles, children and child restraint systems should be properly secured in the front seat according to the manufacturer's recommendations. Whenever a child is transported in the front seat of a vehicle, the passenger side air bag should be deactivated if possible. In the event this is not possible, alternative transportation should be considered.~~

Seat Belts

1013.3 TRANSPORTING PRISONERS WEARING OF SAFETY RESTRAINTS

~~Whenever possible, prisoners should be secured in the prisoner restraint system in the rear seat of the patrol vehicle or, when a prisoner restraint system is not available, by safety belts in a seating position for which safety belts are provided by the vehicle manufacturer. The prisoner restraint system is not intended to be a substitute for handcuffs or other appendage restraints.~~

~~All members shall wear properly adjusted safety restraints when operating or riding in a seat equipped with restraints, in any vehicle owned, leased or rented by this department while on- or off-duty, or in any privately owned vehicle while on-duty. The member driving such a vehicle shall ensure that all other occupants, including those who are not members of the Department, are properly restrained (RCW 46.61.688; RCW 46.61.687).~~

~~Exceptions to the requirement to wear safety restraints may be made only in exceptional situations where, due to unusual circumstances, wearing a seat belt would endanger the department member or the public. Members must be prepared to justify any deviation from this requirement.~~

1013.4 INOPERABLE SEAT BELTS TRANSPORTING CHILDREN

~~No person shall operate a department vehicle in which any safety belt in the driver's seating position is inoperable. No person shall be transported in a seating position in which the safety restraint is inoperable.~~

~~No person shall modify, remove, deactivate or otherwise tamper with the vehicle safety belts except for vehicle maintenance and repair and not without the express authorization of the Chief of Police.~~

~~Employees who discover an inoperable restraint system shall report the defect to the appropriate supervisor. Prompt action will be taken to replace or repair the system. A child restraint system shall be used for all children of an age, height or weight for which such restraints are required by law (RCW 46.61.687).~~

~~Rear seat passengers in a cage-equipped vehicle may have reduced clearance, which requires careful seating and positioning of seat belts. Due to this reduced clearance, and if permitted by law, children and any child restraint system may be secured in the front seat of such vehicles provided this positioning meets federal safety standards and the vehicle and child restraint system manufacturer's design and use recommendations. In the event that a child is transported in the front seat of a vehicle, the seat should be pushed back as far as possible and the passenger-side air bag should be deactivated. If this is not possible, members should arrange alternate transportation when feasible.~~

1013.5 TRANSPORTING SUSPECTS, PRISONERS OR ARRESTEES

~~Suspects, prisoners and arrestees should be in a seated position and secured in the rear seat of any department vehicle with a prisoner restraint system or, when a prisoner restraint system is not available, by seat belts provided by the vehicle manufacturer. The prisoner restraint system is not intended to be a substitute for handcuffs or other appendage restraints (WAC 204-41-030).~~

Seat Belts

Prisoners in leg restraints shall be transported in accordance with the Handcuffing and Restraints Policy.

1013.6 INOPERABLE SEAT BELTS

Department vehicles shall not be operated when the seat belt in the driver's position is inoperable. Persons shall not be transported in a seat in which the seat belt is inoperable.

Department vehicle seat belts shall not be modified, removed, deactivated or altered in any way, except by the vehicle maintenance and repair staff, who shall do so only with the express authorization of the Chief of Police.

Members who discover an inoperable restraint system shall report the defect to the appropriate supervisor. Prompt action will be taken to replace or repair the system.

1013.7 VEHICLES MANUFACTURED WITHOUT SEAT BELTS

Vehicles manufactured and certified for use without seat belts or other restraint systems are subject to the manufacturer's operator requirements for safe use.

1013.8 VEHICLE AIRBAGS

In all vehicles equipped with airbag restraint systems, the system will not be tampered with or deactivated, except when transporting children as written elsewhere in this policy. All equipment installed in vehicles equipped with airbags will be installed as per the vehicle manufacturer specifications to avoid the danger of interfering with the effective deployment of the airbag device.



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LAKE STEVENS CITY COUNCIL
STAFF REPORT

Council Agenda Date: 9 February 2016

Subject: South Lake Stevens Road - Non-motorized Shoulder Widening Survey

Contact / Department: Adam Emerson, Public Works **Budget Impact:** \$28,149.00

RECOMMENDATION(S)/ACTION REQUESTED OF COUNCIL: Authorize the Mayor to execute Supplement No. 2 with Otak, Inc. to provide survey services for the South Lake Stevens Road Non-motorized Shoulder Widening project in the amount of \$22,149.00 with an authorized management reserve of \$6,000.

SUMMARY/BACKGROUND: The South Lake Stevens Road widening project is intended to widen the south shoulder, currently an open drainage ditch in some locations, to provide at least a 5 foot non-motorized area for bicycles and pedestrians. This project would provide a contiguous shoulder connection from the existing non-motorized widened shoulder along the west side of South Davies Road.

In 2014, staff began piping and filling the drainage ditch on South Lake Stevens Road starting at the west end. By the end of 2015, approximately 1,200 feet of the total 2,400 feet had been completed. The remaining 1,200 feet crosses steep slopes that require engineering. This design can be completed based on these survey services and possibly geotechnical services. In addition, the right-of-way on the east side needs to be identified to prevent encroachment on private property.

This survey will provide information necessary to identify right-of-way and to produce an engineering plan set so that the City can seek contracted construction services to complete the shoulder work and pave the surface. Staff's target will be to release this project to bid this year as Council has expressed an interest in completing this project within a year.

Note: The management reserve is intended to provide for any additional survey services needed based on the initial survey findings of right-of-way location.

BUDGET IMPACT: \$28,149.00

ATTACHMENTS:

- ▶ Exhibit A: Supplement Agreement No 2 – Otak, Inc. – Survey Services

EXHIBIT A

**SUPPLEMENTAL AGREEMENT NO. 2
TO
PROFESSIONAL SERVICES AGREEMENT
FOR
CITY OF LAKE STEVENS
South Lake Stevens Non-Motorize Shoulder**

This Supplemental Agreement No. 1 is made and entered into on the ____ day of _____, 2016, between the City of Lake Stevens, hereinafter called the "City" and **Otak, Inc.** hereinafter called the "Consultant."

This agreement is made pursuant to and in compliance with the Master Professional Services Agreement for On-Call Surveying Services dated 11 January 2016 and RCW 39.80 entitled "Contracts for Architectural and Engineering Services" following a Request for Qualifications awarded on 8th October 2015.

WITNESSETH THAT:

WHEREAS, the parties hereto have previously entered into an Agreement for On-Call Surveying Services, hereinafter called the "Project," said Agreement being dated 11 January 2016; and

WHEREAS, both parties desire to supplement said Agreement, by expanding the Scope of Services to provide for survey services for the Hartford Trail Head Centennial Trail Connection and to amend the total amount payable for this Agreement,

NOW, THEREFORE, in consideration of the terms, conditions, covenants and performance contained herein or attached and incorporated, and made a part hereof, the parties hereto agree as follows:

Each and every provision of the Original Agreement for Professional Services dated 11 January 2016 shall remain in full force and effect, except as modified in the following sections:

1. Article II of the Original Agreement, "SCOPE OF SERVICES", shall be supplemented to include the Scope of Services as described in **Exhibit A1**, attached hereto and by this reference made part of this Supplemental Agreement No. 2.

2. Article IV of the Original Agreement, "OBLIGATIONS OF THE CITY", Paragraph VI.1 Payments, Section (a), provides that the Consultant shall be paid by the City for services rendered under this Agreement as described in the Scope of Services and as provided in this section. In no event shall the compensation paid to Consultant under this Agreement exceed \$75,000.00 per calendar year without the written agreement of the Consultant and the City. Such

payment shall be full compensation for work performed and services rendered and for all labor, materials, supplies, equipment and incidentals necessary to complete the work. In the event the City elects to expand the scope of services from that set forth in Exhibit A, the City shall pay Consultant a mutually agreed amount. The costs for this Supplemental Agreement No.1 are not to exceed \$22,149.00 as set forth in **Exhibit A 1** attached.

The Total Amount payable to the Consultant is summarized as follows:

Original Agreement Authorized Amount not to exceed per year	\$75,000.00
Supplemental Agreement No.1	\$7,401.00
Supplemental Agreement No.2	\$22,149.00
Grand Total	\$29,550.00

3. Article III, Section III.3 of the Original Agreement, Term is not amended with this Supplement.

IN WITNESS WHEREOF, the parties hereto have executed this Supplemental Agreement No. 2 as of the day and year first above written.

CITY OF LAKE STEVENS

OTAK, INC.

By: _____
John Spencer, Mayor

By: _____

Printed Name & Title

ATTEST/AUTHENTICATE:

Kathy Pugh, Deputy City Clerk

APPROVED AS TO FORM:

Grant K. Weed, City Attorney

EXHIBIT A1



**SCOPE OF SERVICES
SOUTH LAKE STEVENS ROAD WIDENING
CITY OF LAKE STEVENS
PROJECT NUMBER: 16026**

DATE ISSUED: 25 JANUARY 2016

I. OVERVIEW

The City of Lake Stevens is seeking survey services for South Lake Stevens Road. The survey will be used to perform the design of a widened shoulder, storm sewer and stream crossing and should identify right-of-way limits along this road. This survey will span roughly 2,500 linear feet between S. Davies Road and Stitch Road.

II. SCOPE OF SERVICES

- Conduct research of horizontal and vertical control information. Research and review existing surveys, legal descriptions, utility plans and drainage plans in the vicinity of the project limits.
- Locate and identify underground and overhead utilities.
- Perform a topographic survey to twenty (20) feet outside the existing right-of-way within the limits of the project as depicted in Exhibit A.
- Prepare a topographic survey basemap depicting the following:
 - Centerline and edges of right-of-way;
 - Aboveground and underground utilities within the right-of-way;
 - Edge of asphalt, pavement markings, driveways, top of ditch, flowline of ditch;
 - Fences, significant trees, signs, mailboxes, utility poles; and
 - One-foot contours.
- Prepare electronic drawing files (.dwg) which are compatible with AutoCAD Civil 3D 2010 according to the following:
 - Washington State Plane Coordinates NAD 83/91;
 - NAVD 88 vertical datum;
 - United States Customary units; and
 - Position and view should be un-rotated from the coordinate system so that north points orthographically vertical on the screen.

III. DELIVERABLES

- Letter of Transmittal on the Consultant's letterhead from the project manager stating that the topographic survey and electronic files have been reviewed and approved by a Licensed Professional Land Surveyor.
- Topographic survey basemap in electronic file format as outlined in the Scope of Services.
- One half-size (11" x 17") electronic plot (in .pdf form) of the topographic survey basemap on the Consultant's title block, stamped and signed by the project's Licensed Professional Land Surveyor.

IV. ASSUMPTIONS

- Right-of-way will be shown based on best available record information and ties to existing monuments.
- Utilities will be based on on-site locates and the best available record information and will be considered approximate only.
- Topographic survey map will be drawn at a scale most convenient for sheet size.

V. TIMING OF COMPLETION

- Project should be completed and submitted to the city within 30 calendar days following the notice to proceed.
- Payment shall be made within 30 days of invoicing following acceptance by the City.

VI. EXHIBIT A



FEE

South Lake Stevens Non-motorized Shoulder Widening

Project Number 16026
 Otak Project No. 32659.B

CITY OF LAKE STEVENS South Lake Stevens Road Widening	Principal Civil PE	PLS Project Manager	Sr. Professional Land Surveyor	GIS Analysis	Survey Technician	Field Survey Technician II	Survey / Engineer Intern	Project Assistant	Total Hours	Total Fees
Section Description	\$181.66	\$120.43	\$111.06	\$109.00	\$93.00	\$69.93	\$51.47	\$76.00		
II Survey and Mapping										\$ -
II.1 Research Boundary, Control, Utilities, and Drainage		8	8		0	0		2	18	\$ 2,004
II.2 Right-of-Way survey, resolution, and Mapping		4	16		12	12			44	\$ 4,214
II.3 Topographic and utility field survey and mapping		4	32		48	48			132	\$ 11,856
Subtotal Hours/Fees - OTAK	0	16	56	0	60	60	0	2	194	\$ 18,074
Expenses - Mileage, Miscellaneous										\$ 75
Expenses - Utility Locates										\$ 4,000
Total Hours and Costs	0	16	56	0	60	60	0	2	194	\$ 22,149



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LAKE STEVENS CITY COUNCIL
STAFF REPORT

Council Agenda Date: 9 February 2016

Subject: 20th Street SE Phase II (83rd to 91st Ave SE)
Supplemental Agreement 3 – Right-of-way Acquisition

Contact / Department: Mick Monken, Public Works **Budget Impact:** \$192,780.00

RECOMMENDATION(S)/ACTION REQUESTED OF COUNCIL: Authorize the Mayor to execute Supplemental Agreement #3 with Perteet, Inc. in the amount of \$192,780.00 for right-of-way acquisition services and design completion.

SUMMARY/BACKGROUND: The city has been awarded a federal grant to perform design and right-of-way acquisition on Phase II of 20th Street SE between 83rd to 91st Avenue SE. The total estimated cost of this phase of the project is \$1,508,400 with \$1,055,800 supplied from federal match dollars. The city achieved its obligation date in December 2015 for the right-of-way funds in a total amount of \$585,400.00 (\$506,371.00 federal funds and \$79,029.00 city dollars).

This action is to enter into a third supplemental agreement with Perteet, Inc. for right-of-way acquisition and design completion. Perteet, Inc.'s fee for this phase of the project is \$192,780.00 bringing their new maximum amount payable to \$761,362.00.

Under this scope and fee Perteet, Inc. will provide services to complete the plans, specifications and estimate. Perteet's subcontractor, Universal Field Services, will be responsible for the right-of-way acquisition and ensuring that any property acquisition is compliant with federal standards.

Attachment A provides the agreed upon scope and fee for the project. This supplement is anticipated to be completed by 31 December 2017.

APPLICABLE CITY POLICIES:

BUDGET IMPACT: \$192,780.00 - \$79,029.00 in traffic impact fees & \$113,751.00 in federal funds.

ATTACHMENTS:

- ▶ Attachment A: Scope of Services

ATTACHMENT A



Supplemental Agreement Number <u>3</u>		Organization and Address Perteet, Inc. 2707 Colby Avenue, Suite 900 Everett, WA 98201	
Original Agreement Number LA 8543		Phone: 425.252.7700	
Project Number STPUS-2664(003)		Execution Date March 9, 2015	Completion Date December 31, 2017
Project Title 20th Street SE Phase II		New Maximum Amount Payable \$ 761,362.00	
Description of Work See Exhibit B			

The Local Agency of City of Lake Stevens
 desires to supplement the agreement entered into with Perteet, Inc.
 and executed on March 9, 2015 and identified as Agreement No. LA 8543

All provisions in the basic agreement remain in effect except as expressly modified by this supplement.

The changes to the agreement are described as follows:

I

Section 1, SCOPE OF WORK, is hereby changed to read:

See Exhibit B

II

Section IV, TIME FOR BEGINNING AND COMPLETION, is amended to change the number of calendar days for completion of the work to read: No Change - December 31, 2017

III

Section V, PAYMENT, shall be amended as follows:

These additional services will cause an increase to the maximum amount payable of One Hundred Ninety-Two Thousand Seven Hundred Eighty Dollars (\$192,780) for a new maximum amount payable of Seven Hundred Sixty-One Thousand Three Hundred Sixty-Two Dollars (\$761,362).

as set forth in the attached Exhibit A, and by this reference made a part of this supplement.

If you concur with this supplement and agree to the changes as stated above, please sign in the appropriate spaces below and return to this office for final action.

By: Perteet, Inc.

By: City of Lake Stevens

 Consultant Signature
 Crystal L. Donner, President

 Approving Authority Signature

 Date



20th Street SE Phase II (83rd Avenue SE to 91st Avenue SE)

Agreement with Perteet Inc.

EXHIBIT B

Scope of Services

City of Lake Stevens

20th Street SE Phase II Final Design, Environmental and Right-of-Way Phase (83rd Avenue SE to 91st Avenue SE)

INTRODUCTION

The purpose of this supplemental scope of services is to assist the City of Lake Stevens in providing right-of-way acquisition services and documents, including legal descriptions and exhibits. Right-of-way acquisition services will be provided for the remaining parcels not completed by the County within the project limits. The previous supplement evaluated remaining right-of-way acquisition requirements, and developed right-of-way plans and a Project Funding Estimate (PFE).

The project design and right-of-way acquisition is funded partially by Federal STP funds administered through WSDOT Highways and Local Programs. Construction funding has not yet been secured.

SCOPE OF SERVICES

Task 1 – Management/Coordination/Administration

1.7 Prepare subconsultant agreement with Universal Field Services (UFS).

Deliverables:

- Monthly invoices and progress reports
- Subconsultant Agreement

Task 6 – Right-of-Way Acquisition

Federal funds are participating in the project, particularly in the Right of Way phase, therefore Universal Field Services, Inc. (UFS) will complete Right of Way services in accordance with the City of Lake Stevens' (CITY) Washington State Department of Transportation's (WSDOT) approved Right of Way Acquisition Procedures, the Federal Uniform Relocation Assistance and Real Property Acquisitions Policies Act (URA), WSDOT Local Agency Guidelines – Section 25 (Right of Way Procedures), and the Washington Administrative Code (WAC 468-100) state Uniform Relocation Assistance and Real Property Acquisition.

Background – Under Supplement No. 3 of the agreement between UFS and Perteet dated March 12, 2015, UFS and its sub-consultant appraiser completed the Project Funding Estimate (PFE) for this project based on current Right of Way Plans provide by Perteet. According to the summary sheet of the completed PFE, it is assumed ten (10) larger parcels will require appraisals and eight (8) larger parcels will qualify for Administrative Offer Summary worksheets in lieu of appraisals. Consent of Easement / Permits from two (2) separate utility corridors are assumed required for construction.

Additional parcels or real property rights other than those shown in Table A will require a supplement to this scope of work and related fee estimate.



20th Street SE Phase II (83rd Avenue SE to 91st Avenue SE)

Agreement with Perteet Inc.

This scope of work is based on the following:

- Current ROW Plans provided by Perteet.
- Discussions with Perteet staff.
- Recent tour of the project limits.
- Review of limited public online ownership information.
- Assume there are no occupants or personal property displaced by the project.
- It is understood NEPA documentation and clearance (DNS, CE, etc.) will be obtained prior to commencing the Appraisal process and presenting offers to property owners.

6.1 Preparation and Administration

UFS staff will attend a kick off meeting with the CITY and Perteet to obtain further project background information and property owner contact information, and obtain additional information that will assist in the right of way process. Project Management activities will also be confirmed in terms of communications protocols, process for tracking and progress reporting, etc. UFS will also attend up to twelve (12) progress meetings either by conference call or in person, and provide up to eighteen (18) monthly progress and tracking reports when invoicing.

UFS will provide sample templates for acquisition and relocation documents for the CITY's review and approval for use. Forms and notices will comply with CITY's standards and in accordance with statutory requirements. The CITY's pre-approved documents will be used when provided. UFS will maintain acquisition records in accordance with statutory, regulatory and policy requirements. UFS anticipate legal descriptions for the real property rights to be acquired will be provided by the CITY or Perteet prior to commencing the Appraisal component below.

For each parcel impacted, prepare acquisition files to include fair offer letters, notices, recording and ancillary documents, a standard diary form indicating contacts with owner(s), and other items necessary to complete the work.

Deliverables:

- Attend Project Kickoff Meeting – CITY office.
- Attend twelve (12) Progress Meetings – CITY office.
- Provide eighteen (18) Monthly Progress Reports.
- Coordinate CITY approval of Acquisition forms for project use.
- Prepare parcel acquisition files.

6.2 Title - Ownership Review

UFS previously ordered and obtained title reports under a prior supplement for those parcels requiring permanent real property rights as shown on said Right of Way plans. UFS will conduct further reviews of each report to assess future complications at closing and potential conflicts from utility encumbrances, etc., that may pose obstacles or delays to the acquisition closing process. A Parcel Title Summary Memo for each parcel will be developed listing encumbrances and exceptions with recommendations to the CITY on how to resolve each.

Deliverables:

- Prepare up to nineteen (19) Parcel Title Summary Memo's.



20th Street SE Phase II (83rd Avenue SE to 91st Avenue SE)

Agreement with Perteet Inc.

6.3 Public Outreach

UFS will assist the CITY in preparation of a boilerplate “Introduction Informational Letter” for delivery to impacted property owners. The letter will describe the purpose of the project, the project schedule; identify the CITY’s consultants and the purpose of each.

To promote completion of project design and as part of a “vetting process”, UFS will schedule and attend early “one on one” on-site meetings (one each) with owners of the eighteen (18) larger parcels shown in Table A. Early “one on one” meetings will be coordinated with the CITY and Perteet. Information obtained from each property owner will be shared with the design team to help minimize and resolve parcel impacts. CITY or Perteet staff to attend if needed.

Deliverables:

- Sample “Introduction Informational Letter” for delivery by CITY to impacted property owners via regular U.S. Mail. UFS will assist with delivery if needed.
- Schedule and attend one (1) early “one on one” on-site meeting with the owner of each larger parcel – eighteen (18) each.

6.4 Relocation Assistance Plan

It is assumed there are no occupants or personal property displaced by the project. In the event relocation assistance services are later determined, UFS will provide in accordance with WSDOT and Federal guidelines. Relocation services will require a supplement to this scope of work and related estimate.

Deliverables:

- Not Applicable at this time.

6.5 Project Funding Estimate (PFE)

Under Supplement No. 3 of the agreement between UFS and Perteet dated March 12, 2015, UFS and its sub-consultant appraiser completed the Project Funding Estimate (PFE) for this project based on current Right of Way Plans provide by Perteet.

Deliverables:

- Complete – For informational purposes only

6.6 FHWA Funds Authorization for ROW

Shortly after the Right of Way Plans and the PFE have been submitted to WSDOT, and assuming NEPA clearance has been obtained, the CITY would typically receive a letter from FHWA through WSDOT Highways and Local Programs authorizing the use of federal funds to acquire Right of Way. This letter of authorization is required in order for the CITY to receive federal funding participation and reimbursement for costs incurred with Appraisal, Appraisal Review, and Acquisition Negotiation services.



20th Street SE Phase II (83rd Avenue SE to 91st Avenue SE)

Agreement with Perteet Inc.

Deliverables:

- For informational purposes only.

6.7 Appraisal / Appraisal Review / Administrative Offer Summary Worksheets

According to the summary sheet of the completed PFE discussed in Task 6.5 above, it is assumed ten (10) larger parcels will require Appraisals / Appraisal Reviews and eight (8) larger parcels will qualify for Administrative Offer Summary worksheets in lieu of appraisals. Universal will coordinate with the City to determine which parcels will require AOS Worksheets, Appraisals and Appraisal Review reports. Additional Appraisals / Appraisal Reviews may be required upon property owner requests when administrative offers are made.

Upon receipt of the authorization letter discussed in Task 6.6 above, the real property valuation process will begin. AOS worksheets, Appraisal and Appraisal Review reports will be completed in accordance with the Uniform Standards of Professional Appraisal Practices, Washington State Department of Transportation (WSDOT) Local Agency Guidelines, the WSDOT Right of Way Manual (in particular, Chapters 4 and 5), and the URA. UFS will attend Appraisal inspections to ensure property owners understand the real property rights being appraised and to ascertain owner or tenant owned improvements.

