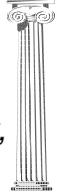


City of Lake Stevens Vision Statement

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



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

Monday, January 27, 2014 - 7:00 p.m.

NOTE: **WORKSHOP ON VOUCHERS AT 6:45 P.M.**

CALL TO ORDER: 7:00 p.m.
Pledge of Allegiance

ROLL CALL:

GUEST BUSINESS:

CONSENT AGENDA:

*A.	Approve December 2013 vouchers.	Barb
*B.	Approve January 2014 vouchers.	Barb
*C.	Approve Council regular meeting minutes of January 13, 2014.	Barb

PUBLIC HEARING: PUBLIC HEARING FORMAT:

1. Open Public Hearing
2. Staff presentation
3. Council's questions of staff
4. Proponent's comments
5. Comments from the audience
6. Close public comments portion of hearing
7. Discussion by City Council
8. Re-open the public comment portion of the hearing for additional comments (optional)
9. Close Hearing
10. COUNCIL ACTION:
 - a. Approve
 - b. Deny
 - c. Continue

*A.	First Reading of Ord 908 - I-502 Marijuana Regulations	Russ
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ACTION ITEMS:

*A.	Park Board Reappointments	Vern
*B.	First and final reading Ord 907-Tow Truck Businesses used by City	Dan

**DISCUSSION
ITEMS:**

Lake Stevens City Council Regular Meeting Agenda

January 27, 2014

**COUNCIL PERSON'S
BUSINESS:**

MAYOR'S BUSINESS:

STAFF REPORTS:

**INFORMATION
ITEMS:**

EXECUTIVE A. Litigation
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

**BLANKET VOUCHER APPROVAL
 2013**

We, the undersigned Council members of the City of Lake Stevens, Snohomish County, Washington, do hereby certify that the merchandise or services hereinafter specified have been received and that the following vouchers have been approved for payment:

Payroll Direct Deposits		
Payroll Checks		
Electronic Funds Transfers	685-686	\$8,798.83
Claims	36237-36239, 36245-36260	\$71,489.55
Void Checks	36223, 36178	(\$578.30)
Tax Deposit(s)		
Total Vouchers Approved:		\$79,710.08

This 27th day of January 2014:

Mayor

Councilmember

Finance Director

Councilmember

Councilmember

Councilmember



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Direct Deposit Register

16-Jan-2014

Wells Fargo - AP

Lake Stevens

Direct Deposits to Accounts

16-Jan-2014	<u>Vendor</u>	<u>Source</u>	<u>Amount</u>	<u>Draft#</u>	<u>Bank Name</u>	<u>Transit</u>	<u>Account</u>
13027	DEPARTMENT OF LICENSING	C	\$549.00	685	Wells Fargo	123456789	123123123
Total:			\$549.00	Count:	1.00		

Direct Deposit Summary

<i>Type</i>	<i>Count</i>	<i>Total</i>
C	1	\$549.00

Pre-Note Transactions

Direct Deposit Register

17-Jan-2014

Wells Fargo - AP

Lake Stevens

Direct Deposits to Accounts

17-Jan-2014	<u>Vendor</u>	<u>Source</u>	<u>Amount</u>	<u>Draft#</u>	<u>Bank Name</u>	<u>Transit</u>	<u>Account</u>
9362	Department of Revenue	C	\$8,249.83	686	Wells Fargo	121000248	4159656917
Total:			\$8,249.83		Count:	1.00	

Direct Deposit Summary

<i>Type</i>	<i>Count</i>	<i>Total</i>
C	1	\$8,249.83

Pre-Note Transactions

Detail Check Register

15-Jan-14

Lake Stevens

Check No	Check Date	VendorNo	Vendor	Check Amount
36237	31-Dec-13	276	City Of Lake Stevens	\$1,316.08
Pmt 3		Retainage - Trinity Construction	\$1,316.08	
309016595616301		Sidewalk Construction	\$1,316.08	
36238	31-Dec-13	14061	Trinity Contractors Inc	\$25,005.52
Pmt 3 Final		Final Payment 20th Street Sidewalk	\$25,005.52	
309016595616301		Sidewalk Construction	\$25,005.52	
Total Of Checks:				\$26,321.60