Completed AOS worksheets, Appraisals, and Appraisal Reviews will be submitted to the City for review and written approval establishing the amount of Just Compensation to each property owner. The City is required to provide concurrence and written approvals of the estimated amounts of just compensation determined in each AOS worksheet and Appraisal report.

Deliverables:

- AOS Worksheets – eight (8) each.
- Appraisal reports – ten (10) each
- Appraisal Review reports – ten (10) each.

6.8 Present Offers / Negotiations

Upon receipt of written approvals from the City establishing the amounts of just compensation, Universal staff will prepare up to eighteen (18) offer package(s) and promptly present offers to purchase all required real property interests and negotiate in good faith to reach a settlement with each property owner(s). Offers will be presented in person when at all possible. If negotiations reach an impasse, Universal shall provide the City with written notification. If necessary, Universal will attempt to secure Administrative Settlements or Voluntary Possession and Use Agreements with the owner(s), allowing the project to move forward while allowing the property owner additional time to negotiate. As a last resort, if the owner is unwilling to agree to a Voluntary Possession and Use Agreement, the file will be transmitted to the City's legal staff for mediation or filing of condemnation action. Universal will provide technical support for all mediation or condemnation if requested.

For offers \$10,000 or more up to \$25,000, property owners must be informed in writing if the offer is not based on an appraisal and that an appraisal will be provided if requested. This requirement could have a slight impact on the project schedule and approved Right of Way budget.



20th Street SE Phase II (83rd Avenue SE to 91st Avenue SE)

Agreement with Perteet Inc.

Additionally, Consent of Easement / Permits from Seattle City Light and the Bonneville Power Administration are assumed required for construction.

Deliverables:

- Prepare Offer Packages – eighteen (18) each.
- Obtain two (2) Consent Agreements from SCL & BPA
- Present Offers / Conduct Negotiations.
- Completed parcel files and records of Right of Way Acquisition services.

6.9 Relocation Assistance

It is assumed there are no occupants or personal property displaced by the project. Therefore relocation assistance services are not required. In the event relocation assistance services are later determined, UFS will provide in accordance with WSDOT and Federal guidelines. Relocation services will require a supplement to this scope of work and related estimate.

Deliverables:

- Not Applicable at this time.

6.10 Parcel Closing

UFS will provide advisory assistance to the City in determining the most appropriate method of closing each transaction, subject to the City's Title Clearing policies. Upon securing required acquisition agreements, UFS will notify the City and submit the necessary acquisition documents and closing instructions to the designated Title/Escrow Company. Coordinate with the Title/Escrow Company in order to obtain release documentation from the encumbrance(s) of public record that are not acceptable to the City in order to provide clear title to the property being acquired. The Escrow Company will prepare and obtain the owner(s) signature on the necessary closing documents. UFS will coordinate signatures on closing documents for submittal to the CITY and payment(s) to the owner(s); coordinate with the Escrow/Title Company in filing documents with Snohomish County.

Note: Prior to sending a settled acquisition file to the City for payment and closing, UFS will request an update on each title report from the designated Title Company to ensure title has not changed and new encumbrances have not been recorded.

Deliverables:

- Completed original Acquisition parcel files to the City

6.11 Right of Way Certification

Since there are federal funds participating in the project, Right of Way Certification will be coordinated and completed through WSDOT Real Estate Services. Right of Way acquisition files will be prepared and completed to the satisfaction of a WSDOT Right of Way review to support federal aid participation. UFS will further coordinate right of way activities with WSDOT's Northwest Region Local Agency Coordinator, as needed throughout the project.

Deliverables:

- Right of Way Certification form for WSDOT review and approval.



CITY / Perteet will provide the following:

1. Approve designation of the escrow company used for this project. The escrow company will bill the CITY directly for all escrow services provided.
2. Right of Way Plans and Drawings, Maps, Exhibits, Right of Way Staking, etc., as necessary.
3. Legal descriptions in electronic format for all real property rights to be acquired.
4. Form approval, in electronic format, of all legal conveyance documents prior to use (i.e. offer letters, purchase and sale agreements, escrow instructions, easements, deeds, payment vouchers, etc.).
5. Review and approval of all determinations of value established by the project appraisers, and provide written authorization prior to offers being made to property owners.
6. Payment of any and all compensation payments to property owners, recording fees, legal services and any incidental costs which may arise necessary to complete each transaction.
7. Send "Introduction Letters" to property owners as necessary.

6.12 Legal Descriptions and Exhibits

Legal descriptions and accompanying exhibit maps will be prepared to support right-of-way acquisition. As many as eighteen (18) legal description documents will be prepared. As many as eighteen (18) parcel exhibit maps will be prepared to accompany the above legal descriptions in order to graphically represent locations.

Deliverables:

- Up to eighteen (18) stamped and signed legal descriptions with accompanying exhibit maps.

CITY / Perteet will provide the following:

1. Approve designation of the escrow company used for this project. The escrow company will bill the CITY directly for all escrow services provided.
2. Right of Way Plans and Drawings, Maps, Exhibits, Right of Way Staking, etc., as necessary.
3. Legal descriptions in electronic format for all real property rights to be acquired.
4. Form approval, in electronic format, of all legal conveyance documents prior to use (i.e. offer letters, purchase and sale agreements, escrow instructions, easements, deeds, payment vouchers, etc.).
5. Review and approval of all determinations of value established by the project appraisers, and provide written authorization prior to offers being made to property owners.
6. Payment of any and all compensation payments to property owners, recording fees, legal services and any incidental costs which may arise necessary to complete each transaction.
7. Send "Introduction Letters" to property owners as necessary.



20th Street SE Phase II (83rd Avenue SE to 91st Avenue SE)

Agreement with Perteet Inc.

TABLE A								
No.	Project Parcel No.	Tax Parcel No.	Taxpayer / Owner	Partial Fee Simple	Consent	Permanent Easement	Temp Const Easement	Valuation Type (See Note 1)
1	014	00431400300300	G & E Petersen Family LLC	X				AR
		004311400300301						
		00431400300400						
		00609500001000						
2	015	00609500000900	Mounsey, David & Barbara	X				AR
3	018	29052400300800	Vodegel, Hiedi	X			X	AR
4	018a	29052400300900	Ellis, Willian & Dawn	X			X	AOS
5	019	29052400301000	Torset, Michelle	X				AR
6	020	00398500000100	Lundquist, Larry & Judith	X				AOS
7	021	00398500000200	Perry, Sherman	X			X	AOS
8	022	00398500000300	Revenig, Jordan	X			X	AR
9	023	00398500000400	Perekopsky, Sergey	X			X	AR
10	027	00398000020000	Steadman, Scott (Duplex)	X				AR
11	032	00457000001802	Kouyian Jr., Gust				X	AOS
12	034	00457000001700	Nielsen, Kristopher	X			X	AOS
13	035	29052500200800	Maillett, Albeo & Bernadette				X	AOS
14	037	29052500200200	Maillett, Albeo & Betty				X	AOS
15	038	29052500200100	Lake Stevens School District 4	X			X	AR
16	039	29052600100100	Lake Stevens School District 4	X			X	AR
17	040	29052600104900	Petersen, Gary T.	X			X	AR
	040a	29052600100400		X			X	
18	002	00457000001501	Bayha, Jerome & Doris				X	AOS
19	n/a	Consent/Easement	Seattle City Light (Transmission Line)		X			n/a
20	n/a	Consent/Easement	Bonneville Power (Transmission Line)		X			n/a

Notes: 1) AR – Appraisal report; AOS – Administrative Offer Summary worksheet



Consultant Fee Determination Summary

2707 Colby Avenue, Suite 900, Everett, WA 98201 | P 425.252.7700 | F 425.339.6018

Project: Lake Stevens 20th Street SE Phase II-Supp #3
 Client: City of Lake Stevens

Hourly Costs Plus Fixed Fee Estimate

<u>Classification</u>	<u>Hours</u>	<u>Rate</u>	<u>Amount</u>
Sr. Associate	60.00	63.00	\$3,780
Lead Engineer / Mgr	12.00	41.50	\$498
Professional Land Survey I	20.00	30.50	\$610
Office Technician	20.00	31.50	\$630
Survey Manager	8.00	44.50	\$356
Total Direct Salary Costs	120.00		\$5,874
Overhead @		173.67%	\$10,201
Fixed Fee @		32.00%	\$1,880
Total Labor Costs			\$17,955

Reimbursables

<u>Expenses</u>	<u>Amount</u>
	\$
Total Expenses	0

<u>In-House Costs</u>	<u>Qty</u>	<u>Rate</u>	<u>Amount</u>
		\$	\$
Total In-House Costs			0

Subconsultants

<u>Subconsultants</u>	<u>Cost</u>	<u>Markup</u>	<u>Amount</u>
Universal Field Services, Inc.	\$147,150.00	1.00	\$147,150.00
Total Subconsultants	\$147,150.00		\$147,150.00

Scope Re-establishment

Scope Re-establishment	\$27,675.00
Total	\$ 27,675.00

CONTRACT TOTAL **\$192,780.00**

Rates shown reflect the typical compensation rate of employees assigned to the billing category listed. Each category may have multiple employees assigned to that billing category and each employee may have a different hourly rate of pay. Employee compensation is subject to adjustment in June of each calendar year.

Prepared By: Kurt Ahrensfeld Date: January 22, 2016

**City of Lake Stevens - 20th Street SE Phase II (83rd Ave SE to 91st Ave SE)
 Right of Way Acquisition Services
 Fee Estimate**

DIRECT SALARY COSTS (DSC)

<u>Personnel</u>	<u>Hours</u>		<u>Rate</u>		<u>Cost</u>
1 Quality Assurance	66.5	X	\$55.29	=	3,676.79
2 Project Manager	248.0	X	\$44.00	=	10,912.00
3 Acquisition Specialist	942.0	X	\$39.00	=	36,738.00
4 Relocation Specialist	0.0	X	\$39.00	=	0.00
5 Sr Administrative Specialist	229.0	X	\$30.00	=	6,870.00
	Total Hours				58,196.79
	Overhead (OH)	46.97%		Subtotal DSC =	58,196.79
	Fixed Fee (FF)	30.00%		of DSC =	27,335.03
				of DSC =	17,459.04
				TOTAL DSC =	102,990.85

DIRECT NONSALARY COSTS (DNSC)

Mileage	5580	miles @ \$ 0.540	3,013.20
B & O			458.00
Miscellaneous Expenses (see note 4 below)			500.00
			TOTAL DNSC = 3,971.20

SUBCONSULTANTS (See Note 5)

AOS Worksheets - 8 each	Appraisal Group of the NW	400.00
Appraisals - 10 each	Appraisal Group of the NW	30,000.00
Appraisal Reviews - 10 each	The Granger Company	9,000.00
2% Administrative Fee (B&O Taxes, etc.)		788.00
	TOTAL SUBCONSULTANT FEES =	40,188.00

TOTAL ESTIMATED AMOUNT = 147,150.05

Notes:

- 1.) Universal reserves the right to re-negotiate estimate total if Notice to Proceed not provided within 180 days from the date of this estimate.
- 2.) Mileage to be billed at \$0.540/mile or the approved IRS rate at the time mileage is incurred.
- 3.) See Table A in the Scope of Work for list of parcels impacted and the real property rights to be acquired from each.
- 4.) Reimbursable miscellaneous expenses, including but not limited to: ferry fees, postage, parking printing, long distance telephone, etc., at cost - no markup.
- 5.) Total number of Appraisal / Appraisal Review reports is subject to refined design and ROW plans, and at the request of property owners when AOS worksheets are the basis of offers.

January 20, 2015

Universal Field Services, Inc.

**City of Lake Stevens - 20th Street SE Phase II (83rd Ave SE to 91st Ave SE)
 Right of Way Acquisition Services
 Fee Estimate**

Parcel Data				Rights to be Acquired					Negotiation Hours					
No.	Pjt Parcel No.	Tax Parcel No.	Owner / Taxpayer	Partial Fee Simple	Consent	Permanent Easement	Temp Const Easement	Valuation Type	QA	PM	Neg	Admin	Mileage	
1	14	00431400300300	G & E Petersen Family LLC	X				AR	2	7	50	10	120	
		00431400300301							2	0	0	0		
		00431400300400								2	0	0	0	
		00609500001000								2	0	0	0	
2	15	00609500000900	Mounsey, David & Barbara	X					2	7	45	10	180	
3	18	29052400300800	Vodegel, Hiedi	X					2	7	50	10	180	
4	18a	29052400300900	Ellis, William & Dawn	X				OS	2	7	40	10	180	
5	19	29052400301000	Torset, Michelle	X					2	7	45	10	180	
6	20	00398500000100	Lundquist, Larry & Judith	X				OS	2	7	45	10	180	
7	21	00398500000200	Perry, Sherman	X				OS	2	7	45	10	180	
8	22	00398500000300	Revenig, Jordan	X					2	7	45	10	180	
9	23	00398500000400	Perekopsky, Sergey	X					2	7	50	10	180	
10	27	00398000020000	Steadman, Scott (Duplex)	X					2	7	45	10	180	
11	32	00457000001802	Koulyan Jr., Gust				X	AOS	2	4	35	8	120	
12	34	00457000001700	Nielsen, Kristopher	X				OS	2	7	50	10	180	
13	35	29052500200800	Maillett, Albeo & Bernadette				X	AOS	2	4	30	8	120	
14	37	29052500200200	Maillett, Albeo & Betty				X	AOS	2	4	25	8	120	
15	38	29052500200100	Lake Stevens School District 4	X					2	5	45	6	120	
16	39	29052600100100	Lake Stevens School District 4	X					2	5	35	6	120	
17	40	29052600104900	Petersen, Gary T.	X			X	AR	2	6	40	10	120	
	40a	29052600100400		X					2	6	40	10	120	
18	2	00457000001501	Ba ha, Jerome & Doris				X	AOS	2	4	35	8	120	
19	n/a	Consent / Easement	Seattle City Light (Transmission Corridor)		X			n/a	2	4	30	7	120	
20	n/a	Consent / Easement	Bonneville Power Administration (Transmission Corridor)		X			n/a	2	4	30	7	120	
Attend Kick off meeting - City office									4	4	4	0	60	
Attend twelve (12) Progress Meetings - City office									8	48	16	0	720	
Provide eighteen (18) monthly progress and tracking reports									0	9	4.5	4.5	0	
Coordinate CITY approval of sample acquisition documents									0	2	0	3	0	
Prepare title report Parcel Summary Memo's (19 each)									0	9	9.5	19	0	
Assist City with developing "Introduction Informational Letter"									1	2	0	0	0	
Schedule and attend early "One on One" on-site meetings (one each) with owners of up to eighteen (18) separate parcels									0	24	30	0	1080	
Prepare and manage subconsultant agreements (Appraiser & Review Appraiser)									3.5	9	0	6	0	
Attend Appraisal Inspections (10 each)									0	10	15	0	600	
Right of Way Certification									2	8	8	8	0	
									66.5	248	942	229	5580	

Subconsultant Fee Determination - Summary Sheet

Project: City of Lake Stevens; 20th Street SE - Phase II (83rd Ave SE to 93rd Ave SE)
 Subconsultant: Appraisal Group of the Northwest LLP

DIRECT SALARY RATES					
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Classification	Hours		Rate	=	Cost		
Senior Appraiser	14	x	\$105.00	=	\$1,470		
Staff Appraisers	99	x	\$70.00	=	\$6,930		
Trainee Appraiser	98	x	\$40.00	=	\$3,920		
Editor	16	x	\$18.00	=	\$288		
Bookkeeper	4	x	\$18.00	=	\$72		
Direct Salary Costs					=	\$12,680	
DSC X Overhead					110.00%	=	\$13,948
DSC X Fee					28.00%	=	\$3,550
Subtotal					=	\$30,178	

REIMBURSABLES	
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Mileage	\$108
Reproduction	\$107
Misc.	\$7
TOTAL REIMBURSABLE COST =	\$ 221.70

CONTRACT TOTAL	=	\$30,400
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Prepared By:

Date: January 21, 2016

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Subconsultant Fee Determination - Summary Sheet

Project: City of Lake Stevens; 20th Street SE - Phase II (83rd Ave SE to 93rd Ave SE)
 Subconsultant: The Granger Company

DIRECT SALARY RATES

<u>Classification</u>	<u>Hours</u>	x	<u>Rate</u>	=	<u>Cost</u>
Appraisal Reviewer	89	x	\$41.67	=	\$3,709

Direct Salary Costs	=	\$3,709
DSC X Overhead	110.00%	= \$4,079
DSC X Fee	28.00%	= \$1,038
Subtotal	=	\$8,827

REIMBURSABLES

Mileage	\$173
	\$0

TOTAL REIMBURSABLE COST = \$ 173.00

CONTRACT TOTAL	=	\$9,000
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Prepared By: Joseph H. Granger

Date: *October 19, 2015*



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LAKE STEVENS CITY COUNCIL
STAFF REPORT

Council Date: **Agenda** 9 February 2016

Subject: Property Exchange/Acquisition – Universal Field Services

Contact	Mick Monken	Budget	\$17,279.26
Person/Department:	<u>Public Works</u>	Impact:	

RECOMMENDATION(S)/ACTION REQUESTED OF COUNCIL: Authorize the Mayor to enter the City into a Professional Service Agreement with Universal Field Services, Inc. for a contract amount of \$10,979.26 to assist in the private and public property exchange/acquisition, approve a management reserve of \$6,300.00, and authorize staff to begin negotiation for the exchange/acquisition of the properties.

SUMMARY/BACKGROUND: The City and a private property owner have a mutual interest to exchange/acquire properties for the benefit of both parties. So as to not affect the price at which the acquisition or disposition of the properties occur during the negotiation phase, the sites of the properties are not being disclosed. Upon the successful agreement of the terms and conditions of the property exchange/acquisition, the City will disclose publicly the sites involved with the agreed upon terms and conditions. In addition, prior to the surplus of publicly owned property, public input will be sought in a public meeting.

By the authorization of this action, the Council will give the approval to begin negotiations on a property exchange/acquisition. Universal Field Services will provide the assistance to help facilitate this transaction. The \$6,300 management reserve is for legal assistance (\$3,500) to review and provide assistance on land acquisition legal matters and to update the City's site appraisal (\$2,800). Final action to proceed will require a Resolution authorizing the surplus of the City's property and then an action by the Council to proceed with the exchange/acquisition purchase and sale agreement and related documents.

BUDGET IMPACT: \$14,479.26 which will require a budget adjustment

ATTACHMENTS: None



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LAKE STEVENS CITY COUNCIL

STAFF REPORT

Council Agenda Date: February 9, 2016

Subject: Proposed Amendments to the Critical Areas Chapter of the Lake Stevens Municipal Code

Contact Person/Department: Amy Lucas / Planning and Development **Budget Impact:** N/A

RECOMMENDATION(S)/ACTION REQUESTED OF COUNCIL:

This is an informational briefing of changes to the Department of Ecology's Wetland Rating System and proposed changes to the Critical Areas chapter of the Lake Stevens Municipal Code. No action is requested at this time.

SUMMARY: The Growth Management Act of Washington requires cities and counties review their critical area ordinances as part of their mandatory Comprehensive Plan update under RCW 36.70A.130 (1) and (5). City of Lake Stevens Planning and Community Development staff have completed a full review of the Critical Areas regulations in Chapter 14.88 LSMC and are proposing minor housekeeping updates to the full chapter in addition to limited substantive updates for permitting-process clarification and inclusion of the 2014 changes to the Wetland Rating System for Western Washington manual (**Attachment A**).

BACKGROUND: The Washington State Department of Ecology (DOE) has recently made significant changes to the Wetland Rating System for Western Washington manual, which became effective January 1, 2015. The changes were based on Best Available Science (BAS) and a better understanding of wetland ecological functions after reviewing results of an analysis of 111 wetland sites in eastern and western Washington. According to DOE, the changes to the rating system offer a more accurate characterization of wetland functions based on the wetland characterization and rating.

Summary of Wetland Rating System Differences:

It should be noted that DOE essentially kept the structure of the Wetland Rating System the same with the update. Wetlands are still categorized as either I, II, III, or IV based on the rating of three wetland functions:

1. Water Quality
2. Hydrologic Functions
3. Habitat Functions

There are three major changes to the DOE Wetland Scoring System relevant to the geography of Lake Stevens. First, the scoring range has been modified from 1 – 100 to 9 – 27, which reflects the scientific accuracy of the scoring tools. The scoring system has also changed to allow the reviewer to qualitatively rate the questions into low, medium and high ranges before assigning scores. Lastly, the Opportunity section of the scoring system has been replaced with two new sections – Landscape Potential and Landscape Value. Specifying the habitat potential and value of the wetlands allow a better evaluation method. DOE has provided jurisdictions with conversion tables to use when updating buffer tables to include the new scoring method:

Tables for converting category scores

2004	Western WA	2014		2004	Eastern WA	2014
≥ 70	Category I	23-27		≥ 70	Category I	22-27
51-69	Category II	20-22		51-69	Category II	19-21
30-50	Category III	16-19		30-50	Category III	16-18
<30	Category IV	9-15		<30	Category IV	9-15

Tables for converting function scores

2004	Final Habitat Score	2014		2004	Final Water Quality Score	2014
29-36	High	8-9		24-32	High	8-9
20-28	Medium	5-7				
≤ 19	Low	3-4				

DOE also provided quantitative data from 111 wetlands originally used to calibrate scoring in the 2004 manual, which compared the distribution of their determined categories in 2004 to their distribution under the 2014 scoring system (**Attachment B**). In order to better understand the local impacts of the new scoring system buffer widths compared to the 2004 system, staff contacted consultants to perform wetland scoring on five recent projects that used the 2004 system (**Attachment C**). With only fourteen wetlands reviewed, there is not enough data to produce quantitative or conclusive results, but the results do reflect trends consistent with the DOE analysis. Buffer widths that were reduced by the 2014 scoring system are shown in red, while buffer widths that were increased by the 2014 scoring system are shown in blue. The increased widths resulted from higher habitat scores that warrant more protection according to the DOE.

Project	Wetland ID	Size (Acres)	2004 Habitat Score	2004 Total Score	2004 Rating	2004 Buffer Width	2014 Habitat Score	2014 Total Score	2014 Rating	2014 Buffer Width
Grade Road	A	0.18	14	28	Category IV	35	5	14	Category IV	35
	B	0.61	10	38	Category III	50	4	15	Category IV	35
	C/D	2.16	12	32	Category III	50	5	15	Category IV	35
	E	1.59	13	33	Category III	50	5	15	Category IV	35
	F	0.31	13	27	Category IV	35	5	13	Category IV	35
	H	0.17	13	33	Category III	50	5	15	Category IV	35
20th Street SE Phase II	3	3.23	14	36	Category III	50	7	18	Category III	95
	4	0.56	15	43	Category III	50	6	17	Category III	95
	5	0.11	12	35	Category III	50	5	17	Category III	95
	7	0.09	12	37	Category III	50	5	17	Category III	95
Trestle Station	A	2.7	17	37	Category III	50	6	19	Category III	95
	B	0.05	14	18	Category IV	35	5	15	Category IV	35
McKay Subdivision	A	1.25	20	35	Category III	95	8	15	Category IV	35
S & G Plat	A	0.06	14	31	Category III	50	5	14	Category IV	35

Sources: Pertee Inc., Wetland Resources

One wetland was re-categorized from a Category III to a Category IV and buffer width was reduced from 95 feet to 35 feet. Five wetlands were re-categorized from Category III's to Category IV's and

buffer widths were reduced from 50 feet to 35 feet. Five Category III wetlands required wider buffers under the 2014 system due to the increased habitat scores.

Summary of Proposed Code Changes:

The proposed changes (**Attachment A**) constitute the general scope of the Critical Areas Regulations update, mandated as part of the scheduled Comprehensive Plan Update. Many of the proposed changes to Chapter 14.88 LSMC are designed to improve clarity.

- **Housekeeping Changes** - The entire Critical Areas Chapter has been reviewed for language consistency with regards to critical areas and buffers.
- **14.88.275 Mitigation/Enhancement Plan Requirements** - Data criteria for Mitigation Reports were added to require the applicant provide specific site conditions, BAS and schedule of all phases.
- **14.88.277 Mitigation Monitoring** – Changes have been made to provide clarification for the reader
- **14.88.278 Bonding (Security Mechanism)** – Language has been added to clarify performance and maintenance bond requirements and include the cost of monitoring
- **14.88.287 Fencing and Signage** – Staff is clarifying that NGPA signs may be warranted for geologically hazardous areas and setback buffers not approved for alteration.
- **14.88.290 Critical Tracts and Easements** – New language clarifies when NGPA's should be placed in easements versus tracts, requires designation of NGPA's on the face of the plat or recorded drawings and eliminates the requirement to dedicate NGPA tracts to the city for mitigation projects.
- **14.88.297 On-site Density Transfer for Critical Areas** – The five acre threshold has been removed for on-site density transfers. The area contained in Category II, III and IV wetlands, Fish and Wildlife Conservation Areas and geologically hazardous areas not approved for alteration will also be eligible for density transfer. Density and dimension requirements have also been added. Staff has provided examples of other local jurisdictions' density transfer allowances for critical areas in **Attachment D**.
- **14.88.440 Mitigation** – Innovative Design criteria have been added to the Fish and Wildlife Conservation areas mitigation options to provide guidelines based on the habitat and hydrology functions of streams and their buffers. Providing specific desired goals for the innovative design gives staff specific goals on which to base approval decisions in the review process.
- **14.88 LSMC Part VII Wetlands** – Updates have been made to adopt and reference the new Wetland Rating System manual and DOE publication number. Table 14.88-II has been updated to reflect the new DOE scoring changes and the requirements in LSMC 14.88.830 have been changed to accommodate the new scoring system. This section has been fully reviewed to remove and correct references to the old scoring system and DOE publications.
- **LSMC 14.88.840 Mitigation** - Innovative Design criteria has also been added to the Wetland mitigation options, and like the Fish and Wildlife Conservation criteria they are based on BAS and require the applicant to show improvement to the functions and values of the wetland and buffer areas for approval.

DOE suggested wider buffer widths and higher mitigation ratios for forested Category I wetlands and other Category II wetlands under their 2010 Wetlands Guidance for Small Cities (Western Washington Version) that have not been considered by the City under the scope of this project. DOE is not recommending any increases from the 2010 widths under the 2014 rating system. Staff is not proposing to increase buffer widths or mitigation ratios at this time, but have provided this material to City Council for informational purposes (**Attachment E**).

The Planning Commission received a briefing on the scope and schedule of the code amendment project on December 2, 2015 and a second briefing on the proposed code changes on February 3, 2016. Some of the issues discussed were:

- Concerns over vesting of new standards
- Dedication of NGPA's
- Monitoring periods
- Wider buffer widths
- Department of Ecology feedback

Next Steps

At this time, staff is requesting feedback and input on the proposed code changes prior to finalizing changes and moving to a public hearing. A 60 Day notice of intent has been sent to the Department of Commerce and will be distributed by them to applicable state agencies. Staff has also issued a SEPA Determination of Non-Significance on February 5, 2016 and has sent the DNS and SEPA checklist to the Department of Ecology for review. Under the current scope and schedule, staff expects the project to be completed within the next two months.

APPLICABLE CITY POLICIES: Chapter 14.88 LSMC – Critical Areas

BUDGET IMPACT: No budget impacts are expected from this update.

ATTACHMENTS:

Attachment A - Proposed Code Changes to Chapter 14.88 LSMC

Attachment B - DOE Distribution of Wetland Categories 2004 v. 2014

Attachment C - Pertteet Wetland Scoring Memo January 15, 2016

Attachment D - Density Transfer Allowance Comparison

Attachment E – Department of Ecology Table XX.1 and Table 8C-11

Attachment A

Draft Changes to LSMC 14.88 Critical Areas

Part I. Purpose and Intent

14.88.010 Purpose and Intent.

The purpose of this chapter is to designate, classify, and protect the critical areas of the Lake Stevens community by establishing regulations and standards for development and use of properties which contain or adjoin critical areas for protection of the public health, safety, and welfare. The purpose and intent of this chapter is also to ensure that there is no net loss of the acreage or functions and values of critical areas regulated by this chapter.

- (a) A project proponent shall make all reasonable efforts to avoid and minimize impacts to critical areas and buffers in the following sequential order of preference:
- (1) Avoiding impacts altogether by not taking a certain action or parts of an action; or
 - (2) When avoidance is not possible, minimizing impacts by limiting the degree or magnitude of the action and its implementation, using appropriate technology, or by taking affirmative steps, such as project redesign, relocations, or timing, to avoid or reduce impacts and mitigating for the affected functions and values of the critical area; and
 - (3) Reducing or eliminating impacts over time by preservation and maintenance operations during the life of the action.
 - (4) Compensating for unavoidable impacts by replacing, enhancing or providing substitute resources or environments.
- (b) Protect the public from personal injury, loss of life, or property damage due to flooding, erosion, landslides, seismic events, or soil subsidence.
- (c) Protect against publicly financed expenditures due to the misuse of critical areas which cause:
- (1) Unnecessary maintenance and replacement of public facilities;
 - (2) Publicly funded mitigation of avoidable impacts;
 - (3) Cost for public emergency rescue and relief operations where the causes are avoidable;
 - (4) Degradation of the natural environment.
- (d) Protect aquatic resources.
- (e) Protect unique, fragile, and valuable elements of the environment, including wildlife and its habitat.
- (f) Alert appraisers, assessors, owners, potential buyers, or lessees to the development limitations of critical areas.
- (g) Provide City officials with sufficient information to adequately protect critical areas when approving, conditioning, or denying public or private development proposals.
- (h) Give guidance to the development of Comprehensive Plan policies in regard to the natural systems and environment of the Lake Stevens Watershed.

(i) Provide property owners and developers with succinct information regarding the City's requirements for property development. (Ord. 903, Sec. 51, 2013; Ord. 773, Sec. 2, 2008; Ord. 741, Sec. 2, 2007)

Part II. Definitions

14.88.100 Definitions.

The definitions related to critical areas are included in Chapter [14.08](#). (Ord. 855, Secs. 3, 23, 2011; Ord. 773, Sec. 2, 2008; Ord. 741, Sec. 2, 2007; Ord. 590, 1998; Ord. 468, 1995)

Part III. General Provisions

14.88.200 Applicability.

The provisions of this chapter apply to all lands, land uses and development activity within the City. No action shall be taken by any person which results in any alteration of any critical areas except as consistent with the purposes, objectives, and goals of this chapter. (Ord. 773, Sec. 2, 2008; Ord. 741, Sec. 2, 2007)

14.88.210 Regulated Activities.

(a) All land use and/or development activities on lands containing critical areas are subject to this chapter and are prohibited unless:

- (1) The use or activity is found to be exempt by the Planning and Community Development Director per the "allowed activities" sections of this chapter; or
- (2) The use or activity meets the performance standards found in the "requirements" sections of this chapter; or
- (3) It can be demonstrated that the denial of authorization of such an activity would deny all reasonable economic uses, as demonstrated per Section [14.88.310](#). In such a case, approval in writing shall be issued by the Planning and Community Development Director. Approval of a reasonable economic use must be attached to another type of development permit obtained from the City of Lake Stevens prior to undertaking the regulated activity in the critical area or its buffer.

(b) Land use and development activities include, but are not limited to, the following activities:

- (1) The removal, excavation, grading, or dredging of soil, sand, gravel, minerals, organic matter, or material of any kind.
- (2) The dumping, discharging, or filling with any material.
- (3) The draining, flooding, or disturbing of the water level or water table.
- (4) The driving of pilings.
- (5) The placing of obstructions.
- (6) The construction, reconstruction, demolition, or expansion of any structure.

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(7) The destruction or alteration of vegetation in a critical area through clearing, harvesting, shading, intentional burning, or planting of vegetation that would alter the character of a critical area; provided, that these activities are not part of a forest practice governed under Chapter [76.09](#) RCW and its rules.

(8) Activities that result in a significant change of water temperature, a significant change of physical or chemical characteristics of water sources, including quantity, or the introduction of pollutants. (Ord. 773, Sec. 2, 2008; Ord. 741, Sec. 2, 2007)

14.88.220 Allowed Activities.

Unless specifically prohibited elsewhere in this chapter, the following uses are allowed in any critical area or buffer; provided, that site/resource-specific reports prepared to describe the environmental limitations of and proposed mitigation for the site shall be submitted, reviewed, and approved by the City prior to permit issuance or land use approval:

(a) Education, scientific research, and construction and use of nature trails; provided, that they are proposed only within the outer 25 percent of the ~~wetland~~ critical area buffers, except that trails may be located within the remainder of the critical area buffer when it is demonstrated through the site/resource-specific report that:

(1) No other alternative for the trail location exists which would provide the same educational and/or scientific research opportunities; and

(2) The critical area functions and values will not be diminished as a result of the trail; and

(3) The materials used to construct the trail will not harm the critical area; and

(4) Land disturbance is minimized to the greatest extent possible; and

(5) Where possible, the number of trails allowed in critical area buffers shall be limited.

(b) Navigation aids and boundary markers.

(c) Site investigative work necessary for land use application submittals such as surveys, soil logs, percolation tests and other related activities. In every case, impacts shall be minimized and disturbed areas shall be immediately restored.

(d) Normal maintenance, repair, or operation of existing structures, facilities, or improved areas.

(e) Installation or construction of City road right-of-way; or installation, replacement, operation, repair, alteration, or relocation of all water, natural gas, cable communication, telephone, or other utility lines, pipes, mains, equipment or appurtenances, not including substations or other buildings, only when required by the City and approved by the Planning and Community Development Director and when avoidance of critical areas and impact minimization has been addressed during the siting of roads and other utilities and a detailed report/mitigation plan is submitted, reviewed, and approved by the City prior to permit issuance or land use approval.

(f) Minor expansion of uses or structures existing at the time of adoption of this code, and which are in compliance with all other chapters of this title; provided, that the applicant obtains all required local, State, and Federal permits, including but not limited to a Department of Fish and Wildlife Hydraulic Permit and a Clean Water Act 404 Permit and the expansion does not create a loss of ~~wetland~~ critical

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area and functions nor pose a significant threat to water quality. A site/resource-specific report and mitigation plan shall be prepared to describe the ~~wetland~~ critical area, function, and water quality and submitted to the City for review and approval prior to permit issuance. For the purposes of this subsection, “minor expansion” refers to an addition to or alteration of a use or structure and shall be limited to a maximum of 1,000 square feet of impervious area.

(g) Stormwater Management Facilities. Where buffers and setbacks are larger than 50 feet and slopes are less than 15 percent, stormwater management facilities, limited to stormwater dispersion outfalls and bioswales, may be allowed within the outer 25 percent of the buffer, when location of such facilities will not degrade the function or values of the ~~wetland~~ critical area.

(h) Emergency Activities. Those activities that are necessary to prevent an immediate threat to public health, safety, or welfare or pose an immediate risk of damage to private property, and that require remedial or preventative action in a time frame too short to allow for compliance with the requirements of this chapter. (Ord. 773, Sec. 2, 2008; Ord. 741, Sec. 2, 2007)

14.88.230 Compliance.

All land uses or development applications shall be reviewed to determine whether or not a critical area exists on the property for which the application is filed, what the action’s impacts to any existing critical area would be, and what actions are required for compliance with this chapter. No construction activity, including land clearing or grading, shall be permitted until the information required by this section is reviewed and a plan is approved by the City. (Ord. 773, Sec. 2, 2008; Ord. 741, Sec. 2, 2007)

14.88.235 Best Available Science.

(a) Criteria for Best Available Science. The best available science is that scientific information applicable to the critical area prepared by local, State or Federal natural resource agencies, a qualified scientific professional, or team of qualified scientific professionals, that is consistent with criteria established in WAC [365-195-900](#) through [365-195-925](#).

(b) Protection of Functions and Values and Fish Usage. Critical area studies and decisions to alter critical areas shall rely on the best available science to protect the functions and values of critical areas and must give special consideration to conservation or protection measures necessary to preserve or enhance anadromous fish and their habitat, such as salmon and bull trout.

(c) Lack of Scientific Information. Where there is an absence of valid scientific information or incomplete scientific information relating to a critical area leading to uncertainty about the risk to critical area function or permitting an alteration of or impact to the critical area, the City shall:

(1) Take a precautionary or no-risk approach that strictly limits development and land use activities until the uncertainty is sufficiently resolved; and

(2) Require application of an effective adaptive management program that relies on scientific methods to evaluate how well regulatory and nonregulatory actions protect the critical area. An adaptive management program is a formal and deliberative scientific approach to taking action and obtaining information in the face of uncertainty. To effectively implement an adaptive management program, the City hereby commits to:

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- (i) Address funding for the research component of the adaptive management program;
- (ii) Change course based on the results and interpretation of new information that resolves uncertainties; and
- (iii) Commit to the appropriate time frame and scale necessary to reliably evaluate regulatory and nonregulatory actions affecting protection of critical areas and anadromous fisheries. (Ord. 773, Sec. 2, 2008; Ord. 741, Sec. 2, 2007)

14.88.240 Classification as a Critical Area.

Criteria for classification as a critical area will be listed under the applicable sections of this chapter. (Ord. 773, Sec. 2, 2008; Ord. 741, Sec. 2, 2007)

14.88.250 Procedures.

Prior to fulfilling the requirements of this chapter, the City of Lake Stevens shall not grant any approval or permission to conduct development or use in a critical area. The Planning and Community Development Director is authorized to adopt administrative procedures for the purpose of carrying out the provisions of this chapter. (Ord. 773, Sec. 2, 2008; Ord. 741, Sec. 2, 2007)

14.88.260 Submittal Requirements.

To enable the City to determine compliance with this chapter, at the time of application submittal, the applicant shall file a SEPA Environmental Checklist (if use is subject to SEPA), site/resource-specific reports as specified in Section [14.88.270](#), and any other pertinent information requested by the Department of Planning and Community Development. Any of these submittal requirements may be waived by the Planning and Community Development Director if it is deemed unnecessary to make a compliance determination. (Ord. 773, Sec. 2, 2008; Ord. 741, Sec. 2, 2007)

14.88.270 Site/Resource-Specific Reports.

Unless waived per Section [14.88.260](#), all applications for land use or development permits proposed on properties containing or adjacent to critical areas or their defined setbacks or buffers shall include site/resource-specific reports prepared to describe the environmental limitations of the site. These reports shall conform in format and content to guidelines prepared by the Department of Planning and Community Development, which is hereby authorized to do so. The report shall be prepared by a qualified professional who is a biologist or a geotechnical engineer as applicable with experience preparing reports for the relevant type of critical area. The report and conclusions present in the critical area report shall be based on best available science. (Ord. 773, Sec. 2, 2008; Ord. 741, Sec. 2, 2007)

14.88.275 Mitigation/Enhancement Plan Requirements.

In the event that mitigation and/or enhancement is required, the Department of Planning and Community Development shall require the applicant to provide a mitigation plan for approval and a performance and maintenance bond in a form and amount acceptable to the City in accordance with Section [14.88.278](#). The plan shall provide information on land acquisition, construction, maintenance and monitoring of the replaced critical area that creates a no-net-loss area in function of the original area in terms of acreage, function, habitat, geographic location and setting. ~~The plan shall also include critical areas and buffer impacts and critical areas and proposed buffer areas.~~ All mitigation plans shall

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include the following items, which shall be submitted by the applicant or a qualified biologist, civil or geotechnical engineer:

- (a) Data collected and synthesized for the critical area and/or the newly restored site:
 - (1) Description of existing site conditions, critical areas and proposed buffers;
 - (2) Description of proposed impacts to critical areas and buffers and proposed plans to mitigate those impacts;
 - (3) Documentation of Best Available Science or site criteria supporting the proposed mitigation plan.
- (b) Specific goals and objectives describing site function, target species, selection criteria and measures to avoid and minimize impacts which shall include:
 - (1) Reducing or eliminating the impact over time by preservation and maintenance operations.
 - (2) Compensating for the impact by replacing, enhancing, or providing substitute resources or environments.
 - (3) Enhancing significantly degraded ~~wetlands~~ critical areas and buffers in combination with restoration or creation. Such enhancement should be part of a mitigation package that includes replacing the impacted area by meeting appropriate ratio requirements.
 - (4) Unless it is demonstrated that a higher level of ecological functioning would result from an alternate approach, compensatory mitigation for ecological functions shall be either in-kind and on site, or in-kind and within the same stream reach, subbasin, or drift cell. Mitigation actions shall be conducted within the same subdrainage basin and on the same site as the alteration except as specifically provided for in Sections [14.88.440](#) and [14.88.840](#);
- (c) Performance standards which shall include criteria for assessing project specific goals and objectives and whether or not the requirements of this chapter have been met;
- (d) Contingency plans which clearly define the course of action or corrective measures needed if performance standards are not met;
- (e) A legal description and a survey prepared by a licensed surveyor of the proposed development site and location of the critical area(s) on the site;
- (f) A scaled plot plan that indicates the proposed timing, duration and location of construction in relation to zoning setback requirements and sequence of construction phases including cross-sectional details, topographic survey data (~~including showing~~ percent slope, existing and finished grade elevations noted at two-foot intervals or less), mitigation area, and water table elevation with sufficient detail to explain, illustrate and provide for:
 - (1) Soil and substrate conditions, topographic elevations, scope of grading and excavation proposal, erosion and sediment treatment and source controls needed for critical area construction and maintenance;

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- (2) Planting plans specifying plant species, types, quantities, location, size, spacing, or density. The planting season or timing, watering schedule, and nutrient requirements for planting, and where appropriate, measures to protect plants from destruction; and
- (3) Contingency or mid-course corrections plan and a minimum five-year monitoring and replacement plan establishing responsibility for removal of exotic and nuisance vegetation and permanent establishment of the critical area and all component parts. The monitoring plan is subject to the provisions of Sections [14.88.277](#) and [14.88.278](#);
- (g) A clearly defined approach to assess progress of the project, including the measurement of the success of a mitigation project by the presence of native species and an increase in the coverage of native plants over the course of the monitoring period;
- (h) The plan must indicate ownership, size, type, and complete ecological assessment including flora, fauna, hydrology, functions, etc., of the critical area being restored or created; and
- (i) The plan must also provide information on the natural suitability of the proposed site for establishing the replaced critical area, including water source and drainage patterns, topographic position, wildlife habitat opportunities, and value of existing area to be converted. (Ord. 773, Sec. 2, 2008; Ord. 741, Sec. 2, 2007)

14.88.277 Mitigation Monitoring.

- (a) All compensatory mitigation projects shall be monitored for the period necessary to establish that performance standards have been met, but in no event for a period less than five years following the acceptance of the installation/construction by the Planning and Community Development Director.
- (b) Monitoring reports on the current status of the mitigation project shall be submitted to the Planning Department. The reports shall be prepared by a qualified consultant and shall include monitoring information on wildlife, vegetation, water quality, water flow, stormwater storage and conveyance, and existing or potential degradation. Reports shall be submitted in accordance with the following schedule:
 - (1) At the time of construction;
 - (2) Thirty days after planting;
 - (3) Early in the growing season of the first year;
 - (4) End of the growing season of the first year;
 - (5) Twice the second year (at the beginning and end of the growing season); and
 - (6) Annually thereafter, to cover a total monitoring period of at least five growing seasons.
- (c) The Planning and Community Development Director shall have the authority to extend the monitoring and surety period and require additional monitoring reports and maintenance activities beyond the initial five-year monitoring period for any project that involves one or a combination of the following factors:
 - (1) Creation or restoration of forested wetland or buffer communities;

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- (2) ~~does not~~ Failure to meet the performance standards identified in the mitigation plan;
- (3) ~~does not~~ Failure to provide adequate replacement for the functions and values of the impacted critical area; or
- (4) ~~otherwise warrants additional monitoring~~ Additional monitoring is warranted.

(Ord. 773, Sec. 2, 2008)

14.88.278 Bonding (Security Mechanism).

- (a) If the development proposal is subject to compensatory mitigation, the applicant shall enter into an agreement with the City to complete the mitigation plan approved by the City and shall post a mitigation performance surety to ensure mitigation is fully functional.
- (b) The surety shall be in the amount of 150 percent of the estimated cost of the uncompleted actions or the estimated cost of restoring the functions and values of the critical area that are at risk, whichever is greater. The surety shall be based on a detailed, itemized cost estimate of the mitigation activity including clearing and grading, plant materials, plant installation, irrigation, weed management, monitoring and all other costs.
- (c) The surety shall be in the form of an assignment of funds, bond, security device, or other means acceptable to the City Finance Director in consultation with the City Attorney.
- (d) The performance surety authorized by this section shall remain in effect until the City determines, in writing, that the permit conditions, code requirements and/or standards bonded for have been met. Once the mitigation installation has been accepted by the Planning Director or Public Works Director, the bond may be reduced to 20 percent of the original mitigation cost estimate and shall become a maintenance surety. Said maintenance surety shall generally be held by the City for a period of five years to ensure that the required mitigation has been fully implemented and demonstrated to function, and may be held for longer periods under Section [14.88.277\(c\)](#).
- (e) Depletion, failure, or collection of surety funds shall not discharge the obligation of an applicant to complete required mitigation, maintenance, monitoring, or restoration.
- (f) Public development proposals shall be relieved from having to comply with the bonding requirements of this section if public funds have previously been committed for mitigation, maintenance, monitoring, or restoration.
- (g) Any failure to satisfy critical area requirements established by law or condition including, but not limited to, the failure to provide a monitoring report within 30 days after it is due or comply with other provisions of an approved mitigation plan shall constitute a default. Upon notice of any default, the City may demand immediate payment of any financial guarantees or require other action authorized by the City code or any other law.
- (h) Any funds paid or recovered pursuant to this section shall be used to complete the required mitigation or other authorized action.
- (i) The Director may authorize a one-time temporary delay, up to 120 days, in completing mitigation activities when environmental conditions could produce a high probability of failure or significant

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construction difficulties. The delay shall not create or perpetuate hazardous conditions or environmental damage or degradation. The request for the temporary delay shall include a written justification documenting the environmental constraints that preclude implementation of the mitigation plan and shall include a financial guarantee. The justification shall be verified by the City before approval of any delay.