Detail Check Register

15-Jan-14

Lake Stevens

Check No	Check Date	VendorNo	Vendor	Check Amount	
36239	15-Jan-14	12841	Law Offices of Weed, Graafstra		\$10,758.00
121		Legal services		\$10,758.00	\$0.00
001005515204100		Legal - Professional Service		\$10,758.00	
Total Of Checks:					\$10,758.00

Detail Check Register

16-Jan-14

Lake Stevens

Check No	Check Date	VendorNo	Vendor	Check Amount		
36245	16-Jan-14	969	Business Card			\$2,410.59
01/04 1056			Domain Lic/Trvl	\$243.27	\$0.00	\$243.27
001001511604300			Legislative - Travel & Mtgs	\$65.91		
510013519103101			License Renewal/Annual Maint	\$177.36		
01/04 1324			AWC conf/Click2mail	\$183.67	\$0.00	\$183.67
001007558004400			Planning - Advertising	\$33.67		
001007558400001			Planning - Staff Development	\$150.00		
01/04 7750			AWC/pkg/ladders	\$685.94	\$0.00	\$685.94
001010576804901			Parks-Staff Development	\$50.00		
101016542003102			Street Fund Operating Costs	\$264.97		
101016542004001			Street Fund - Staff Developmen	\$50.00		
101016542004300			Street Fund - Travel & Mtgs	\$6.00		
410016542403102			Storm Water - Operating Costs	\$264.97		
410016542404901			Storm Water - Staff Developmen	\$50.00		
01/04 8018			AWC conf/ad/supplies	\$661.34	\$0.00	\$661.34
001001511604901			Legislative - Prof. Developmen	\$300.00		
001003511104901			Executive - Prof. Development	\$150.00		
001003513104100			Administration - Professional	\$150.00		
001007558004400			Planning - Advertising	\$25.00		
001013519903100			General Government - Operating	\$36.34		
01/04 8877			Equip/Batteries/Transcription	\$636.37	\$0.00	\$636.37
001008539002600			Code Enforcement - Clothing	\$80.15		
001008539003101			Code Enforcement - Operating (\$556.22		
Total Of Checks:						\$2,410.59

Detail Check Register

16-Jan-14

Lake Stevens

Check No	Check Date	VendorNo	Vendor	Check Amount	
36246	17-Jan-14	1579	ACE HARDWARE	\$14.11	
40507		Padlock	\$14.11	\$0.00	\$14.11
001004514233100		Finance - Office Supplies	\$14.11		
36247	17-Jan-14	179	Blumenthal Uniforms	\$117.22	
16676		Boots - C Brooks	\$117.22	\$0.00	\$117.22
001008521002600		Law Enforcment Clothing	\$117.22		
36248	17-Jan-14	13969	Child Advocacy Center	\$1,807.86	
489		Q4.2013 Child interview services	\$1,807.86	\$0.00	\$1,807.86
001008521004100		Law Enforcement - Professional	\$1,807.86		
36249	17-Jan-14	274	City of Everett	\$1,395.00	
i14000050		Animal shelter services Dec 2013	\$1,395.00	\$0.00	\$1,395.00
001008539004100		Code Enforcement - Professiona	\$1,395.00		
36250	17-Jan-14	12004	CITY OF MARYSVILLE	\$6,666.04	
13-023		Court citations Dec 2013	\$6,629.45	\$0.00	\$6,629.45
001013512500001		Municipal Court Fees	\$6,629.45		
POLIN11-0328		Prisoner Housing July 2013 Austin	(\$20.91)	\$0.00	(\$20.91)
001008521003200		Law Enforcement - Fuel	(\$20.91)		
POLIN11-0370		Prisoner Medical Dec 2013	\$57.50	\$0.00	\$57.50
001008523005100		Law Enforcement - Jail	\$57.50		
36251	17-Jan-14	14068	John Rongerude PS	\$300.00	
320550393		Public Defender case 320550393	\$300.00	\$0.00	\$300.00
001013512500001		Municipal Court Fees	\$300.00		
36252	17-Jan-14	9340	Lake Stevens School District	\$8,157.29	
814		Fuel Dec 2013	\$2,431.19	\$0.00	\$2,431.19
001007559003200		Building Department - Fuel	\$127.84		
101016542003200		Street Fund - Fuel	\$2,232.40		
410016542403200		Storm Water - Fuel	\$70.95		
815		Fuel Dec 2013	\$5,309.10	\$0.00	\$5,309.10
001008521003200		Law Enforcement - Fuel	\$5,309.10		
Adj 11/15/13		Facility rental	\$417.00	\$0.00	\$417.00
001001511604501		Legislative - Rentals	\$417.00		