(j) The provisions of Section [14.16A.180](#) (Security Mechanisms) shall also apply if necessary to ensure adequate protection of the public interest. (Ord. 811, Sec. 73, 2010; Ord. 773, Sec. 2, 2008)

14.88.280 Maps and Inventory.

The approximate location and extent of critical areas in the City are displayed on various inventory maps available at the Department of Planning and Community Development. More data will be included as inventories are completed in compliance with the requirements of the Growth Management Act. Maps and inventory lists are guides to the general location and extent of critical areas. Critical areas not shown are presumed to exist in the City and are protected under all the provisions of this chapter. In the event that any of the designations shown on the maps or inventory lists conflict with the criteria set forth in this chapter, the criteria and site-specific conditions shall control. Other mapping sources may include:

- (a) Washington Department of Fish and Wildlife Priority Habitat and Species maps.
- (b) Washington State Department of Natural Resources official water type reference maps, as amended.
- (c) Anadromous and resident salmonid distribution maps contained in the Habitat Limiting Factors reports published by the Washington Conservation Commission.
- (d) Washington State Department of Natural Resources State Natural Area Preserves and Natural Resource Conservation Area maps.
- (e) Washington State Department of Natural Resources Natural Heritage Program mapping data.
- (f) Lake Stevens and/or Snohomish County maps. (Ord. 773, Sec. 2, 2008; Ord. 741, Sec. 2, 2007)

14.88.283 Pesticide Management.

Pesticide use is not allowed in critical areas, including critical area buffers, unless it is determined by the Planning and Community Development Director that there is no alternative to controlling invasive species. If pest control is being proposed as mitigation measures to control invasive species, a pesticide management plan must be submitted to the Planning Department. The pesticide management plan must be part of the critical areas report required in Section [14.88.270](#) for any development proposal, and shall include why there is no other alternative to pesticide use, mitigation of pesticide use, planned application schedules, types of pesticides proposed for use, and a means to prevent or reduce pesticide movement to groundwater and surface water. The report shall be prepared by a qualified specialist. (Ord. 773, Sec. 2, 2008; Ord. 741, Sec. 2, 2007)

14.88.285 Building Setbacks.

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Unless otherwise provided, buildings and other structures shall be set back a distance of 10 feet from the edges of all critical area buffers or from the edges of all critical areas, if no buffers are required. The following may be allowed in the building setback area:

- (a) Uncovered decks;
- (b) Building overhangs, if such overhangs do not extend more than 18 inches into the setback area; and
- (c) Impervious ground surfaces, such as driveways and patios; provided, that such improvements may be subject to water quality regulations as adopted. (Ord. 773, Sec. 2, 2008; Ord. 741, Sec. 2, 2007)

14.88.287 Fencing and Signage.

Wetland Critical Area fencing and signage adjacent to a regulated wetland or stream corridor shall be required. Permanent signage may be required for geologically hazardous areas and setback buffers not approved for alteration under Section 14.88.670.

- (a) Fencing shall be smooth wire or an alternative approved by the Planning and Community Development Director.
 - (1) Fencing must be a permanent structure installed in a manner that allows continuous wildlife habitat corridors along critical fish and wildlife areas with a minimum gap of one and one-half feet at the bottom of the fence, and maximum height of three and one-half feet at the top;
 - (2) The fence shall be designed and constructed to clearly demarcate the buffer from the developed portion of the site and to limit access of landscaping equipment, vehicles, or other human disturbances; and
 - (3) No pressure treated posts and rails will be used for signage or fencing.
- (b) Signs designating the presence of a critical area shall be posted along the buffer boundary. The signs shall be posted at a minimum rate of one every 100 lineal feet. Standard details for signage shall be kept on file at the Planning and Community Development Department. (Ord. 773, Sec. 2, 2008; Ord. 741, Sec. 2, 2007)

14.88.290 Critical Areas Tracts and Easements – Notice on Title.

- (a) Unless otherwise required in this chapter, native growth protection areas shall be used in all development proposals to delineate and protect the following critical areas and buffers:
 - (1) All geologically hazardous areas not approved for alteration and associated setback buffers;
 - (2) All wetlands and buffers; and
 - (3) All fish and wildlife habitat conservation areas and buffers.
- (b) Native growth protection areas created pursuant to this Chapter shall be designated on the face of the plat or recorded drawing pursuant to Sections 14.16C.105 and 14.18.040 LSMC and shall be protected by one of the following methods:

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(1) Development proposals for subdivisions, short subdivisions, Binding Site Plans and Planned Neighborhood Developments shall use separate critical area tracts to delineate and protect native growth protection areas. The critical area tract shall be held by each lot owner in the development in an undivided interest or held by a Homeowner's Association or other legal entity which assures the ownership, maintenance, and protection of the tract, unless dedicated to the City pursuant to Section 14.88.293; or

(2) For development proposals that do not segregate lots as described above, the permit holder shall record a native growth protection area easement with the Snohomish County Auditor stating the location of and the limitations associated with all of the critical areas and associated buffers or mitigation sites on the property. Restrictions and limitations shall be stated on the face of the deed applicable to the property and recorded with the Snohomish County auditor.

(c) Such easements or tracts shall cover the critical area as delineated by its defined boundaries and buffers.

~~14.88.290 Dedication of Open Space/Native Growth Protection Area.~~

~~(a) In order to protect critical areas, open space easements or tracts, referred to as a native growth protection area areas, where proposed as mitigation, shall be dedicated to the City.~~

~~(b) Anyone may offer to dedicate a critical area easement or tract and its buffer to the City even if not proposed as mitigation. The Planning and Community Development Director shall make a determination regarding the City's acceptance of such a dedication, based on consistency with the goals and policies of the adopted Comprehensive Plan.~~

~~(c) Such easements or tracts shall cover the critical area as delineated by its defined boundaries and buffers. (Ord. 773, Sec. 2, 2008; Ord. 741, Sec. 2, 2007)~~

14.88.295 Permanent Protection for Streams, Wetlands and Buffers.

All streams and wetlands under this chapter and their required buffers shall be permanently protected by designating them as native growth protection areas (NGPAs) in accordance with Section [14.88.290](#). NGPAs are to be left permanently undisturbed in a substantially or environmentally enhanced natural state. No clearing, grading, filling, building construction or placement, or road construction is allowed except the following:

(a) On a case by case basis when supported by a critical areas assessment study, crossings for underground utility lines which utilize the shortest alignment possible and for which no alignment that would avoid such a crossing is feasible;

(b) Removal of hazardous trees by the property owner, when based on a recommendation by a qualified arborist and an assessment of hazardous tree risk study and when approved by the City.

Existing legally (on-going) established structures, and non-native or ornamental landscaping, including, but not necessarily limited to, gardens, yards, pastures, and orchards, are not required to be designated as NGPAs. (Ord. 773, Sec. 2, 2008; Ord. 741, Sec. 2, 2007)

~~14.88.297 Density Transfers on Sites Less than Five Acres~~ On-site Density Transfer for Critical Areas.

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On-site density transfers ~~on sites less than five acres~~ may be permitted when critical areas are located on the property subject to the following provisions:

- (a) Only the area contained in the following critical area areas and their associated buffers of the following wetlands is/are eligible to be used in the density transfer calculation:
- (1) ~~Category II, and III, and IV wetlands with a habitat score of less than 20; and~~
 - (2) ~~Category IV wetlands. Fish and Wildlife Conservation areas; and~~
 - (3) Geologically hazardous areas not approved for alteration.
- (b) The development must be proposed to connect to sewer service and sewer service must be available.
- (c) The base density shall be consistent with the densities set forth in Chapter [14.36](#) for the zoning districts. The site density shall be calculated using the area of the subject property divided by the minimum lot size of the applicable zone.
- (d) The overall density of the proposed site may be transferred from the undevelopable portion to the developable part of the site.
- (e) The development shall meet applicable policies, setbacks and other standards of the City except:
- (1) Lot sizes may be modified to not less than 5,000 square feet in the WR and SR zones, not less than 4,000 square feet in the UR zone and not less than 3,000 square feet in the HUR zone; Lot widths of Chapter [14.48](#) Table V may be modified to not less than 40 feet in the SR and UR zones and not less than 30 feet in the HUR zone;
 - (2) Lot widths of Chapter [14.48](#) Table I may be modified to not less than 50 feet in the WR and SR zones, and not less than 40 feet in the UR and HUR zones Lot sizes may be modified to not less than 4,000 square feet in the SR and UR zones and not less than 3,000 square feet in the HUR zone;
 - (3) Setbacks of the zone as specified in Chapter [14.48](#) Table ~~V~~ I may ~~not~~ be modified when using the density transfer provision as follows:
 - (i) In WR and SR zones, the front setback requirements of the UR zoning classification as specified in Chapter [14.48](#) Table I may be utilized to accommodate the density transfer;
 - (ii) In the UR and HUR zones, the front setback may be reduced by 5 feet;
 - (iii) In no instance may the garage setback be less than 19 feet.
- (4) The proposed development must be compatible with the character of the area and adjacent uses; and
- (5) The area to which density is transferred must not be constrained by other critical areas. (Ord. 773, Sec. 2, 2008)

14.88.298 Innovative Development Design.

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A project permit applicant may request approval of an innovative design, which addresses wetland, fish and wildlife habitat conservation area or buffer treatment in a manner that deviates from the standards set forth in Sections [14.88.400](#) through [14.88.440](#), Fish and Wildlife Conservation Areas, and Sections [14.88.800](#) through [14.88.840](#), Wetlands.

(a) An innovative development design will be considered in conjunction with the primary land use project approval or building permit approval. The Planning and Community Development Director shall develop and adopt administrative procedures as authorized in Section [14.88.250](#) for review and approval of innovative development design that are consistent with subsection (b) of this section. An applicant may include the innovative development design proposal in the project pre-application review packet for review. The Planning and Community Development Director shall give preliminary findings on the preapplication and shall only issue a final decision for the design with the project or building permit approval, whichever occurs first.

(b) The applicant shall demonstrate in a site/resource-specific report required pursuant to Section [14.88.270](#) how the innovative development design complies with the following requirements:

(1) The innovative development design will achieve protection equivalent to or better than the treatment of the functions and values of the critical areas that would be obtained by applying the standard prescriptive measures contained in this chapter;

(2) Applicants for innovative development design are encouraged to consider measures prescribed in guidance documents, such as watershed conservation plans or other similar conservation plans, and low impact stormwater management strategies which address wetlands, fish and wildlife habitat conservation areas or buffer protection consistent with this chapter;

(3) The innovative development design will not be materially detrimental to the public health, safety or welfare or injurious to other properties or improvements located outside of the subject property; and

(4) Applicants for innovative development design are encouraged to consider measures prescribed in the Puget Sound Action Team ~~2005~~[2012](#) Technical Guidance Manual for Low Impact Development. (Ord. 773, Sec. 2, 2008)

14.88.300 Dedication of Land and/or Easements in Lieu of Park Mitigation.

The dedication of critical areas and their buffers as open space may not be used for satisfying park mitigation requirements. Park land must be dedicated or fees in lieu of dedication must be paid as set forth in this title. However, if an applicant provides recreation amenities in buffers as allowed under this chapter, the cost of those amenities may be subtracted from the total park mitigation calculated for a given project with prior approval of the Planning and Community Development Director. (Ord. 773, Sec. 2, 2008; Ord. 741, Sec. 2, 2007)

14.88.310 Demonstration of Denial of All Reasonable Economic Uses.

In order to conduct a regulated activity in a critical area where the applicant is claiming that denial of authorization of such an activity would deny all reasonable economic uses of the property, the applicant must demonstrate that such is the case. If a regulated activity is allowed within a critical area it must minimize impacts per the "requirements" sections, below. If the Planning and Community Development Director determines that alteration of a critical area is necessary and unavoidable, written findings

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addressing each of the items listed in this section shall be placed in the official project file.
Demonstration of denial of all reasonable economic uses shall be accomplished as follows:

- (a) An applicant must demonstrate that denial of the permit would impose an extraordinary hardship on the part of the applicant brought about by circumstances peculiar to the subject property.
- (b) For water-dependent activities, unavoidable and necessary impact can be demonstrated where there are no practicable alternatives which would not involve a wetland critical area or which would not have less adverse impact on a wetland critical area, and would not have other significant adverse environmental consequences.
- (c) Where non-water-dependent activities are proposed, it shall be presumed that adverse impacts are avoidable. This presumption may be rebutted upon a demonstration that:
 - (1) The basic project purpose cannot reasonably be accomplished utilizing one or more other sites in the general region that would avoid, or result in less, adverse impact on regulated critical areas; and
 - (2) A reduction in the size, scope, configuration, or density of the project as proposed and all alternative designs of the project as proposed that would avoid, or result in less, adverse impact on a critical area or its buffer will not accomplish the basic purpose of the project; and
 - (3) In cases where the applicant has rejected alternatives to the project as proposed due to constraints such as zoning, deficiencies of infrastructure, or parcel size, the applicant has made reasonable attempt to remove or accommodate such constraints. (Ord. 903, Sec. 52, 2013; Ord. 773, Sec. 2, 2008; Ord. 741, Sec. 2, 2007)

14.88.320 Allowance of Regulated Use in a Critical Area Where Denial of All Economic Use is Demonstrated.

If an applicant for an activity or development proposal demonstrates to the satisfaction of the Planning and Community Development Director that application of these standards would deny all reasonable economic use of the property as provided by Section [14.88.220](#), development, as may be conditioned, shall be allowed if the applicant also demonstrates all of the following to the satisfaction of the Director:

- (a) If proposed in a wetland, stream, creek, river, lake or other surface water, that the proposed project is water-dependent or requires access to the wetland as a central element of its basic function; or
- (b) If proposed in a critical area not listed in subsection (a) of this section, that it is not water-dependent but has no practicable alternative; and
- (c) That no reasonable use with less impact on the critical area and its buffer is possible (e.g., agriculture, aquaculture, transfer or sale of development rights or credits, sale of open space easements, etc.);
- (d) That there is no feasible on-site alternative to the proposed activities, including reduction in density, phasing of project implementation, change in timing of activities, revision of road and lot layout, and/or related site planning considerations, that would allow a reasonable economic use with less adverse impacts to the critical area and its buffer;

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- (e) That the proposed activities will result in minimum feasible alteration or impairment to the functional characteristics of the critical area and its existing contours, vegetation, fish and wildlife resources, hydrological, and geologic conditions;
- (f) That disturbance of the critical area has been minimized by locating any necessary alteration in buffers to the extent possible;
- (g) That the proposed activities will not jeopardize the continued existence of endangered, threatened, or sensitive species as listed by the Federal Government or the State of Washington. An applicant is required to confirm with the State of Washington that special conditions or recommendations are not required for candidate or monitor species;
- (h) That the proposed activities will not cause significant degradation of groundwater or surface water quality;
- (i) That the proposed activities comply with all State, local and Federal laws, including those related to sediment control, pollution control, floodplain restrictions, and on-site wastewater disposal;
- (j) That any and all alterations to critical areas and their buffers will be adequately mitigated;
- (k) That there will be no damage to nearby public or private property and no threat to the health or safety of people on or off the property;
- (l) That the inability to derive reasonable economic use of the property is not the result of actions by the applicant in segregating or dividing the property and creating the undevelopable condition after the effective date of this chapter; and
- (m) That deliberate measures have been taken to minimize the impacts. Minimizing impacts shall include but not be limited to:
 - (1) Limiting the degree or magnitude of the prohibited activity;
 - (2) Limiting the implementation of the prohibited activity;
 - (3) Using appropriate and best available technology;
 - (4) Taking affirmative steps to avoid or reduce impacts;
 - (5) Sensitive site design and siting of facilities and construction staging areas away from critical areas and their buffers;
 - (6) Involving resource agencies early in site planning;
 - (7) Providing protective measures such as siltation curtains, hay bales and other siltation prevention measures; and
 - (8) Scheduling the prohibited activity to avoid interference with wildlife and fisheries rearing, resting, nesting or spawning activities. (Ord. 903, Sec. 53, 2013; Ord. 773, Sec. 2, 2008; Ord. 741, Sec. 2, 2007)

14.88.330 Nonconforming Activities.

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A regulated activity that was approved prior to the passage of this chapter and to which significant economic resources have been committed pursuant to such approval but which is not in conformity with the provisions of this chapter may be continued subject to the following:

- (a) No such activity shall be expanded, modified, or substituted in any way that increases the extent of its nonconformity without a permit issued pursuant to the provisions of this chapter;
- (b) Except for cases of discontinuance as part of normal agricultural practices, if a nonconforming activity is discontinued for 180 days, any resumption of the activity shall conform to this chapter;
- (c) If a nonconforming use or activity is destroyed by human activities or a natural occurrence, it shall not be resumed except in conformity with the provisions of this chapter;
- (d) Activities or adjuncts thereof that are or become nuisances shall not be entitled to continue as nonconforming activities. (Ord. 773, Sec. 2, 2008; Ord. 741, Sec. 2, 2007)

14.88.340 Assessment Relief.

The Snohomish County Assessor's office considers critical area regulations in determining the fair market value of land. Any owner of an undeveloped critical area who has dedicated an easement or entered into a perpetual conservation restriction with the City of Lake Stevens or a nonprofit organization to permanently control some or all regulated activities in that portion of land assessed consistent with these restrictions shall be considered for exemption from special assessments to defray the cost of municipal improvements such as sanitary sewers, storm sewers, and water mains. (Ord. 773, Sec. 2, 2008; Ord. 741, Sec. 2, 2007)

Part IV. Fish and Wildlife Conservation Areas

14.88.400 Classification.

Fish and wildlife conservation areas include:

- (a) Lands containing priority habitats and species, including plant and/or animal species listed on Federal or State threatened or endangered species lists.
- (b) Naturally occurring ponds under 20 acres and their submerged aquatic beds that provide fish or wildlife habitat. These do not include ponds deliberately designed and created from dry sites such as canals, detention facilities, waste-water treatment facilities, farm ponds, temporary construction ponds (of less than three years' duration), and landscape amenities. However, naturally occurring ponds may include those artificial ponds intentionally created from dry areas in order to mitigate conversion of ponds, if permitted by a regulatory authority.
- (c) Waters of the State, as defined in WAC Title [222](#), Forest Practices Rules and Regulations. Waters of the State shall be classified using the system in WAC [222-16-030](#). In classifying waters of the State as fish and wildlife habitats the following shall be used:
 - (1) Species are present which are endangered, threatened or sensitive;
 - (2) Existing surrounding land uses are incompatible with salmonid and other game fish habitat;
 - (3) Presence and size of riparian ecosystem;

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- (4) Existing water rights.
- (d) Lakes, ponds, and streams planted with game fish (defined at RCW [77.08.020](#)), including those planted under the auspices of Federal, State, local, or tribal programs, or which support priority fish species as identified by the Department of Fish and Wildlife.
- (e) State natural area preserves and natural resource conservation areas.
- (f) Habitats or species of local importance. Such habitats or species may be locally listed per the process elucidated in Section [14.88.415](#).
- (g) Streams shall be classified according to the stream type system as provided in WAC [222-16-030](#), Stream Classification System, as amended.
- (1) Type S Stream. Those streams, within their ordinary high water mark, as inventoried as shorelines of the State under Chapter [90.58](#) RCW and the rules promulgated pursuant thereto.
- (2) Type F Stream. Those stream segments within the ordinary high water mark that are not Type S streams, and which are demonstrated or provisionally presumed to be used by fish. Stream segments which have a width of two feet or greater at the ordinary high water mark and have a gradient of 16 percent or less for basins less than or equal to 50 acres in size, or have a gradient of 20 percent or less for basins greater than 50 acres in size, are provisionally presumed to be used by fish. A provisional presumption of fish use may be refuted at the discretion of the Planning and Community Development Director where any of the following conditions are met:
- (i) It is demonstrated to the satisfaction of the City that the stream segment in question is upstream of a complete, permanent, natural fish passage barrier, above which no stream section exhibits perennial flow;
- (ii) It is demonstrated to the satisfaction of the City that the stream segment in question has confirmed, long-term, naturally occurring water quality parameters incapable of supporting fish;
- (iii) Sufficient information about a geomorphic region is available to support a departure from the characteristics described above for the presumption of fish use, as determined in consultation with the Washington Department of Fish and Wildlife, the Department of Ecology, affected tribes, or others;
- (iv) The Washington Department of Fish and Wildlife has issued a hydraulic project approval, pursuant to RCW [77.55.100](#), which includes a determination that the stream segment in question is not used by fish;
- (v) No fish are discovered in the stream segment in question during a stream survey conducted according to the protocol provided in the Washington Forest Practices Board Manual, Section 13, Guidelines for Determining Fish Use for the Purpose of Typing waters under WAC [222-16-031](#); provided, that no unnatural fish passage barriers have been present downstream of said stream segment over a period of at least two years.
- (3) Type Np Stream. Those stream segments within the ordinary high water mark that are perennial and are not Type S or Type F streams. However, for the purpose of classification, Type Np streams include intermittent dry portions of the channel below the uppermost point of perennial flow. If the uppermost point of perennial flow cannot be identified with simple, nontechnical observations (see

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Washington Forest Practices Board Manual, Section 23), then said point shall be determined by a qualified professional selected or approved by the City.

(4) Type Ns Stream. Those stream segments within the ordinary high water mark that are not Type S, Type F, or Type Np streams. These include seasonal streams in which surface flow is not present for at least some portion of a year of normal rainfall that are not located downstream from any Type Np stream segment. (Ord. 903, Sec. 54, 2013; Ord. 773, Sec. 2, 2008; Ord. 741, Sec. 2, 2007)

14.88.410 Determination of Boundary.

(a) The boundaries of fish and wildlife conservation areas shall be determined by the Planning and Community Development Director, who may rely on a Departmental approved biological resources survey prepared by a qualified wildlife biologist per the Department's Biological Resources Survey Guidelines. Such a report would be supplied by the applicant of a permit.

(b) The boundary of the creek, stream, river, lake, or other surface water shall be determined by the Planning and Community Development Director, relying on a delineation by a licensed surveyor or other comparable expert. Such boundary shall be contiguous with the 100-year floodplain designations as adopted by the City, or where such a designation has not been adopted by the City, the 100-year floodplain designation of the Federal Emergency Management Agency (FEMA) and the National Flood Insurance Program where it has been delineated (shown on Flood Insurance Rate Maps (FIRM)). Where this information does not exist, the boundary determination shall be made by a licensed surveyor and based upon the same criteria used by FEMA. This determination shall be confirmed by the City Engineer. (Ord. 773, Sec. 2, 2008; Ord. 741, Sec. 2, 2007)

14.88.415 Species/Habitats of Local Importance.

(a) Species or habitats may be listed as a species or habitat of local importance by the City Council according to the following process:

(1) An individual or organization must:

(i) Demonstrate a need for special consideration based on:

a. Declining populations;

b. Sensitivity to habitat manipulation; or

c. Commercial or game value or other special value, such as public appeal.

(ii) Propose relevant management strategies considered effective and within the scope of this chapter.

(iii) Provide species or habitat location(s) on a map.

(2) Submitted proposals will be reviewed by the Planning and Community Development Director and forwarded to the Departments of Fish and Wildlife and Natural Resources, and/or other local, State, Federal, or tribal agencies or experts for comment and recommendation regarding accuracy of data and effectiveness of proposed management strategies.

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(3) The City Council will hold a public hearing for proposals found to be complete, accurate, potentially effective, and within the scope of this chapter. Approved nominations will become designated a species or habitat of local importance and will be subject to the provisions of this chapter.

(b) Species or habitats of local importance include:

(1) [None adopted as of May 1, 1995] (Ord. 773, Sec. 2, 2008; Ord. 741, Sec. 2, 2007)

14.88.420 Allowed Activities.

Except where regulated by other sections of this or any other title or law, the following uses shall be allowed within fish and wildlife conservation areas when the requirements of Section [14.88.430](#) have been met and mitigation adequate to alleviate any other impacts has been proposed:

(a) Those activities listed in Section [14.88.220](#).

(b) Activities consistent with the species located there and all applicable State and Federal regulations regarding the species, as determined by the Planning and Community Development Director, who may consult with other resource agencies as to their recommendations.

(c) Bridges and other crossings over streams for public and private rights-of-way. (Ord. 773, Sec. 2, 2008; Ord. 741, Sec. 2, 2007)

14.88.430 Requirements.

(a) Except as provided in this subsection, a 50-foot buffer shall be required for all regulated activities adjacent to fish and wildlife conservation areas. All buffers shall be measured from the fish and wildlife conservation area boundary as surveyed in the field. The width of the buffer may be increased depending on the habitat value and the proposed land use.

(b) Buffer widths may be increased based on recommendations by the Department of Fish and Wildlife based on their Management Recommendations for Priority Habitats and Species.

(c) To retain the natural functions of streams and stream corridors, the following streamside buffers shall be maintained:

(1) For ravines with banks greater than 10 feet in depth, maintain the existing or native vegetation within the ravine and a strip 25 feet from the top of the bank;

(2) Where there is no ravine or the bank is less than 10 feet in depth, maintain existing or native vegetation on both sides of the stream as measured from the ordinary high water mark (OHWM), in accordance with Table 14.88-I, which sets forth the required buffer widths based on classification of stream types:

Table 14.88-I: Stream Buffer Width

Stream Type	Buffer
S	150 feet

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F	100 feet
Np	50 feet
Ns	50 feet

(d) Widths shall be measured outward in each direction, on the horizontal plane, from the ordinary high water mark, or from the top of the bank if the ordinary high water mark cannot be identified, or from the outer edge of the channel migration zone when present.

(e) The Planning and Community Development Director may modify the buffer widths in the above table in accordance with the following:

(1) Buffer widths may be increased as necessary to fully protect riparian functions. For example, the buffer may be extended to the outer edge of the floodplain or windward into an area of high tree blow-down potential as determined by an arborist.

(2) Buffer widths may be reduced in exchange for restoration and enhancement of degraded areas in accordance with an approved plan, or for buffer averaging in accordance with Section [14.88.275](#) and subsection (e)(4) of this section.

(3) If the stream enters an underground culvert or pipe, and is unlikely to ever be restored aboveground, the Planning and Community Development Director may waive the buffer along the undergrounded stream; provided, that where the stream enters and emerges from the pipe the opposite outer edges of the buffer shall be joined by a radius equal to the buffer width, with said radius projecting over the piped stream.

(4) Stream buffer widths may be modified by averaging. In no instance shall the buffer width be reduced by more than 25 percent of the standard buffer. Stream buffer width averaging shall only be allowed when the applicant demonstrates the following:

(i) A site-specific evaluation and documentation of buffer adequacy is based on consideration of the best available science as described in Section [14.88.235](#); and

(ii) A buffer enhancement plan is proposed that would significantly improve the functions and values of the stream buffer(s); and

(iii) The averaging will not impair or reduce the habitat, water quality purification and enhancement, stormwater detention, groundwater recharge, shoreline protection and erosion and other functions and values of the stream and buffer.

(5) Buffer widths may be modified if the subject property is separated from the stream channel by pre-existing, intervening, and lawfully created structures, public roads, or other substantial pre-existing intervening improvements. The intervening structures, public roads, or other substantial improvements must separate the subject upland property from the stream channel by height or width, preventing or impairing the delivery of buffer functions to the stream channel. In such cases, the reduced buffer width shall reflect the buffer functions that can be delivered to the stream channel.

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(f) Development in the shorelines of State-wide significance is regulated under Appendix B of the City's State-approved Shoreline Master Program (SMP).

(g) To protect the natural functions and aesthetic qualities of a stream and stream buffer, a detailed temporary erosion control plan which identifies the specific mitigating measures to be implemented during construction to protect the water from erosion, siltation, landslides and hazardous construction materials shall be required. The City shall review the plan with the appropriate State, Federal and tribal agencies and any adjacent jurisdiction. (Ord. 898, Sec. 8, 2013; Ord. 811, Sec. 92, 2010; Ord. 773, Sec. 2, 2008; Ord. 741, Sec. 2, 2007)

14.88.440 Mitigation.

In order to avoid significant environmental impacts, the applicant for a land use or development permit may consider performing the following actions, listed in order of preference. What is considered adequate mitigation will depend on the nature and magnitude of the potential impact as determined in accordance with Section [14.88.275](#).

(a) Dedicate an exclusive open space easement for the protection of wildlife and/or habitat, creeks, streams, rivers, lakes, or other surface water over the creeks, streams, rivers, lakes, or other surface water and a buffer consistent with the standards listed in Section [14.88.430](#). Where such mitigation leads to, or would in the opinion of the Planning and Community Development Director lead to a court finding of a taking, the below listed mitigation may be considered.

(b) Where on-site protection is not possible, dedicate an exclusive easement for the protection of an equivalent (in type and value) waterway over the waterway and a 50-foot buffer on an off-site waterway at a 2:1 ratio. The location of any off-site waterway shall be located as near to the site as possible, in accordance with the following preferred order:

- (1) Contiguous to the impacted waterway;
- (2) Within the same drainage basin;
- (3) Elsewhere within the City;
- (4) Within the Lake Stevens UGA;
- (5) Within the region.

(c) The applicant may propose innovative site design based on the best available science and pursuant to Section 14.88.298 if the innovative development design will achieve protection equivalent to or better than the standard provisions of this Chapter. Approval of the innovative site design will be considered in combination with criteria listed in Section 14.88.298 if the design achieves the following:

- (1) The site design avoids all impacts to the critical area and minimizes buffer impacts; or
- (2) The site design increases the functions and/or values of the stream channel and buffer with a combination of the following measures:

(i) Increasing canopy-cover shade in the riparian zone to maintain cool stream temperatures and regulate micro-climates in the stream-riparian corridor;

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- (ii) Reducing fine sediment input in the stream system through hydrologic retention, filtration and streambank protection;
- (iii) Stabilizing stream banks, and minimizing stream bank erosion;
- (iv) Filtering and reducing potential of impact pollutants from groundwater and surface water runoff;
- (v) Increasing large woody debris and coarse particulate matter into the stream channel for habitat and to moderate stream flow;
- (vi) Increasing critical wildlife habitat along stream-associated migration corridors;
- (vii) Increasing in-stream habitat for aquatic, amphibian, invertebrate and resident and/or anadromous fish species. (Ord. 773, Sec. 2, 2008; Ord. 741, Sec. 2, 2007)

Part V. Frequently Flooded Areas

14.88.500 Classification.

Classification for flood zones shall be consistent with the regulatory floodplain designations as adopted by the City per Chapter [14.64](#), Part I, or where such a designation has not been adopted by the City, by the special flood hazard area designations of the Federal Emergency Management Agency and the National Flood Insurance Program. Any such designations adopted by the City shall consider the following criteria if and when designating and classifying these areas:

- (a) Flooding impact to human health, safety, and welfare and to public facilities and services; and
- (b) Documentation including Federal, State and local laws, regulations and programs, local maps and federally subsidized flood insurance programs. (Ord. 860, Sec. 5 (Exh. 3), 2011; Ord. 773, Sec. 2, 2008; Ord. 741, Sec. 2, 2007)

14.88.510 Determination of Boundary.

The boundary of a flood zone shall be contiguous with the regulatory floodplain as adopted by the City, per Chapter [14.64](#), Part I, or where such a designation has not been adopted by the City, the special flood hazard area designations of the Federal Emergency Management Agency (FEMA) and the National Flood Insurance Program where it has been delineated [shown on Flood Insurance Rate Maps (FIRM)]. Where this information does not exist, the boundary determination shall be made by a licensed engineer and based upon the same criteria used by FEMA. The Planning and Community Development Director or designee shall confirm this determination. (Ord. 860, Sec. 5 (Exh. 3), 2011; Ord. 773, Sec. 2, 2008; Ord. 741, Sec. 2, 2007)

14.88.520 Allowed Activities.

Except where regulated by other sections of this or any other title or law, the following uses shall be allowed within the regulatory floodplain when the requirements of Section [14.88.530](#) have been met and mitigation adequate to alleviate any other impacts has been proposed:

- (a) Those activities allowed per Section [14.88.220](#).

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(b) Those activities allowed per Section [14.64.025](#). (Ord. 860, Sec. 5 (Exh. 3), 2011; Ord. 773, Sec. 2, 2008; Ord. 741, Sec. 2, 2007)

14.88.530 Requirements.

All land uses and development proposals shall comply with the applicable provisions of the Lake Stevens Municipal Code for general and specific flood hazard protection (see Chapter [14.64](#), Special Flood Hazard Areas, Drainage, and Erosion).

(a) Development shall not reduce the effective flood storage volume. Reduction of the floodwater storage capacity due to grading, construction, or other regulated activities shall provide compensatory storage per Section [14.64.055](#)(b).

(b) The final recorded subdivision plat or site plan shall include a notice that the property contains land within the regulatory floodplain including special flood hazard areas and protected areas, as applicable. (Ord. 860, Sec. 5 (Exh. 3), 2011; Ord. 773, Sec. 2, 2008; Ord. 741, Sec. 2, 2007)

14.88.540 Mitigation.

If potential flooding impacts from development cannot be avoided by design or if the use is not an allowed or exempt use, the applicant shall provide a habitat impact assessment and/or habitat mitigation plan to mitigate impacts on federal, state or locally protected species and habitat, water quality and aquatic and riparian habitat, per Section [14.64.055](#)(c) and (d). (Ord. 860, Sec. 5 (Exh. 3), 2011; Ord. 773, Sec. 2, 2008; Ord. 741, Sec. 2, 2007)

Part VI. Geologically Hazardous Areas

14.88.600 Classification.

(a) Geologically hazardous areas include areas susceptible to erosion, sliding, earthquakes, liquefaction, or other geological events. Geologically hazardous areas shall be classified based upon the history or existence of landslides, unstable soils, steep slopes, high erosion potential or seismic hazards. In determining the significance of a geologically hazardous area the following criteria shall be used:

- (1) Potential economic, health, and safety impact related to construction in the area;
- (2) Soil type, slope, vegetative cover, and climate of the area;
- (3) Available documentation of history of soil movement, the presence of mass wastage, debris flow, rapid stream incision, stream bank erosion or undercutting by wave action, or the presence of an alluvial fan which may be subject to inundation, debris flows, or deposition of stream-transported sediments.

(b) The different types of geologically hazardous areas are defined as follows:

(1) Erosion hazard areas are as defined by the USDA Soil Conservation Service, United States Geologic Survey, or by the Department of Ecology Coastal Zone Atlas. The following classes are high erosion hazard areas.

(i) Class 3, class U (unstable) includes severe erosion hazards and rapid surface runoff areas;

(ii) Class 4, class UOS (unstable old slides) includes areas having severe limitations due to slope; and

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(iii) Class 5, class URS (unstable recent slides).

(2) Landslide hazard areas shall include areas subject to severe risk of landslide based on a combination of geologic, topographic and hydrologic factors. Some of these areas may be identified in the Department of Ecology Coastal Zone Atlas, or through site-specific criteria. Landslide hazard areas include the following:

(i) Areas characterized by slopes greater than 15 percent; and impermeable soils (typically silt and clay) frequently interbedded with permeable granular soils (predominantly sand and gravel) or impermeable soils overlain with permeable soils; and springs or groundwater seepage;

(ii) Any area which has exhibited movement during the Holocene epoch (from 10,000 years ago to present) or which is underlain by mass wastage debris of that epoch;

(iii) Any area potentially unstable due to rapid stream incision, stream bank erosion or undercutting by wave action;

(iv) Any area located on an alluvial fan presently subject to or potentially subject to inundation by debris flows or deposition of stream-transported sediments;

(v) Any area with a slope of 40 percent or greater and with a vertical relief of 10 or more feet except areas composed of consolidated rock;

(vi) Any area with slope defined by the United States Department of Agriculture Soil Conservation Service as having a severe limitation for building site development; and

(vii) Any shoreline designated or mapped as class U, UOS, or URS by the Department of Ecology Coastal Zone Atlas.

(3) Slopes.

(i) Moderate slopes shall include any slope greater than or equal to 15 percent and less than 40 percent.

(ii) Steep slopes shall include any slope greater than or equal to 40 percent.

(4) Seismic hazard areas shall include areas subject to severe risk of earthquake damage as a result of seismic induced settlement, shaking, slope failure or soil liquefaction. These conditions occur in areas underlain by cohesionless soils of low density usually in association with a shallow groundwater table. (Ord. 773, Sec. 2, 2008; Ord. 741, Sec. 2, 2007)

14.88.610 Determination of Boundary.

Determination of a boundary of a geologically hazardous area shall be made by the Planning and Community Development Director, relying on a geotechnical or similar technical report and other information where available and pertinent. Such reports or information shall be provided by an applicant for an activity or permit at the request of the City. (Ord. 773, Sec. 2, 2008; Ord. 741, Sec. 2, 2007)

14.88.620 Allowed Activities.

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Except where regulated by other sections of this or any other title or law, the following uses shall be allowed within geologically hazardous areas when the requirements of Section [14.88.630](#) have been met and mitigation adequate to alleviate any other impacts has been proposed:

- (a) Those activities allowed per Section [14.88.220](#).
- (b) Any other use allowed per the zone; provided, that it meets the requirements of Section [14.88.630](#) and will not have a detrimental impact on the health, safety, and welfare of the public, or will not negatively impact neighboring properties. (Ord. 773, Sec. 2, 2008; Ord. 741, Sec. 2, 2007)

14.88.630 Geological Assessment Requirements.

Development proposals on or within 200 feet of any areas which are designated as geologically hazardous, or which the City has reason to believe are geologically hazardous based on site-specific field investigation, shall be required to submit a geological assessment.

- (a) The geological assessment shall be submitted with the minimum required content as set forth in subsection (d) of this section and in the format established by the Planning and Community Development Director, and shall be consistent with the following:
 - (1) A geotechnical letter is required when the geologist finds that no active geological hazard area exists on or within 200 feet of the site.
 - (2) A geotechnical report is required when the geologist finds that an active geological hazard area exists on or within 200 feet of the proposed project area.
- (b) The Department shall review the geological assessment and either accept or reject the assessment and require revisions or additional information. When the geological assessment has been accepted, the Department shall issue a decision on the land use permit application.
- (c) A geological assessment for a specific site may be valid for a period of up to five years when the proposed land use activity and site conditions affecting the site are unchanged. However, if any surface and subsurface conditions associated with the site change during the five-year period or if there is new information about a geological hazard, the applicant may be required to submit an amendment to the geological assessment.
- (d) A geological assessment shall include the following minimum information and analysis:
 - (1) A field investigation that may include the use of historical air photo analysis, review of public records and documentation, and interviews with adjacent property owners or others knowledgeable about the area, etc.
 - (2) An evaluation of any areas on the site or within 200 feet of the site that are geologically hazardous as set forth in Section [14.88.600](#).
 - (3) An analysis of the potential impacts of the proposed development activity on any potential geological hazard that could result from the proposed development either on site or off site. For landslide hazard areas, the analysis shall consider the run-out hazard of landslide debris to the proposed development that starts upslope whether the slope is part of the subject property or starts off site.

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(4) Identification of any mitigation measures required to eliminate potentially significant geological hazards both on the proposed development site and any potentially impacted off-site properties. When hazard mitigation is required, the mitigation plan shall specifically address how the proposed activity maintains or reduces the pre-existing level of risk to the site and adjacent properties on a long term basis. The mitigation plan shall include recommendations regarding any long term maintenance activities that may be required to mitigate potential hazards.

(5) The geological assessment shall document the field investigations, published data and references, data and conclusions from past geological assessments, or geotechnical investigations of the site, site-specific measurements, tests, investigations, or studies, as well as the methods of data analysis and calculations that support the results, conclusions, and recommendations.

(6) The geological assessment shall contain a summary of any other information the geologist identifies as relevant to the assessment and mitigation of geological hazards.

(e) Geological assessments shall be prepared under the responsible charge of a geologist, and shall be signed, sealed, and dated by the geologist. (Ord. 773, Sec. 2, 2008; Ord. 741, Sec. 2, 2007)

14.88.640 Setback Buffer Requirements.

(a) The setback buffer width shall be based upon information contained in a geological assessment, and shall be measured on a horizontal plane from a vertical line established at the edge of the geologically hazardous area limits (both from the top and toe of slope). In the event that a specific setback buffer is not included in the recommendation of the geological assessment, the setback buffer shall be based upon the standards contained in Chapter 18 of the International Building Code (IBC), or as the IBC is updated and amended.

(1) If the geological assessment recommends setback buffers that are less than the standard buffers that would result from application of Chapter 18 of the IBC, the specific rationale and basis for the reduced buffers shall be clearly articulated in the geological assessment.

(2) The City may require increased setback buffer widths under any of the following circumstances:

(i) The land is susceptible to severe erosion and erosion control measures will not effectively prevent adverse impacts.

(ii) The area has a severe risk of slope failure or downslope stormwater drainage impacts.

(iii) The increased buffer is necessary to protect public health, safety and welfare based upon findings and recommendations of geological assessment.

(b) Unless otherwise permitted as part of an approved alteration, the setback buffers required by this subsection shall be maintained in native vegetation to provide additional soil stability and erosion control. If the buffer area has been cleared, it shall be replanted with native vegetation in conjunction with any proposed development activity.

(c) The City may impose seasonal restrictions on clearing and grading within 200 feet of any geologically hazardous areas. (Ord. 773, Sec. 2, 2008; Ord. 741, Sec. 2, 2007)

14.88.650 Allowed Alterations.

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Unless associated with another critical area, the Planning and Community Development Director may allow alterations of an area identified as a geologically hazardous area or the setback buffers specified in the IBC if an approved geotechnical report demonstrates that:

- (a) The proposed development will not create a hazard to the subject property, surrounding properties or rights-of-way, or erosion or sedimentation to off-site properties or bodies of water;
- (b) The proposal addresses the existing geological constraints of the site, including an assessment of soils and hydrology;
- (c) The proposed method of construction will reduce erosion potential, landslide and seismic hazard potential, and will improve or not adversely affect the stability of slopes;
- (d) The proposal uses construction techniques which minimize disruption of existing topography and natural vegetation;
- (e) The proposal is consistent with the purposes and provisions of this chapter and mitigates any permitted impacts to critical areas in the vicinity of the proposal;
- (f) The proposal mitigates all impacts identified in the geotechnical letter or geotechnical report;
- (g) All utilities and access roads or driveways to and within the site are located so as to require the minimum amount of modification to slopes, vegetation or geologically hazardous areas; and
- (h) The improvements are certified as safe as designed and under anticipated conditions by a geologist. (Ord. 773, Sec. 2, 2008; Ord. 741, Sec. 2, 2007)

14.88.660 Prohibited Alterations.

Modification of geologically hazardous areas shall be prohibited under the following circumstances:

- (a) Where geologically hazardous slopes are located in a stream, wetland, and/or a fish and wildlife habitat conservation area or their required buffers, alterations of the slopes are not permitted, except as allowed in Section [14.88.220](#). The required buffer for such slopes shall be determined through the site-specific geological assessment, but in no case shall be less than 25 feet from the top of slopes of 25 percent and greater.
- (b) Any proposed alteration that would result in the creation of, or which would increase or exacerbate existing geological hazards, or which would result in substantial unmitigated geological hazards either on or off site shall be prohibited. (Ord. 773, Sec. 2, 2008; Ord. 741, Sec. 2, 2007)

14.88.670 Mitigation.

- (a) In addition to the other requirements of this chapter, as part of any approval of development on or adjacent to geologically hazardous areas or within the setback buffers required by this section:
 - (1) The City shall require:
 - (i) Geologically hazardous areas not approved for alteration and their setback buffers shall be placed in a native growth protection area as set forth in Sections [14.88.290](#).

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(ii) Any geologically hazardous area or required setback buffer that is allowed to be altered subject to the provisions of this chapter shall be subject to a covenant of notification and indemnification/hold harmless agreement in a form acceptable to the City Attorney. Such document shall identify any limitation placed on the approved alterations.

(2) The City may require:

(i) The presence of a geologist on the site to supervise during clearing, grading, filling, and construction activities which may affect geologically hazardous areas, and provide the City with certification that the construction is in compliance with the geologist's recommendations and has met approval of the geologist, and other relevant information concerning the geologically hazardous conditions of the site.

(ii) Vegetation and other soil stabilizing structures or materials be retained or provided.

(iii) Long term maintenance of slopes and on-site drainage systems.

(b) If potential geologic impacts cannot be avoided by adhering to the above requirements and the other requirements of this chapter, other forms of mitigation may be considered. Applicants must provide mitigation plans exploring and analyzing any proposed mitigation measures. What is considered adequate mitigation will depend on the nature and magnitude of the potential impact. For example, some potential risk due to construction in geologically hazardous areas may be reduced through structural engineering design. (Ord. 773, Sec. 2, 2008; Ord. 741, Sec. 2, 2007)

Part VII. Streams, Creeks, Rivers, Lakes and Other Surface Water

14.88.700 Classification.

Repealed by Ord. 741.

14.88.710 Allowed Activities.

Repealed by Ord. 741.

14.88.720 Requirements.

Repealed by Ord. 741.

14.88.730 Determination of Boundary.

Repealed by Ord. 741.

14.88.740 Mitigation.

Repealed by Ord. 741.

Part VIII. Wetlands

14.88.800 Classification.

Wetlands shall be classified as Category I, II, III, or IV using the Washington State Department of Ecology's Wetland Rating System for Western Washington, Publication No. ~~04-06-025~~14-06-029, or as amended hereafter. Wetland delineations shall be determined in accordance with WAC [173-22-035](#).

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- (a) Sources used to identify designated wetlands include, but are not limited to:
- (1) United States Department of the Interior, Fish and Wildlife Service, National Wetlands Inventory.
 - (2) Areas identified as hydric soils, soils with significant soil inclusions and wet spots with the United States Department of Agriculture/Soil Conservation Service Soil Survey for Snohomish County.
 - (3) Washington State Department of Natural Resources, Geographic Information System, Hydrography and Soils Survey Layers.
 - (4) City of Lake Stevens Critical Areas Inventory Maps.
- (b) Category I Criteria.
- (1) Wetlands that represent a unique or rare wetland type; or
 - (2) Are more sensitive to disturbance than most wetlands; or
 - (3) Are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; or
 - (4) Provide a high level of functions.
- (5) Category I wetlands include:
- (i) Estuarine wetlands which are larger than one acre in size.
 - (ii) Natural heritage wetlands as identified by the Natural Heritage Program of the Washington Department of Natural Resources.
 - (iii) Bogs.
 - (iv) Mature and old-growth forested wetlands over one acre in area.
 - (v) Wetlands that score ~~70 or more~~ 23 - 27 points out of ~~100~~ 27 using the Western Washington Rating System.
- (c) Category II Criteria.
- (1) Category II wetlands are difficult though not impossible to replace and provide high levels of some functions.
 - (2) Category II wetlands include:
 - (i) Estuarine wetlands under one acre in area.
 - (ii) Wetlands that score between ~~51 and 69~~ 20 – 22 points out of ~~100~~ 27 on the Western Washington Rating System.
- (d) Category III Criteria. Wetlands with a moderate level of functions and with rating system scores between ~~30 and 50~~ 16 – 19 points out of ~~100~~ 27.
- (e) Category IV Criteria. Wetlands with a low level of functions and with rating system scores ~~less than 30~~ 9 – 15 points out of ~~100~~ 27. (Ord. 855, Sec. 24, 2011; Ord. 773, Sec. 2, 2008; Ord. 741, Sec. 2, 2007)

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14.88.810 Determination of Boundary.