Detail Check Register

16-Jan-14

Lake Stevens

Check No	Check Date	VendorNo	Vendor	Check Amount	
36253	17-Jan-14	12215	LOWES COMPANIES		\$180.30
911446			Tarp/photo cell	\$39.33	\$0.00
					\$39.33
			001013519903100 General Government - Operating	\$10.35	
			101016542660000 Street Fund - Snow & Ice Contr	\$28.98	
920197			Lumber/hinges/elec supplies	\$63.91	\$0.00
					\$63.91
			001008521003104 Law Enforcement-Operating Cost	\$63.91	
961730			Mesh	\$77.06	\$0.00
					\$77.06
			001013519903100 General Government - Operating	\$77.06	
36254	17-Jan-14	1091	Office Of The State Treasurer		\$9,570.76
12/2013			Dec 2013 State Court Fees	\$9,570.76	\$0.00
					\$9,570.76
			633008559005100 Building Department - State Bl	\$90.00	
			633008589000003 Public Safety And Ed. (1986 As	\$4,544.66	
			633008589000004 Public Safety And Education	\$2,754.30	
			633008589000005 Judicial Information System-Ci	\$895.38	
			633008589000008 Trauma Care	\$338.51	
			633008589000009 school zone safety	\$63.63	
			633008589000010 Public Safety Ed #3	\$144.22	
			633008589000011 Auto Theft Prevention	\$473.81	
			633008589000012 HWY Safety Act	\$42.75	
			633008589000013 Death Inv Acct	\$33.51	
			633008589000014 WSP Highway Acct	\$189.99	
36255	17-Jan-14	11869	PUGET SOUND ENERGY		\$549.06
01/14 200003723810			Utilities - gas	\$192.98	\$0.00
					\$192.98
			001008521004700 Law Enforcement - Utilities	\$192.98	
01/14 200024316495			Utilities - gas	\$356.08	\$0.00
					\$356.08
			001010576804700 Parks - Utilities	\$118.69	
			101016542004700 Street Fund - Utilities	\$118.69	
			410016542404701 Storm Water Utilities	\$118.70	
36256	17-Jan-14	12961	SNOHOMISH COUNTY PUD		\$2,194.58
114070969			202766820	\$1,748.71	\$0.00
					\$1,748.71
			001008521004700 Law Enforcement - Utilities	\$1,748.71	
137159732			205338056	\$141.99	\$0.00
					\$141.99
			101016542630000 Street Fund - Street Lighting	\$141.99	
163391888			203033030	\$154.93	\$0.00
					\$154.93
			001008521004700 Law Enforcement - Utilities	\$154.93	

Detail Check Register

16-Jan-14

Lake Stevens

Check No	Check Date	VendorNo	Vendor		Check Amount
166692070		205320781		\$148.95	\$148.95
		101016542630000	Street Fund - Street Lighting	\$148.95	
36257	17-Jan-14	1388	Snohomish County Treasurer		\$187.59
12/2013			Dec 2013 Crime Victims Comp	\$187.59	\$187.59
		633008589000001	Crime Victims Compensation	\$187.59	
36258	17-Jan-14	13931	Stericycle, Inc		\$32.38
3002499057			Hazardous waste disposal	\$32.38	\$32.38
		001008521004100	Law Enforcement - Professional	\$32.38	
36259	17-Jan-14	13458	The Bank of New York		\$601.75
111-1580288			Admin Fee	\$300.00	\$300.00
		210000592208576	2008 Bond Fees	\$300.00	
111-1580289			Admin Fee	\$301.75	\$301.75
		206008592208576	Pol Bldg Bond Fees	\$301.75	
36260	17-Jan-14	1491	The Everett Herald		\$225.42
956017			Police LT help wanted	\$132.60	\$132.60
		001008521004900	Law Enforcement - Miscellaneou	\$132.60	
956237			Senior Planner help wanted	\$92.82	\$92.82
		001007558004400	Planning - Advertising	\$92.82	
Total Of Checks:					\$31,999.36