(a) The Planning and Community Development Director, relying on a field investigation supplied by an applicant and applying the wetland definition provided in this chapter, shall determine the location of the wetland boundary. Qualified professional and technical scientists shall perform wetland delineations as part of a wetland identification report in accordance with WAC [173-22-035](#). Criteria to be included in a required wetland identification report may be found in Section [14.88.275](#), Mitigation/Enhancement Plan Requirements. The applicant is required to show the location of the wetland boundary on a scaled drawing as a part of the permit application.

(b) When the applicant has provided a delineation of the wetland boundary, the Planning and Community Development Director shall verify the accuracy of, and may render adjustments to, the boundary delineation. In the event the adjusted boundary delineation is contested by the applicant, the Planning and Community Development Director shall, at the applicant's expense, obtain expert services to render a final delineation.

(c) The Planning and Community Development Director, when requested by the applicant, may waive the delineation of boundary requirement for the applicant and, in lieu of delineation by the applicant, perform the delineation. The Planning and Community Development Director shall consult with qualified professional scientists and technical experts or other experts as needed to perform the delineation. The applicant will be charged for the costs incurred. Where the Planning and Community Development Director performs a wetland delineation at the request of the applicant, such delineation shall be considered a final determination. (Ord. 855, Sec. 25, 2011; Ord. 797, Sec. 6, 2009; Ord. 773, Sec. 2, 2008; Ord. 741, Sec. 2, 2007)

14.88.820 Allowed Activities.

Except where regulated by other sections of this or any other title or law, and provided they are conducted using best management practices, the following uses and activities shall be allowed and regulated within wetlands and their buffers when the requirements of Sections [14.88.830](#) and [14.88.840](#) have been met and mitigation adequate to alleviate any other impacts has been proposed:

(a) Those uses listed in Section [14.88.220](#).

(b) In Category IV wetlands only, access to developable portions of legal lots where:

(1) There is no other reasonable method of accessing the property;

(2) Altering the terrain would not cause drainage impacts to neighboring properties; and

(3) Not more than 2,500 square feet of wetland is impacted. (Ord. 773, Sec. 2, 2008; Ord. 741, Sec. 2, 2007)

14.88.830 Requirements.

(a) Buffers. Wetland buffers shall be required for all regulated activities adjacent to regulated wetlands as provided in Table 14.88-II, unless modified per subsection (b) or (c) of this section. Any wetland created, restored, or enhanced as compensation for approved wetland alterations shall also include the standard buffer required for the category of the created, restored, or enhanced wetland. All buffers shall be measured from the wetland boundary as surveyed in the field. The width of the wetland buffer

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zone shall be determined according to wetland category and the proposed land use. These buffers have been established to reflect the impact of low and high intensity uses on wetland functions and values.

Table 14.88-II

Category	Land Use	HS 29-36	HS 20-28	HS <20
I	High	190	95	65
	Low	125	65	45
II	High	190	95	65
	Low	125	65	45
III	High	N/A	95	50
	Low		65	35
IV	High	N/A	N/A	35
	Low			20

Table 14.88-II

Wetland Category	Land Use Intensity	Habitat Score 8-9	Habitat Score 5-7	Habitat Score 3-4
I	High	190	95	65
	Low	125	65	45
II	High	190	95	65
	Low	125	65	45
III	High	95		50
	Low	65		35
IV	High	35		
	Low	20		

(b) Increased Wetland Buffer Widths. The Planning and Community Development Director shall require increased standard buffer zone widths on a case-by-case basis when a larger buffer is necessary to protect wetland functions and values based on local conditions. This determination shall be supported by appropriate documentation showing that it is reasonably related to protection of the functions and values of the regulated wetland. Such determination shall be attached as a permit condition and shall demonstrate that:

- (1) A larger buffer is necessary to maintain viable populations of existing species; or
- (2) The wetland is used by species proposed or listed by the Federal Government or the State as endangered, threatened, sensitive, critical or outstanding potential habitat for those species or has unusual nesting or resting sites such as heron rookeries or raptor nesting trees. An applicant must consult with the State Department of Fish and Wildlife to confirm any special recommendations for candidate or monitor species as listed for approval by the Planning and Community Development Director; or
- (3) The adjacent land is susceptible to severe erosion and erosion control measures will not effectively prevent adverse wetland impacts, or the adjacent land has minimal vegetative cover or slopes greater than 15 percent.

(c) Wetland Buffer Width Averaging. Wetland buffer widths may be modified by averaging. In no instance shall the buffer width be reduced by more than 25 percent of the standard buffer. Wetland buffer width averaging shall be allowed only where the applicant demonstrates all of the following:

- (1) The averaging will not impair or reduce the habitat, water quality purification and enhancement, stormwater detention, groundwater recharge, shoreline protection, erosion protection, and other functions and values of the wetland and buffer; and
- (2) The total area contained within the wetland buffer after averaging is no less than that contained within the standard buffer prior to averaging.

(d) Buffer Conditions. Except as otherwise specified, wetland buffers shall be retained in their natural condition. Where buffer disturbance may or has occurred during construction, revegetation with native wetland vegetation may be required.

(e) Permitted Uses in a Wetland Buffer. Regulated activities shall not be allowed in a buffer zone except for the following:

- (1) Activities having minimal adverse impacts on buffers and no adverse impacts on regulated wetlands. These may include low intensity, passive recreational activities such as pervious trails, nonpermanent wildlife watching blinds, short-term scientific or educational activities, and sports fishing or hunting;
- (2) For Category III and IV wetlands, stormwater management facilities restricted to the outer 25 percent of the buffer around the wetland; or
- (3) For Category III and IV wetlands, development having no feasible alternative location.

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(f) Buffer Reductions. Buffer reductions may be allowed for Category III or IV wetlands, provided the applicant demonstrates the proposal meets the criteria in subsections (f)(1) through (4) of this section and either subsection (f)(5) or (6) of this section. Buffer width reduction proposals that meet the criteria as determined by the Planning and Community Development Director shall be reduced by no more than 25 percent of the required buffer and shall not be less than 25 feet in width.

- (1) The buffer area meets buffer area planting in Section [14.88.275](#) and has less than 15 percent slopes; and
- (2) A site-specific evaluation and documentation of buffer adequacy is based on consideration of the best available science as described in Section [14.88.235](#); and
- (3) Buffer width averaging as outlined in subsection (c) of this section is not being used; and
- (4) A buffer enhancement plan is proposed that would significantly improve the function and value of the wetland; and either
- (5) The subject property is separated from the wetland by pre-existing, intervening, and lawfully created structures, public roads, or other substantial improvements. The pre-existing improvements must be found to separate the subject upland property from the wetland by height or width that prevents or impairs the delivery of buffer functions to the wetland. In such cases, the reduced buffer width shall reflect the buffer functions that can be delivered to the wetland; or
- (6) The wetland scores ~~less than 20~~ 3 – 4 points for wildlife habitat in accordance with the rating system applied in Section [14.88.800](#), and mitigation is provided based on Section [14.88.840](#)(b) and Table 14.88-III, when determined appropriate based on the evaluation criteria in Section [14.88.840](#)(f).

Table 14.88-III: Disturbance Mitigation

Examples of Disturbance	Activities that May Cause Disturbance	Example Measures to Minimize Impacts
Lights	Parking lots, warehouses, manufacturing, high density residential	Direct lights away from wetland
Noise	Manufacturing, high density residential	Place activity away from wetland

<p>Pets and humans</p>	<p>Residential areas</p>	<p>Landscaping to delineate buffer edge and to discourage disturbance of wildlife by humans and pets</p>
<p>Dust</p>	<p>Tilled fields</p>	<p>Best management practices for dust control</p>
<p>Toxic runoff*</p>	<p>Parking lots, roads, manufacturing, residential areas, landscaping</p>	<ul style="list-style-type: none"> -Route all new untreated runoff away from wetland while ensuring that wetland is not dewatered -Establish covenants governing use of pesticides within 150 feet of wetland -Apply integrated pest management
<p>Stormwater runoff</p>	<p>Parking lots, roads, manufacturing, residential areas, commercial areas, landscaping</p>	<ul style="list-style-type: none"> -Retrofit stormwater detention and treatment for roads and existing adjacent development -Prevent channelized flow from lawns

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		that directly enters buffer
*These examples are not necessarily adequate for minimizing toxic runoff if threatened or endangered species are present at the site.		

(g) Buffers may be modified when approved for the purpose of implementing innovative development design in accordance with Section [14.88.298](#). (Ord. 811, Sec. 92, 2010; Ord. 773, Sec. 2, 2008; Ord. 741, Sec. 2, 2007)

14.88.840 Mitigation.

The mitigation sequence set forth in this section should be applied after impact avoidance and minimization measures have been taken.

(a) Location and Timing of Mitigation.

(1) Restoration, creation, or enhancement actions should be undertaken on or adjacent to the site, or, where restoration, creation, or enhancement of a former wetland is proposed, within the same watershed. In-kind replacement of the impacted wetland is preferred for creation, restoration, or enhancement actions. The City may accept or recommend restoration, creation, or enhancement which is off site and/or out-of-kind, if the applicant can demonstrate that on-site or in-kind restoration, creation, or enhancement is unfeasible due to constraints such as parcel size or wetland type, or that a wetland of a different type or location is justified based on regional needs or functions;

(2) Whether occurring on site or off site, the mitigation project shall occur near an adequate water supply with a hydrologic connection to the wetland to ensure a successful wetlands development or restoration;

(3) Any approved proposal shall be completed before initiation of other permitted activities, unless a phased or concurrent schedule has also been approved by the Planning and Community Development Department;

(4) Wetland acreage replacement ratios shall be as specified in Table 14.88-IV;

(5) Credits from a wetland mitigation bank may be approved for use as compensation for unavoidable impacts to wetlands.

(i) This provision may be used when:

a. The bank is certified under Chapter [173-700](#) WAC;

b. The Planning and Community Development Director determines that the wetland mitigation bank provides appropriate compensation for the authorized impacts; and

c. The proposed use of credits is consistent with the terms and conditions of the bank's certification.

(ii) Replacement ratios for projects using bank credits shall be consistent with replacement ratios specified in the bank's certification.

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(iii) Credits from a certified wetland mitigation bank may be used to compensate for impacts located within the service area specified in the bank's certification. In some cases, the service area of the bank may include portions of more than one adjacent drainage basin for specific wetland functions.

(b) Mitigation Performance Standards.

(1) All reasonable measures shall be taken to avoid and reduce impacts. When such avoidance and reduction is not reasonable, adverse impacts to wetland functions and values shall be mitigated. Mitigation actions shall be implemented in the preferred sequence identified in Section [14.88.010\(a\)](#). Proposals which include less preferred or compensatory mitigation shall demonstrate that:

- (i) All reasonable measures will be taken to reduce impacts and losses to the original wetland;
- (ii) No overall net loss will occur in wetland functions, values and acreage; and
- (iii) The restored, created or enhanced wetland will be as persistent and sustainable as the wetland it replaces.

(c) Wetland Replacement Ratios.

(1) Where wetland alterations are permitted by this chapter, the applicant shall restore or create equivalent areas of wetlands in order to compensate for wetland losses. Equivalent areas shall be determined according to size, function, category, location, timing factors, and projected success of restoration or creation.

(2) Where wetland creation is proposed, all required buffers for the creation site shall be located on the proposed creation site. Properties adjacent to or abutting wetland creation projects shall not be responsible for providing any additional buffer requirements.

(3) The following acreage replacement ratios shall be used as targets. The Planning and Community Development Director may vary these standards if the applicant can demonstrate and the Planning and Community Development Director agrees that the variation will provide adequate compensation for lost wetland area, functions and values, or if other circumstances as determined by the Planning and Community Development Department justify the variation.

(4) The qualified scientific professional in the wetlands report may, where feasible, recommend that restored or created wetlands shall be a higher wetland category than the altered wetland.

(d) The Planning and Community Development Director may increase the ratios under the following circumstances:

- (1) Uncertainty exists as to the probable success of the proposed restoration or creation; or
- (2) A significant period of time will elapse between impact and replication of wetland functions.

(e) All wetland restoration, creation and/or enhancement projects required pursuant to this chapter either as a permit condition or as the result of an enforcement action shall follow a mitigation plan prepared in conformance to the requirements of Section [14.88.275](#), Mitigation/Enhancement Plan Requirements.

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(f) Mitigation ratios for the replacement of impacted wetlands shall be as listed in Table 14.88-IV. However, Table 14.88-IV shall not apply to bogs, because it is not possible to create or restore bogs due to their unique chemistry and hydrology. Therefore, impacts to bogs are considered to be a loss of functions and shall be avoided.

Table 14.88-IV: Wetland Mitigation Ratios

Affected Wetland	Mitigation Type and Ratio			
	Re-establishment or Wetland Creation	Rehabilitation	Re-establishment or Creation (R/C) and Enhancement (E)	Enhancement Only
Category IV	1.5:1	3:1	1:1 R/C and 2:1 E	6:1
Category III	2:1	4:1	1:1 R/C and 2:1 E	8:1
Category II	3:1	6:1	1:1 R/C and 4:1 E	12:1
Category I – Forested	6:1	12:1	1:1 R/C and 10:1 E	24:1
Category I – Score Based	4:1	8:1	1:1 R/C and 10:1 E	16:1
Category I – Bog	Not considered possible	N/A	N/A	N/A

(Ord. 811, Sec. 92, 2010; Ord. 773, Sec. 2, 2008; Ord. 741, Sec. 2, 2007)

(g) The applicant may propose innovative site design based on the best available science and pursuant to Section 14.88.298 if the innovative development design will achieve protection equivalent to or better than the standard provisions of this Chapter. Approval of the innovative site design will be considered in combination with criteria listed in Section 14.88.298 if the design achieves the following:

(1) The site design avoids impacts to the critical area; or

(2) The site design increases the functions and/or values of the wetland and buffer with a combination of the following measures:

(i) Improving water quality functions and values of the wetland and buffer by reducing fine sediment and pollutant input in the watershed by increasing hydrologic retention and filtration;

(ii) Improving the hydrologic functions and values of the wetland and buffer by providing increased flood control adjacent to a stream channel or by improving water storage ability in the wetland system to increase groundwater recharge potential; and

(iii) Increasing habitat for aquatic, amphibian and invertebrate species and associated wetland bird and mammal species.

Part IX. Transfer of Development Rights

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14.88.900 Definitions.

- (a) "Development rights" are those rights granted to a property owner under a particular zoning district.
- (b) "Transferable rights" include dwelling unit equivalents (density) and commercial/industrial square footage. (Ord. 773, Sec. 2, 2008; Ord. 741, Sec. 2, 2007)

14.88.910 Intent and General Regulations of Transferring Development Rights (TDR).

- (a) The purpose in allowing the transfer of density is:
 - (1) To allow for the transfer of development rights out of critical areas into buildable areas; and
 - (2) To allow a property owner to recover a portion of the development value from property that may be used for a public purpose.
- (b) TDR is not a guarantee that full development value can be recovered from a parcel of land designated as a sending area. Certain market forces may limit demand for density transfers including limitations placed on critical area receiving district capacities; particularly where all such districts are built out. Value of development rights shall be determined by the market for said rights and shall in no way be the responsibility of the City of Lake Stevens.
- (c) All transfers must be consistent with the policies of the City's Comprehensive Plan and the provisions of this chapter. In particular, land developed within a critical area receiving district through the transfer of development rights shall comply with all use, dimensional, parking, screening, etc., requirements as set forth in this title.
- (d) Development rights may be transferred out of areas designated as critical area sending districts and only into areas designated as critical area receiving districts. They may be transferred within or across ownership boundaries.
- (e) When development rights are transferred off site, the property owners shall provide and enter into a contract with one another which, at a minimum, shall acknowledge their participation and acceptance. (Ord. 773, Sec. 2, 2008; Ord. 741, Sec. 2, 2007)

14.88.920 Qualifications for Designation of Land as a Critical Area Sending or Receiving District.

- (a) All areas classified as a critical area by this chapter shall be considered critical area sending districts. Additionally, land that does not qualify as an critical area but which has been determined by City Council to be land suitable for a public purpose may be designated as critical area sending districts by the Planning and Community Development Director with the concurrence of the majority ownership of the land.
- (b) Any parcel or portion of a parcel on which development can occur per this title may be designated as a critical area receiving district by the Planning and Community Development Director with the concurrence of the majority ownership of the land. (Ord. 773, Sec. 2, 2008; Ord. 741, Sec. 2, 2007)

14.88.930 Designation Process.

Attachment A

- (a) Critical area sending or receiving districts are considered overlay zones allowed per Section [14.88.920](#), Qualifications for Designation of Land as a Critical Area Sending or Receiving District. Designation as a critical area sending or receiving district is the equivalent of a rezone and shall be accomplished by the same process as specified in Section [14.16C.090](#).
- (b) Underlying land use and zoning designations may be changed by the legislative authority granted to the City through its normal Comprehensive Plan amendment or rezoning procedures. However, the land will retain the critical area sending district designation until that designation is specifically removed.
- (c) Land designated as a critical area sending or receiving district shall be shown as an overlay district on the Official Zoning Map. The map shall be modified upon each designation or revocation.
- (d) Designation or revocation as a critical area sending or receiving district shall be recorded with the Snohomish County recorder's office and shall run with the land. (Ord. 903, Sec. 55, 2013; Ord. 811, Sec. 74, 2010; Ord. 773, Sec. 2, 2008; Ord. 741, Sec. 2, 2007)

14.88.940 Designation Revocation.

- (a) Land that has been designated as a critical area sending district shall retain its designation:
 - (1) Until all development rights calculated for that parcel have been transferred; or
 - (2) For a period of three years, whereby the designation may be reviewed for reconsideration. The designation may be continued upon all of the following findings being met:
 - (i) The property retains the same characteristics that qualified it as a critical area receiving district in the first place.
 - (ii) The owner(s) of the property desire a continuation of the designation.
 - (iii) It is still in the public interest to continue the designation.
- (b) Land that has been designated a critical area receiving district shall retain its designation until the property has yielded its development potential.
- (c) The Council may reconsider designation revocation of a noncritical area when it determines that the property is no longer suitable for public use.
- (d) Revocation of a critical area sending or receiving district designation shall not affect the underlying land use designation or zone. (Ord. 773, Sec. 2, 2008; Ord. 741, Sec. 2, 2007)

14.88.950 Calculating Transferable Development Rights.

- (a) Maximum transferable development rights shall be calculated for each parcel or portion of a parcel by calculating the theoretical development capacity were the land not classified as a critical area. Theoretical development capacity is calculated based on the requirements of this title, in particular Chapter [14.48](#), Density and Dimensional Regulations, but also taking into account the requirements of all other chapters (e.g., parking, screening, fire code, building code, etc.).
- (b) Only like development rights may be transferred, and may only be transferred to a zone allowing a similar use, e.g., commercial square footage may be transferred out of a commercial district and into

another commercial district or an industrial district that allows commercial uses. (Ord. 773, Sec. 2, 2008; Ord. 741, Sec. 2, 2007)

Part X. Mitigation Plan Requirements

14.88.960 Criteria.

Repealed by Ord. 741. (Ord. 468, 1995)

DRAFT

Attachment B

The distribution of categories of reference wetlands in the updated rating system

Data were collected at 122 wetlands to calibrate the rating system in 2004. Data from 111 of these could be used to re-calibrate the scoring for this update. Some wetlands were lost through natural and human alterations and some could not be re-located.

The range of scores for wetland categories based on functions in this update is between 9-27 rather than the 0-100 possible in the 2004 version. This change was necessary because a statistical analysis of data collected in the last decade indicated that rapid methods such as these are not scientifically accurate beyond a qualitative rating of High, Medium, or Low (unpublished data collected at reference sites during the calibration and field testing of the method).

Choosing the score at which we separate levels of functioning is a decision that is based on best professional judgment in rapid methods such as these. For example, in the 2004 Rating System we chose to call wetlands with a very high level of function (Category I) those with a score of 70 or more, while those with a high level of function (Category II) scored between 51 – 69, those with a moderate level of function (Category III) scored between 30 – 50, and those with a low level of function (Category IV) scored less than 30 points. These divisions were based on the judgment of the teams of wetland experts that developed the rating system in 2004. It reflects the teams’ scientific consensus on what is meant by very high, high, moderate, and low levels of functions after visiting the reference sites. The divisions also reflected the teams’ observations that most reference wetlands function at high or moderate levels and there are fewer that function at very high or low levels.

The divisions between wetland categories based on levels of function in this update were chosen to match as closely as possible the distribution of ratings found for the 111 reference sites when rated using the 2004 method. However, given that the range of possible scores was reduced, it was not possible to get the exact same distribution. The number of Category I and IV wetlands are about the same (see table below) but the number of Category II and III wetlands differs. In the 2004 method 47% of the 111 sites were Category II whereas in this update only 40% of the sites are Category II. On the other hand, only 35% of the sites were Category III in 2004 while 44% are Category III in this update. Lowering the score between Category II and III wetlands by one point would have created an even bigger discrepancy in the other direction when using the updated method (58 % of the sites would be Category II and only 26% would be Category III).

Number of Wetlands in Each Category Based on Their Score for Functions

Category	2004 Rating System	Updated Rating System
I	13	11
II	52	44
III	39	49
IV	7	7



Memorandum

To: Amy Lucas, Associate Planner, City of Lake Stevens

From: Jason Walker, PLA, PWS, Environmental Planning Manager, Perteet, Inc.

Date: January 15, 2016

Re: Results Comparison between 2004 and 2014 Ecology Wetland Rating System for Western Washington

PROJECT DESCRIPTION

This memo provides a comparison of wetland rating scores between the 2004 Rating System (Washington State Wetland Rating System for Western Washington: 2004 Version, Annotated 2006, and updated with WDFW Priority Habitat definitions in 2008) and the recently updated 2014 Rating System (Washington State Wetland Rating System for Western Washington: 2014 Update, effective for Ecology use as of January 2015). The following wetlands associated with recent land use actions in the City of Lake Stevens were rated with both the 2004 and 2014 Rating Systems for City consideration of pending updates to Chapter 14.88 (Critical Areas) of the Lake Stevens Municipal Code:

1. McKay Subdivision, Wetland A
2. S&G Plat, Wetland A
3. 20th Street SE Phase II, Wetlands 3, 4, 5, and 6
4. Grade Road Site, Wetlands A, B, C/D, E, F, and H

DOCUMENTS REVIEWED

- Skagit Wetlands & Critical Areas. 2014. Wetland Delineation Report for 7508 10th St SE Lake Stevens, WA 98258 (McKay Subdivision). August 25, 2014
- Bredberg and Associates, Inc. 2013. Wetland Study for Strootman and 99th Plat (S&G Plat). September 9, 2013.
- Gresham, Doug. 2013. Wetland Rating Form for Wetland A (S&G Plat). October 2, 2013. (Prepared by Doug Gresham).
- Perteet Inc. 2015. Lake Stevens Grade Road Site Wetland Delineation Report. August 31, 2015
- Perteet Inc. 2015. Lake Stevens 20th Street SE Phase II: Wetland Delineation and Conceptual Mitigation Plan. November 11, 2015

FINDINGS

The following wetland ratings scores are summarized for project wetland in tables for the 2004 Rating System followed by the rating of the same wetland using the 2014 Rating System. Wetland ratings are also appended if more information is desired regarding the wetland characteristics.



Memorandum

I. McKay Subdivision Wetland A

McKay Subdivision Wetland A – 2004 Rating System Results

Wetland A, Size	Cowardin ^a	HGM ^b	Water Quality Score ^c	Hydrology Score ^c	Habitat Score ^c	2004 Ecology Rating ^c
1.25 Acres	PFO	Depressional	10	5	20	III (35)

Notes:

- a. Cowardin et al. (1979) classification based on vegetation where PFO= Palustrine Forested
- b. Hydrogeomorphic (HGM) classification according to Brinson (1993)
- c. Ecology rating according to Hraby (2004, 2008)

McKay Subdivision Wetland A – 2014 Rating System Results

Wetland A Function	Improving Water Quality	Hydrologic Function	Habitat Function	Total
Site Potential	Low	Low	Medium	
Landscape Potential	Low	Medium	High	
Value	Low	Low	High	
Score Based on Ratings	3	4	8	

Notes:

- a. Ecology rating according to Hraby (2014)

2. S&G Plat Wetland A

S&G Wetland A – 2004 Rating System Results

Wetland A, Size	Cowardin ^a	HGM ^b	Water Quality Score ^c	Hydrology Score ^c	Habitat Score ^c	2004 Ecology Rating ^c
0.06 Acres	PEM	Depressional	10	7	14	III (31)

Notes:

- a. Cowardin et al. (1979) classification based on vegetation where PEM= Palustrine Emergent
- b. Hydrogeomorphic (HGM) classification according to Brinson (1993)
- c. Ecology rating according to Hraby (2004, 2008)



Memorandum

S&G Wetland A – 2014 Rating System Results

Wetland A Function	Improving Water Quality	Hydrologic Function	Habitat Function	Total
Site Potential	Medium	Medium	Low	
Landscape Potential	Low	Medium	High	
Value	Low	Low	Low	
Score Based on Ratings	4	5	5	

Notes:

- a. Ecology rating according to Hruby (2014)

3. 20th Street SE Phase II, Wetlands 3, 4, 5, and 6

20th Street SE Phase II Wetland 3 (Also Tackitt/Trestle Station Wetland A) – 2004 Rating System Results

Wetland 3, Size	Cowardin ^a	HGM ^b	Water Quality Score ^c	Hydrology Score ^c	Habitat Score ^c	2004 Ecology Rating ^c
3.23 Acres	PEM	Depressional	10	12	14	III (36)

Notes:

- a. Cowardin et al. (1979) classification based on vegetation where PEM= Palustrine Emergent
- b. Hydrogeomorphic (HGM) classification according to Brinson (1993)
- c. Ecology rating according to Hruby (2004, 2008)

20th Street SE Phase II Wetland 3 (Also Tackitt/Trestle Station Wetland A) – 2014 Rating System Results

Wetland 3 Function	Improving Water Quality	Hydrologic Function	Habitat Function	Total
Site Potential	Low	High	Medium	
Landscape Potential	Medium	High	High	
Value	Low	Low	Medium	
Score Based on Ratings	4	7	7	

Notes:

- a. Ecology rating according to Hruby (2014)



Memorandum

20th Street SE Phase II Wetland 4 – 2004 Rating System Results

Wetland 4, Size	Cowardin ^a	HGM ^b	Water Quality Score ^c	Hydrology Score ^c	Habitat Score ^c	2004 Ecology Rating ^c
0.56 Acres	PFO	Depressional	22	6	15	III (43)

Notes:

- Cowardin et al. (1979) classification based on vegetation where PFO = Palustrine Forested
- Hydrogeomorphic (HGM) classification according to Brinson (1993)
- Ecology rating according to Hruby (2004, 2008)

20th Street SE Phase II Wetland 4 – 2014 Rating System Results

Wetland 4 Function	Improving Water Quality	Hydrologic Function	Habitat Function	Total
Site Potential	Medium	Medium	Medium	
Landscape Potential	Medium	High	Medium	
Value	Low	Low	Medium	
Score Based on Ratings	5	6	6	

Notes:

- Ecology rating according to Hruby (2014)

20th Street SE Phase II Wetland 5 – 2004 Rating System Result

Wetland 5, Size	Cowardin ^a	HGM ^b	Water Quality Score ^c	Hydrology Score ^c	Habitat Score ^c	2004 Ecology Rating ^c
0.11 Acres	PFO	Depressional	18	5	12	III (35)

Notes:

- Cowardin et al. (1979) classification based on vegetation where PFO = Palustrine Forested
- Hydrogeomorphic (HGM) classification according to Brinson (1993)
- Ecology rating according to Hruby (2004, 2008)



Perteet

Memorandum

20th Street SE Phase II Wetland 5 – 2014 Rating System Results

Wetland 5 Function	Improving Water Quality	Hydrologic Function	Habitat Function	Total
Site Potential	Medium	Medium	Medium	
Landscape Potential	High	High	Medium	
Value	Low	Low	Low	
Score Based on Ratings	6	6	5	

Notes:

- a. Ecology rating according to Hraby (2014)

20th Street SE Phase II Wetland 7 Rating System Results

Wetland 7, Size	Cowardin ^a	HGM ^b	Water Quality Score ^c	Hydrology Score ^c	Habitat Score ^c	2004 Ecology Rating ^c
0.09 Acres	PFO	Depressional	22	3	12	III (37)

Notes:

- a. Cowardin et al. (1979) classification based on vegetation where PFO = Palustrine Forested
- b. Hydrogeomorphic (HGM) classification according to Brinson (1993)
- c. Ecology rating according to Hraby (2004, 2008)

20th Street SE Phase II Wetland 7 Rating System Results

Wetland 7 Function	Improving Water Quality	Hydrologic Function	Habitat Function	Total
Site Potential	Medium	Medium	Medium	
Landscape Potential	High	High	Medium	
Value	Low	Low	Low	
Score Based on Ratings	6	6	5	

Notes:

- a. Ecology rating according to Hraby (2014).



Memorandum

4. Grade Road Site, Wetlands A, B, C/D, E, F, and H

Grade Road Wetland A – 2004 Wetland Rating System

Wetland A, Size	Cowardin ^a	HGM ^b	Water Quality Score ^c	Hydrology Score ^c	Habitat Score ^c	2004 Ecology Rating ^c
0.18 Acres	PEM	Depressional	6	8	14	IV (28)

Notes:

- a. Cowardin et al. (1979) classification based on vegetation where PEM= Palustrine Emergent
- b. Hydrogeomorphic (HGM) classification according to Brinson (1993)
- c. Ecology rating according to Hruby (2004, 2008)

Grade Road Wetland A – 2014 Wetland Rating System

Wetland A	Improving Water Quality	Hydrologic Function	Habitat Function	Total
Site Potential	Medium	Low	Low	IV (14) ^a
Landscape Potential	Low	Low	Medium	
Value	Medium	Medium	Medium	
Score Based on Ratings	5	4	5	

Notes:

- a. Ecology rating according to Hruby (2014).

Grade Road Wetland B – 2004 Wetland Rating System

Wetland B, Size	Cowardin ^a	HGM ^b	Water Quality Score ^c	Hydrology Score ^c	Habitat Score ^c	2004 Ecology Rating ^c
0.61 Acres	PEM	Depressional	20	8	10	III (38)

Notes:

- a. Cowardin et al. (1979) classification based on vegetation where PEM= Palustrine Emergent
- b. Hydrogeomorphic (HGM) classification according to Brinson (1993)
- c. Ecology rating according to Hruby (2004, 2008)



Memorandum

Grade Road Wetland B – 2014 Wetland Rating System and Functional Assessment

Wetland B	Improving Water Quality Function	Hydrologic Function	Habitat Function	Rating and Total Score
Site Potential	Medium	Low	Low	
Landscape Potential	Medium	Medium	Medium	
Value	Medium	Medium	Low	
Score Based on Ratings	6	5	4	IV (15) ^a

Notes:

- Ecology rating according to Hraby (2014).

Grade Road Wetland C/D –2004 Wetland Rating System

Wetland C/D, Size	Cowardin ^a	HGM ^b	Water Quality Score ^c	Hydrology Score ^c	Habitat Score ^c	2004 Ecology Rating ^c
2.16 Acres	PEM	Depressional	12	8	12	III (32)

Notes:

- Cowardin et al. (1979) classification based on vegetation where PEM= Palustrine Emergent.
- Hydrogeomorphic (HGM) classification according to Brinson (1993).
- Ecology rating according to Hraby (2004, 2008).

Grade Road Wetland C/D –2014 Wetland Rating System

Wetland C/D	Improving Water Quality Function	Hydrologic Function	Habitat Function	Rating and Total Score
Site Potential	Medium	Low	Low	
Landscape Potential	Medium	Low	Medium	
Value	Medium	Medium	Medium	
Score Based on Ratings	6	4	5	IV (15) ^a

Notes:

- Ecology rating according to Hraby (2014)



Perteet

Memorandum

Grade Road Wetland E – 2004 Wetland Rating System

Wetland E, Size	Cowardin ^a	HGM ^b	Water Quality Score ^c	Hydrology Score ^c	Habitat Score ^c	2004 Ecology Rating ^c
1.59 Acres	PEM	Depressional	12	8	13	III (33)

Notes:

- a. Cowardin et al. (1979) classification based on vegetation where PEM= Palustrine Emergent.
- b. Hydrogeomorphic (HGM) classification according to Brinson (1993).
- c. Ecology rating according to Hruby (2004, 2008).

Grade Road Wetland E3 –2014 Wetland Rating System

Wetland E	Improving Water Quality Function	Hydrologic Function	Habitat Function	Rating and Total Score
Site Potential	Medium	Low	Low	
Landscape Potential	Medium	Low	Medium	
Value	Medium	Medium	Medium	
Score Based on Ratings	6	4	5	

Notes:

- a. Ecology rating according to Hruby (2014).

Grade Road Wetland F –2004 Wetland Rating System

Wetland F, Size	Cowardin ^a	HGM ^b	Water Quality Score ^c	Hydrology Score ^c	Habitat Score ^c	2004 Ecology Rating ^c
0.31 Acres	PEM	Depressional	6	8	13	IV (27)

Notes:

- a. Cowardin et al. (1979) classification based on vegetation where PEM= Palustrine Emergent.
- b. Hydrogeomorphic (HGM) classification according to Brinson (1993).
- c. Ecology rating according to Hruby (2004, 2008).



Perteet

Memorandum

Grade Road Wetland F –2014 Wetland Rating System

Wetland F	Improving Water Quality Function	Hydrologic Function	Habitat Function	Rating and Total Score
Site Potential	Medium	Low	Low	
Landscape Potential	Low	Low	Medium	
Value	Medium	Medium	Medium	
Score Based on Ratings	4	4	5	IV (13) ^a

Notes:

- Ecology rating according to Hraby (2014)

Grade Road Wetland H –2004 Wetland Rating System

Wetland H, Size	Cowardin ^a	HGM ^b	Water Quality Score ^c	Hydrology Score ^c	Habitat Score ^c	2004 Ecology Rating ^c
0.17 Acres	PEM	Depressional	12	8	13	III (33)

Notes:

- Cowardin et al. (1979) classification based on vegetation where PEM= Palustrine Emergent
- Hydrogeomorphic (HGM) classification according to Brinson (1993)
- Ecology rating according to Hraby (2004, 2008)

Grade Road Wetland H –2014 Wetland Rating System

Wetland H	Improving Water Quality Function	Hydrologic Function	Habitat Function	Rating and Total Score
Site Potential	Medium	Low	Low	
Landscape Potential	Medium	Low	Medium	
Value	Medium	Medium	Medium	
Score Based on Ratings	6	4	5	IV (15) ^A

Notes:

- Ecology rating according to Hraby (2014)

END OF MEMORANDUM

City	CA and Buffer Areas Credited	Minimum Buildable Lot Area	Exclusions from lot area calculations	CA tracts or Easements Included in Calculation	Minimum project site size for Density Transfer Eligibility
Mill Creek	100% of Category IV wetlands and buffers only	None	Category I, II, and III wetlands, Geohazardous Areas, Streams and buffers, Fish and wildlife habitat areas	Category IV wetlands and buffers only	None
Stanwood	0	N/A	N/A	N/A	N/A
Everett	100%	4,000 sf	Land submerged under OHWM of Lakes or Type F streams cannot be included in calculation of lot area	Yes	Commerical - over 12,000 sf; Multi-family based on percent of lot in buildable area
Marysville	100%	Bulk and dimensional standards of next higher zoning classification may be used to accommodate density transfer	Stream channels excluded	Yes	None
Snohomish	100% under a PRD process	4,000 sf with min 40 ft width	None	Yes	None, but additional open space provisions required
Arlington	0	N/A	N/A	N/A	N/A
Issaquah	Density Credit Formula applied	Lot must be sufficient for on-site septic if sewer not available	None	Yes	None
Sammamish	TDR credits transferred from sending to receiving areas only	N/A	N/A	N/A	N/A
Poulsbo	0	N/A	N/A	N/A	N/A
Bonney Lake	0	N/A	N/A	N/A	N/A

Attachment E

Modified to use with the 2014 Wetland Rating System for Western Washington

Table XX.1 Wetland Buffer Requirements for Western Washington

Wetland Category	Buffer width (in feet) based on habitat score			
	3-4	5	6-7	8-9
Category I: Based on total score	75	105	165	225
Category I: Bogs and Wetlands of High Conservation Value	190			225
Category I: Coastal Lagoons	150		165	225
Category I: Interdunal				225
Category I: Forested	75	105	165	225
Category I: Estuarine	150 (buffer width not based on habitat scores)			
Category II: Based on score	75	105	165	225
Category II: Interdunal Wetlands	110		165	225
Category II: Estuarine	110 (buffer width not based on habitat scores)			
Category III (all)	60	105	165	225
Category IV (all)	40			

June 2015

Modified from Table XX.1 in the *Guidance for Small Cities: Western Washington Version*
 (Publication No. 10-06-002)

Attachment E

**Modified to use with the 2014 Washington State Rating System
 for Western Washington**

Table 8C-11. Mitigation ratios for projects in western Washington.

Category and Type of Wetland Impacts	Re-establishment or Creation	Rehabilitation Only⁴	Re-establishment or Creation (R/C) and Rehabilitation (RH)⁴	Re-establishment or Creation (R/C) and Enhancement (E)⁴	Enhancement Only⁴
All Category IV	1.5:1	3:1	1:1 R/C and 1:1RH	1:1 R/C and 2:1 E	6:1
All Category III	2:1	4:1	1:1 R/C and 2:1 RH	1:1 R/C and 4:1 E	8:1
Category II Estuarine	Case-by-case	4:1 Rehabilitation of an estuarine wetland	Case-by-case	Case-by-case	Case-by-case
Category II Interdunal	2:1 Compensation has to be interdunal wetland	4:1 Compensation has to be interdunal wetland	1:1 R/C and 2:1 RH Compensation has to be interdunal wetland	Not considered an option ⁵	Not considered an option ⁵
All other Category II	3:1	6:1	1:1 R/C and 4:1 RH	1:1 R/C and 8:1 E	12:1
Category I Forested	6:1	12:1	1:1 R/C and 10:1 RH	1:1 R/C and 20:1 E	24:1
Category I based on score for functions	4:1	8:1	1:1 R/C and 6:1 RH	1:1 R/C and 12:1 E	16:1
Category I Natural Heritage site	Not considered possible ⁶	6:1 Rehabilitation of a Natural Heritage site	R/C Not considered possible ⁶	R/C Not considered possible ⁶	Case-by-case
Category I Coastal Lagoon	Not considered possible ⁶	6:1 Rehabilitation of a coastal lagoon	R/C not considered possible ⁶	R/C not considered possible ⁶	Case-by-case
Category I Bog	Not considered possible ⁶	6:1 Rehabilitation of a bog	R/C Not considered possible ⁶	R/C Not considered possible ⁶	Case-by-case
Category I Estuarine	Case-by-case	6:1 Rehabilitation of an estuarine wetland	Case-by-case	Case-by-case	Case-by-case

NOTE: Preservation is discussed in the following section.

⁴ These ratios are based on the assumption that the rehabilitation or enhancement actions implemented represent the average degree of improvement possible for the site. Proposals to implement more effective rehabilitation or enhancement actions may result in a lower ratio, while less effective actions may result in a higher ratio. The distinction between rehabilitation and enhancement is not clear-cut. Instead, rehabilitation and enhancement actions span a continuum. Proposals that fall within the gray area between rehabilitation and enhancement will result in a ratio that lies between the ratios for rehabilitation and the ratios for enhancement.

⁵ Due to the dynamic nature of interdunal systems, enhancement is not considered an ecologically appropriate action.

⁶ Natural Heritage sites, coastal lagoons, and bogs are considered irreplaceable wetlands because they perform some special functions that cannot be replaced through compensatory mitigation. Impacts to such wetlands would therefore result in a net loss of some functions no matter what kind of compensation is proposed.



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LAKE STEVENS CITY COUNCIL
STAFF REPORT

Council Agenda Date: February 9, 2016

Subject: Work Session to Discuss Proposed Amendments to Clearing and Grading Permit Regulations in Lake Stevens Municipal Code (LSMC)

Contact Person/Department: Stacie Pratschner, Planning & Community Development

Budget Impact: None

RECOMMENDATION(S)/ACTION REQUESTED OF COUNCIL: Work Session to discuss proposed amendments to the City of Lake Stevens Grading and Clearing Permit development regulations as mandated and outlined by RCW 36.70A.130 and as part of the Comprehensive Plan update process.

SUMMARY:

Brief Council on scope and schedule for amendments, to the city's clearing and grading regulations, as previously discussed with the Planning Commission on January 6, 2016.

BACKGROUND AND PROPOSED SCOPE:

On January 6, 2016, staff presented the attached briefing (**Exhibit 1**) and work program (**Exhibit 2**) to the City of Lake Stevens Planning Commission concerning the proposed amendments to LSMC 14.44.100: Grading and Clearing Permits. Under the Planning Goals outlined in the Growth Management Act (RCW 36.70A.020), Cities and Counties subject to plan under RCW 36.70A.040, are required to adopt regulations that require appropriate approvals for clearing and grading and appropriate approvals for all phases of the conversion of forest lands (RCW 36.70A.570). Cities within Snohomish County are required to consider updates to their development regulations, including regulation of forest practices, as part of their scheduled Comprehensive Plan Update as outlined in RCW 36.70A.130(5)(a), or every eight years.

The purpose of this briefing is to discuss a draft work plan and schedule and receive feedback on the initial scope and schedule for amendments to the city's grading and clearing regulations. As part of the 2015 Comprehensive Plan update process, the city of Lake Stevens has identified three major issues which require an update to the grading and clearing permit regulations:

1. Evaluate current thresholds for requiring clearing and grading permits and review process as found in Chapter 14.64 LSMC – Part II;
 - Modifying process for major clearing and grading projects to become Type II review not an administrative conditional use process;
 - Clarify the administration of landscaping bonds associated with site stabilization after fill and grade activities;
 - Review the applicability of stand-alone fill and grade permits; and
 - Add language that requires the applicant to submit a letter from the project CESCL stating that TESC has been installed according to approved plans and State standards.

2. Integrate the forest practices regulations as outlined in RCW 76.09.010 to ensure natural resource protection of public and private forest lands; and
3. Evaluate current tree preservation standards found in LSMC 14.76.120.

Initial research has included clearing and grading code comparisons with the cities of Arlington, Marysville, Mill Creek, Monroe, Mukilteo and Snohomish. Staff has reviewed these jurisdiction's clearing and grading definitions, permit thresholds, the allowance of stand-alone fill and grade permits and the integration of Class IV Forest Practices permitting by the local government. Staff is additionally reviewing best available science supplied by the U.S. Forest Service¹ concerning tree canopy and replacement ratios. The attached example Assistance Bulletin authored by Snohomish County (**Exhibit 3**) provides an example of how a jurisdiction may shift away from regulating individual trees to the conservation of overall canopy.

SYNOPSIS/CONCLUSIONS:

Other needed changes may be revealed as staff completes the initial research and review process for the code amendments. Staff is proposing a five to six month process to review the code and draft revisions for the Planning Commission and the City Council to consider. Other tasks included in the scope of the project include SEPA notification and actions, various staff reports and briefings to the Planning Commission and City Council, WA Department of Commerce 60-day review, coordination with the Department of Natural Resources on forest practices, public notification and public hearings as needed.

APPLICABLE CITY POLICIES: Chapters 14.08 and 14.44 of the Lake Stevens Municipal Code.

BUDGET IMPACT: There is not a budget impact.

REFERENCES:

¹ United States Forest Service website, accessed at: <http://www.fs.fed.us/>.

EXHIBIT LIST:

1. Staff Report to City of Lake Stevens Planning Commission, dated January 6, 2015
2. Proposed Work Program, dated January 6, 2015
3. Urban Tree Canopy Coverage Requirements (Snohomish County PDS), dated March 2015



City of Lake Stevens Planning Commission

Planning Commission Briefing

Date: **January 6, 2015**

EXHIBIT 1

Subject: **Amendments to the City of Lake Stevens Grading & Clearing Permit Regulations**

Contact Person/Department: **Russ Wright**, Interim Planning & Community Development Director
/ **Stacie Pratschner**, Senior Planner

SUMMARY:

A scope and schedule for proposed amendments to the city of Lake Stevens Grading and Clearing Permit development regulations as mandated and outlined by RCW 36.70A.130 as part of the Comprehensive Plan update process.

ACTION REQUESTED OF PLANNING COMMISSION:

This is an informational briefing and no action is requested at this time.

BACKGROUND / DISCUSSION:

Under the Planning Goals outlined in the Growth Management Act (RCW 36.70A.020), Cities and Counties subject to plan under RCW 36.70A.040, are required to adopt regulations that require appropriate approvals for clearing and grading and appropriate approvals for all phases of the conversion of forest lands (RCW 36.70A.570). Cities within Snohomish County are required to consider updates to their development regulations, including regulation of forest practices, as part of their scheduled Comprehensive Plan Update as outlined in RCW 36.70A.130(5)(a), or every eight years.

The purpose of this briefing is to discuss a draft work plan and schedule and receive feedback on the initial scope and schedule for amendments to the city's grading and clearing regulations. As part of the 2015 Comprehensive Plan update process, the city of Lake Stevens has identified three major issues which require an update to the grading and clearing permit regulations:

1. Evaluate current thresholds for requiring clearing and grading permits and review process as found in Chapter 14.64 LSMC – Part II;
 - Consider modifying process for major clearing and grading projects as an administrative conditional use process;
 - Clarify the administration of landscaping bonds associated with site stabilization after fill and grade activities;
 - Review the applicability of stand-alone fill and grade permits; and
 - Add language that requires the applicant to submit a letter from the project CESCL stating that TESC has been installed according to approved plans and State standards.
2. Integrate the forest practices regulations as outlined in RCW 76.09.010 to ensure natural resource protection of public and private forest lands; and
3. Evaluate current tree preservation standards found in LSMC 14.76.120.

Other needed changes may be revealed as staff completes the initial research and review process for the code amendments. Staff is proposing a five to six month process to review the code and draft revisions for the Planning Commission and the City Council to consider. Other tasks included in the scope of the project include SEPA notification and actions, various staff reports and briefings to the Planning Commission and City Council, WA Department of Commerce 60-day review, coordination with the Department of Natural Resources on forest practices, public notification and public hearings as needed.

Attachment: City of Lake Stevens Grading and Clearing Permits Regulations Code Revision Work Program

EXHIBIT 2

City of Lake Stevens Grading and Clearing Permits (LSMC 14.44.100) Code Revision Work Program

	Critical Area Regulations Update Draft Regulations					
ACTIVITY	JANUARY	FEBRUARY	MARCH	APRIL	MAY	JUNE
Research	1/4/2015 – 2/1/2015					
Draft Code Amendments		2/1/2015 – 2/15/2016				
Draft Ordinances			2/15/2016 – 3/1/2016			
Attorney Review				3/1/2016 – 4/1/2016		
Prepare & Issue SEPA (comment/appeal)		2/15/2016				
Commerce Review		2/15/2016 – 3/31/2016				
Publish Notice Planning Commission Public Hearing			Notice Twice – 1 st notice 10 Days Before Hearing			
Planning Commission Review (B-briefing; PH-public hearing)	1/6/2015 (B)	2/17/2015 (B)	3/16/2016 (B)	4/6/2016 (PH)		
Publish Notice City Council Public Hearing					Notice 10 Days Before Hearing	Notice 10 Days Before Hearing
City Council Briefings & Workshops (B-briefing; PH-public hearing)			3/8/2016 (B)	4/12/2016 (B)	5/10/2016 (B)	
City Council Public Hearing, 1 st Reading					5/24/2016 (PH) 1 st Reading	
City Council Public Hearing, 2 nd & Final Reading						6/7/2016 (PH) 2 nd Reading
Effective date						Code Revisions Effective -5 Days After Publication

Purpose: Consideration of proposed amendments to the grading and clearing permit regulations for inclusion in the Lake Stevens Municipal Code.



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ONLINE INFORMATION

www.snohomishcountywa.gov/1190



This Assistance Bulletin only applies to property within unincorporated Snohomish County and does not apply to property within incorporated city limits.

Urban Tree Canopy Coverage Requirements

Assistance Bulletin

105

Revised March 2015

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Keyword: Assistance Bulletins

Introduction

In order to balance environmental goals and planned density goals, the County has shifted its approach of tree retention from regulating individual trees to the conservation of the overall unincorporated urban forest canopy. In the past, tree retention and replacement regulations only applied to sites with significant trees, while sites without significant trees were not subject to the tree retention and replacement requirements. Recognizing the functional importance of a mixed-age, mixed-species urban tree canopy, new regulations were adopted to treat urban residential sites without tree canopy the same as urban residential sites with tree canopy.

Applicability of Tree Canopy Requirements

The tree canopy requirements are primarily contained in SCC 30.25.016 and apply to all new residential development located within unincorporated Urban Growth Areas whether or not tree canopy exists on the parcel.

Tree Canopy and Significant Trees Defined

Tree canopy shall include all evergreen and deciduous trees six feet in height or greater, excluding invasive species or noxious weeds, within the gross site area. Significant tree means a tree with a caliper of at least 10 inches. Dogwoods and vine maples are significant trees if they have a caliper of at least seven inches. Alders are not significant trees. For multiple stem trees such as vine maples, the caliper of the individual stems are added together to determine if a tree meets the minimum caliper for a significant tree.

Exemptions to Tree Canopy Requirements

- Removal of any hazardous, dead, or diseased trees, and as necessary to remedy an immediate threat to person or property as determined an arborist
- Construction of a single-family dwelling, duplex, accessory or non-accessory storage structure on an individual lot created prior to April 21, 2009, or created by a subdivision or short subdivision for which a complete application was submitted prior to April 21, 2009
- Construction or maintenance of public or private road network elements and public or private utilities including utility easements not related to development subject to chapters 30.23A, 30.34A, 30.41G, or 30.42E SCC
- Construction or maintenance of public parks and trails when located within an urban residential zone
- Pruning and maintenance of trees

This bulletin is intended only as an information guide. The information may not be complete and is subject to change. For complete legal information, refer to Snohomish County Code.

Urban Tree Canopy Coverage Requirements

Tree Canopy Coverage Requirements

Tree canopy requirements are set to a sliding scale based on the type of residential development and the number of lots or units. The following table is taken from SCC 30.25.016 and shows the minimum required tree canopy for all new residential development within unincorporated urban growth areas.

Type of Development	Minimum Required Tree Canopy Coverage of Development Site (gross site area)
Subdivisions for Single Family Residential 10 or more lots	30 percent
Short Subdivisions for Single Family Residential 4 to 9 lots	25 percent
Short Subdivisions for Single Family Residential Less than 4 lots	20 percent
Single Family Detached Units, Cottage Housing, Townhouse, Multi-family 10 or more units	20 percent
Single Family Detached Units, Cottage Housing, Townhouse, Multi-family Less than 10 units	15 percent
Urban Center (residential and mixed use projects only)	15 percent

Tree Canopy Coverage versus Lot Coverage

Tree canopy coverage is different than lot coverage. Tree canopy can extend over structures and buildings like an umbrella. The photo to the right illustrates this. Note the large deciduous tree which has branches extending over the roof of the home. Lot coverage by comparison means that portion of the total area of a lot that is covered by buildings.



Measuring Tree Canopy

Existing tree canopy may be measured by surveying the canopy for each tree located on a project site and summing the canopy area of each tree to calculate the total existing canopy. Alternatively, for heavily forested sites, sites with critical areas, or sites not proposing to utilize one of the incentives to save existing significant trees, canopy area can be estimated using a recent aerial photo. For sites proposing to plant new tree canopy, the canopy area of each tree to be planted at 20-years maturity must be calculated. The table below illustrates the methods for calculating existing and new tree canopy.

Existing Canopy		New Canopy
Option 1 Tree Survey	Option 2 Aerial Estimation	20-Year Canopy Calculation
Measure average canopy radius (r) for each tree to be retained Calculate existing canopy area using the formula: $CA = \pi r^2$ Total the sum of tree canopy areas and divide by gross site area to obtain canopy coverage percentage	Obtain aerial imagery of site Measure site boundaries Measure canopies of individual trees or stand area using leading edges as the forest boundary Divide total canopy measurement by the gross site area to obtain canopy coverage percentage	For each proposed species: Calculate radius (r) of canopy at 20 years maturity Calculate canopy coverage using the formula: $CA = \pi r^2$ Multiply by the proposed quantity to be planted to obtain total species canopy area Total the sum of species canopy area for all proposed species and divide by gross site area to obtain 20-year canopy coverage percentage

Urban Tree Canopy Coverage Requirements

3

Tree Calculation Worksheet and Tree Species Database

To assist applicants with the calculation of tree canopy for development applications, a worksheet has been developed. This worksheet is required to be submitted with a landscaping plan. Additionally, a database of tree species has been developed and includes estimated 20-year canopy coverage and whether it can be used as a street tree or is utility safe. Applicants shall consult the tree species database when determining the proposed canopy. An applicant may request the PDS director include additional tree species in the database or a change to the 20-year canopy coverage in the database when they provide written documentation from an arborist or nursery. The worksheet and database are available on the county's website at www.snohomishcountywa.gov/2737.

Incentives to Retain Significant Trees

In an effort to retain significant trees and existing tree canopy, several incentives are available and may be incorporated into a development application. These include:

- Canopy bonuses for retaining individual significant trees, stands of five or more trees, stands of five or more significant trees, and significant trees qualified to receive flow control credits for drainage
- Reductions in required on-site open space in exchange for preserving 40 percent of the existing tree canopy
- Exemption from landscape requirements when at least 45 percent of the gross site area's existing tree canopy is retained and the majority retained are evergreen species
- Reducing the minimum lot area required in subdivisions and short subdivisions when at least 20 percent of the site, not including any critical area protection areas and perimeter buffers, is put into a separate tract or tracts that have at least 20 significant trees per acre and where at least 60 percent of the significant trees within the tract or tracts are retained

Reducing the Tree Canopy Coverage Requirements

An applicant may request a landscape modification to reduce the tree canopy coverage requirements by five percentage points when certain criteria are met. For example, a short subdivision of less than four lots could request a landscape modification to reduce the tree canopy coverage requirement from 20% to 15%. The applicant would need to demonstrate they have made every effort to retain as much tree canopy as possible, plant additional under-story vegetation and, if applicable, enhance underperforming critical area protection area buffers.

On sites without existing tree canopy, the director may reduce the tree canopy coverage requirements by five percentage points when the applicant provides a 25 percent increase in the area of required open space. Certain developments are not eligible for this reduction.

Option to Opt-in to Tree Canopy Regulations for Vested Development Applications

Applicants with a development application that was vested between April 21, 2009 and October 27, 2014, may request the application be reviewed under Amended Ordinance No. 14-073. All other development regulations in effect as of the date the original application was vested shall apply. Applicants shall have 12 months from October 27, 2014, in which to apply. Public notice to parties of record is required.

Definitions of Tree and Clusters or Stands of Trees

Title 30 SCC does not include a general definition of a tree. Pursuant to code the customary meaning of a tree is used. According to the Merriam-Webster dictionary a tree is a woody perennial plant having a single usually elongated main stem generally with few or no branches on its lower part.

Title 30 SCC does not define the phrase "clusters or stands of trees." In general, a stand or cluster is five or more uniform mature trees that form a continuous canopy, however, each site will be reviewed on a case-by-case basis to determine what constitutes a cluster or stand.

Urban Tree Canopy Coverage Requirements

Frequently Asked Questions

Q: What can be counted as existing tree canopy?

A: Tree canopy shall include all evergreen and deciduous trees six feet in height or greater, excluding invasive species or noxious weeds, within the gross site area. This can include existing trees located within critical areas and buffers.

Q: Do street trees planted within required frontage improvements count towards the tree canopy coverage requirements?

A: Yes.

Q: What significant trees are required to be saved?

A: All significant trees within critical area protection areas and required buffers. If applicable, all significant trees within required perimeter landscaping buffers required under SCC 30.25.020.

Q: Can the incentives to save existing trees be combined?

A: Yes. It is possible to combine incentives, however, as a practical matter not all of the incentives will work together.

Q: What does "counted at 125, 150, or 200 percent of its actual canopy area" mean?

A: It means the existing tree is given extra credit for its canopy, making it more attractive to be retained rather than cut down. To calculate this incentive the existing tree canopy is multiplied by 1.25, 1.5, or 2. For example, if an applicant wants to take advantage of the incentive to retain one existing significant tree with a canopy of 500 square feet. The applicant would multiply the tree canopy of 500 square feet by 1.25, resulting in an effective canopy of 625 square feet. The 625 square feet would be deducted from the overall tree canopy coverage requirements. The net effect is the applicant may need to plant less trees on the project site because they chose to retain existing trees.

Q: Can the owner of a single family home remove an existing significant tree located in their yard?

A: Yes. Unless the tree was part of a development application submitted after October 27, 2014, then it cannot be removed unless determined in writing by an arborist to constitute a hazard.

Q: Can the owner of a single family home remove a retained or replacement tree located in their yard?

A: No. Retained significant trees, trees planted as replacements for significant trees, and trees planted to meet the canopy coverage requirements may not be removed except when determined in writing by an arborist to constitute a hazard. Removal of a replacement or significant tree without proper documentation is subject to a fine under chapter 30.85 SCC.

Q: Does a property without trees have to comply with the tree canopy requirements?

A: Yes. The tree canopy requirements apply to all new residential development located within unincorporated Urban Growth Areas whether or not tree canopy exists on the parcel.

Q: What are the notice requirements for opting in to the tree canopy requirements?

A: SCC 30.25.013(3) requires public notice pursuant to chapter 30.70 SCC. Any development application requesting to opt-in is required at a minimum to provide notice to parties of record.

Q: Where can I get more information?

A: More tree canopy resources are available at www.snohomishcountywa.gov/2737.



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LAKE STEVENS CITY COUNCIL
STAFF REPORT

Council Agenda Date: February 9, 2016

Subject: Work Session to Discuss Updates to Sign Regulations in Lake Stevens Municipal Code (LSMC)

Contact Person/Department: Stacie Pratschner, Planning & Community Development

Budget Impact: None

RECOMMENDATION(S)/ACTION REQUESTED OF COUNCIL: Work session to discuss amendments to the portions of municipal code related to sign regulations pursuant to a recent U.S. Supreme Court Decision.

SUMMARY:

Provide a briefing of the impacts of the U.S. Supreme Court Decision in *Reed v. Town of Gilbert* on local government's regulation of non-commercial signage and propose amendments to Lake Stevens Municipal Code (LSMC) 14.38.100 and Chapters 14.08 and 14.68 LSMC.

BACKGROUND/HISTORY:

Signs are a form of speech and expression entitled to protection under the First Amendment. Decades of litigation and pursuant case laws have resulted in local sign regulations that are complex, contradictory and difficult to administer¹. The conservative regulatory approach for a municipality is to apply content-neutral, time, place and manner provisions that further a "compelling government interest" and are simultaneously narrowly tailored to achieve that interest². Though content-neutrality is not a new issue in sign regulation, the recent U.S. Supreme Court's decision in *Reed v. Town of Gilbert* has major and far-reaching impacts on local government and requires a timely response by jurisdictions.

On June 18, 2015, the U.S. Supreme Court ruled unanimously that the Arizona town of Gilbert sign code was unconstitutional pursuant to content-based restrictions on speech in the regulations, and therefore in violation of the First Amendment. The town of Gilbert code identified different categories of signs based on the information they conveyed, and then applied different restrictions based on that category³. The Ninth Circuit as of this date has refused to expand the *Reed* decision to commercial speech, therefore the following proposed steps to begin review of the City's sign code apply only to noncommercial speech.

PROPOSED ACTIONS:

To ensure that the City's sign code does not apply different standards based on a sign's content, purpose or who is setting up the sign, staff recommends the actions below and working in concert with our Attorney as we begin updates:

1. Cease enforcement of any existing content-based sign regulations;
2. Review sign code to identify any content-based standards and eliminate those standards;
3. Develop a purpose statement (possibly related to traffic safety and/or aesthetics) for the sign code regulations;

4. Revise any sign definitions that are based on content;
5. Avoid exemptions in the sign code, such as “special events” or “grand openings” (these are almost always not content neutral); and
6. Add a substitution clause to avoid any favoritism, i.e. commercial versus non-commercial messages.

The *Reed* decision does not preclude local government from regulating noncommercial signage in a content-neutral manner, using such factors as size and height, type of structure (freestanding vs. monument signs), materials, maximum number, electronic messaging, moving parts and portability.³ Justice Alito noted in his concurrence that the *Reed* decision “...will not prevent cities from regulating signs in a way that fully protects public safety and serves legitimate objectives.”⁴

Staff additionally proposes to eliminate LSMC 14.68.160, because the Sub-Regional Commercial Zoning Districts do not exist.

SYNOPSIS/CONCLUSIONS: The recent SCOTUS decision in *Reed v. Town of Gilbert* requires a timely response by local governments to ensure that their sign codes are not content-based and therefore not in violation of the First Amendment. Currently the *Reed* decision only applies to non-commercial signage, and staff recommends a series of steps to review and update applicable code sections so that the City’s sign regulations do not apply different standards based on a sign’s content, purpose, or who put up the sign. The City may still apply standards to signs based on their size, material type, height, location and portability in order to ensure public safety and aesthetics.

APPLICABLE CITY POLICIES: Chapters 14.08, 14.38 and 14.68 of the Lake Stevens Municipal Code

BUDGET IMPACT: There is not a budget impact.

REFERENCES:

¹ Morris, Marya. (2006). *Planning and Urban Design Standards: 1st Edition*. Hoboken, New Jersey (pp 364-365).

² Butler, Steve and Springer, Sara. (2016, January). *The Supreme Court’s New Rules for Temporary and Other Signs*.

³ King, Maurice. (2015, June 24). *US Supreme Court Issues Significant Sign Code Decision*. Retrieved from: <http://mrsc.org/Home/Stay-Informed/MRSC-Insight/June-2015/Review-Your-Sign-Codes-in-Wake-of-New-US-Supreme-C.aspx>.

⁴ Weinstein, Alan C. and Connolly, Brian J. (2015, September). *Sign Regulations after Reed: Suggestions for Coping with Legal Uncertainty*. Cleveland State University: The Urban Lawyer. Cleveland State University: Cleveland, OH.



LAKE STEVENS CITY COUNCIL
STAFF REPORT

Council Agenda Date: February 9, 2016

Subject: Sign Fees

Contact Person/Department: Russ Wright, Interim Planning & Community Development Director

Budget Impact: Permit Revenue

RECOMMENDATION(S)/ACTION REQUESTED OF COUNCIL: Work Session to discuss current sign fees.

SUMMARY:

Brief City Council on current sign permit fees and those of other Snohomish County or nearby jurisdictions.

BACKGROUND AND PROPOSED SCOPE:

The City Council has discussed an interest in reviewing sign code fees. Staff has compiled a summary of fees charged by different jurisdictions for comparison (**Exhibit 1**). There was not a consistent methodology for determining sign fees. The most common methods were a flat fee or sliding scale (**Lake Stevens**, Burlington, Edmonds, Snohomish County and Woodinville) and a fee based on valuation (Arlington, Bothell, Everett, Lynnwood, Marysville, Mill Creek, Monroe, Mount Lake Terrace, Mount Vernon, Mukilteo, and Snohomish). Shoreline uses an hourly fee method. The flat or sliding scale fees may include a base fee, fee for sign type or number of signs. Sign fees based on valuation typically have both a permit fee and plan review fee.

- Fees based on a flat or sliding scale range between \$50 dollars to \$300 per sign permit. **Lake Stevens falls in the middle with a base fee of \$150 and provides a discount for additional signs under the same permit set at \$50 per sign.** Historically, the city has not collected a fee for temporary signs.
- Fees based on valuation may result in higher fees. **If the city were to adopt this method, under the International Building Code, the plan review would be 85 percent of the permit fee which is based on a sliding scale.** If the sign cost \$5,000 the permit fee would be \$111.25 and the plan review would be \$94.56 – the total fee would be \$205.81 under this method. An alternative would be to set a cap on valuation as Mukilteo has done providing more certainty in cost.
- If the city were to consider an hourly rate it would include review of the following factors, sight distance analysis (free standing signs), structural attachment for wall signs, structural analysis of base and wind load for freestanding signs, zoning review of dimensional standards and design compatibility. I would estimate the combined review time for all departments would be between two and four hours for new sign installations. **Based on the city's current hourly fee rate of \$75 a typical sign permit would range from \$150 to \$300.** Sign replacements would be one to two hours.

Based on this review, staff does not recommend any changes to the fee schedule at this time as the city's fees are comparable to other jurisdictions, predictable and easy to administer.

NEXT STEPS:

Based on the description of options listed above, staff is looking for direction from City Council if it would like to move forward with any amendments to the fees resolution for signs.

APPLICABLE CITY POLICIES: Fees Resolution

BUDGET IMPACT: Permit fees could change based on City Council Direction

ATTACHED

Exhibit 1 – Sign Fee Comparison

EXHIBIT 1

SIGN PERMIT FEE COMPARISON			
CITY	PERMIT FEE	PLAN REVIEW	COMMENTS
Arlington	Based on valuation	n/a	
Bothell	Based on valuation	65% of permit fee	Land Use fee of \$144
Burlington	Mounument = \$200 Pole = \$300 Wall sign = \$100		\$55 base fee
Edmonds	\$125	n/a	
Everett	Based on valuation	60% of permit fee	
Lynnwood	Based on valuation	65% permit fee	
Marysville	Based on valuation	65% of permit fee	
Mill Creek	Based on valuation	65% of permit fee	
Monroe	< \$1,000 valuation = based on valuation alone >/= \$1,000 valuation = valuation + permit fee \$100	n/a	
Mount Lake Terrace	Based on valuation	65% of permit fee	
Mount Vernon	Based on valuation	65% of permit fee	Base fee includes land use review
Mukilteo	< \$1,000 valuation = \$176 > \$1,001 valuation = \$300	n/a	
Shoreline	Hourly (2-hr minimum) \$322.50		
Snohomish	Based on valuation + \$50 base fee	Permit fee x 0.75	
Snohomish County	Wall = \$50 Free standing = \$100	85% permit fee	
Woodinville	Permanent Sign \$191	\$114	Portable Sign \$110 + annual \$27 renewal fee
Lake Stevens	\$150, plus \$50 per additional sign	n/a	



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LAKE STEVENS CITY COUNCIL
STAFF REPORT

Council Agenda Date: February 9, 2016

Subject: Administrative Authority Alternatives

Contact Person/Department: Russ Wright, Interim Planning & Community Development Director

Budget Impact: None

RECOMMENDATION(S)/ACTION REQUESTED OF COUNCIL: Work Session to discuss proposed alternatives for new administrative authority and establish a scope of work.

SUMMARY:

Brief Council on administrative authority alternatives and schedule for proposed amendment, as previously discussed with the Planning Commission on February 3, 2016.

BACKGROUND AND PROPOSED SCOPE:

The City Council and Mayor have discussed an interest in providing Directors greater discretion in decision making for minor alterations to zoning code standards especially to sites and/or situations with unique characteristics or challenges or when the change provides an equivalent or superior standard. This authority would be an addition to the Lake Stevens Municipal Code to be codified in Chapter 14.16C. The code does currently allow some limited discretionary authority in parking standards and signs. The Public Works Director has discretion to allow alterations to the Engineering Design and Development Standards (EDDS) through a waiver process.

Staff has reviewed codes from other jurisdictions that provide similar administrative authorities. Most of these cities follow an administrative variance process that allows limited modifications to development regulations, but not to uses, typically defined by a percentage. Other options may include a deviation process or outright administrative authority to allow *de minimis* alterations to development regulations. The deviation process would be similar to the authority currently identified for modifications to the city's EDDS. The final option allowing *de minimis* alterations would permit the administrator to modify regulations if the change is deemed inconsequential to the outcome of the request in relation to the entire project.

Each option would have a different permit path, but all would require specific criteria to implement at the project level for the applicant and decision maker. Any proposed modifications could be reviewed concurrently with the underlying application to ensure consistency with other regulations, but the modification decision would need to proceed or be concurrent with the overall project approval.

1. The Administrative Variance could allow between a 20 to 25 percent modification to standards and be a Type II decision requiring public notice with a written decision. Based on the city's current fee schedule for similar application types the fee would be \$1000.
 - The city would issue a determination of completeness within 28 days.

- A notice of application (NOA) for Type II decisions would be issued within 14 days of application.
 - After the NOA is issued, there is a 14-day comment period to receive public feedback.
 - By statute a final decision must be issued within 120 days
2. The Administrative Deviations could allow between a 10 to 15 percent modification to standards and be a Type I decision with a written decision. Based on the city's current fee schedule for similar application types the fee would be \$150 for the first two hours and \$75 for each additional hour of staff time.
 - Type I decisions are typically issued within two to four weeks of application and reviewed concurrently with underlying request
 3. The *de minimis* alteration could be part of the administrative review of the underlying application. No additional time or fees would be included.

Staff reviewed these alternatives with the Planning Commission on February 3, 2016. The Planning Commission wanted to make sure new authorities were defined and that timelines for additional processing were clear. Staff will provide specific criteria based on the review of other codes. Chapter 14.16A LSMC already provides processing times for all applications types (see above). The Planning Commission recommended that staff develop a tiered review process combining the options described above to accommodate different scenarios and different levels of authority.

NEXT STEPS:

Based on the description of options listed above and in response to the Planning Commission's comments, staff is looking for direction from City Council on a preferred methodology to set a final scope of work and begin drafting requirements. Staff anticipates the project will take approximately four months to complete.

APPLICABLE CITY POLICIES: Chapters 14.16A and 14.16C LSMC.

BUDGET IMPACT: There is not a budget impact at this time; after adoption permit revenue would be received.