**BLANKET VOUCHER APPROVAL
 2014**

We, the undersigned Council members of the City of Lake Stevens, Snohomish County, Washington, do hereby certify that the merchandise or services hereinafter specified have been received and that the following vouchers have been approved for payment:

Payroll Direct Deposits	908174-908227	\$127,313.99
Payroll Checks	36236	\$2,650.09
Electronic Funds Transfers		
Claims	36240-36244, 36261-36308	\$291,638.23
Void Checks		
Tax Deposit(s)	1/15/2014	\$52,450.09
Total Vouchers Approved:		\$474,052.40

This 27th day of January 2014:

Mayor

Councilmember

Finance Director

Councilmember

Councilmember

Councilmember



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Detail Check Register

15-Jan-14

Lake Stevens

Check No	Check Date	VendorNo	Vendor	Check Amount	
36240	15-Jan-14	105	Assoc. Of Washington Cities		\$19,683.00
2014		2014 membership		\$19,683.00	\$0.00 \$19,683.00
001013519904904		General Government - A.W.C.		\$19,683.00	
36241	15-Jan-14	13836	SCCFOA		\$43.00
01/23 mtg		1/23/14 mtg		\$18.00	\$0.00 \$18.00
001004514234300		Finance - Travel & Mtgs		\$18.00	
2014		2014 membership		\$25.00	\$0.00 \$25.00
001004514234900		Finance - Miscellaneous		\$25.00	
36242	15-Jan-14	13322	Snohomish County Cities		\$64.00
01/16/14 mtg		1/16/14 mtg		\$64.00	\$0.00 \$64.00
001001511604300		Legislative - Travel & Mtgs		\$64.00	
36243	15-Jan-14	13322	Snohomish County Cities		\$50.00
2014 dues		2014 Dues		\$50.00	\$0.00 \$50.00
001001511604901		Legislative - Prof. Developmen		\$50.00	
36244	15-Jan-14	12253	WFOA		\$50.00
2014		2014 membership		\$50.00	\$0.00 \$50.00
001004514234900		Finance - Miscellaneous		\$50.00	
Total Of Checks:					\$19,890.00

Detail Check Register

23-Jan-14

Lake Stevens

Check No	Check Date	VendorNo	Vendor	Check Amount		
36261	27-Jan-14	1579	ACE HARDWARE			\$243.01
40776			Totes	\$18.44	\$0.00	\$18.44
001008521003104			Law Enforcement-Operating Cost	\$18.44		
40798			Quikgrip/countersink drill bit	\$13.73	\$0.00	\$13.73
001012572503100			Library - Office And Operating	\$13.73		
40821			Electrical parts/straps/connectors/bit	\$30.89	\$0.00	\$30.89
101016542003102			Street Fund Operating Costs	\$30.89		
40826			Bins and Signage	\$31.45	\$0.00	\$31.45
001008521003104			Law Enforcement-Operating Cost	\$31.45		
40882			Fatigue Mat/Level/magnetic tray	\$72.72	\$0.00	\$72.72
101016542003102			Street Fund Operating Costs	\$50.90		
410016542403102			Storm Water - Operating Costs	\$21.82		
40883			Fasteners	\$25.02	\$0.00	\$25.02
001010576803110			Boat Launch Expenses	\$25.02		
40890			Fasteners	\$23.65	\$0.00	\$23.65
001010576803110			Boat Launch Expenses	\$23.65		
40918			Pump/Hose ends	\$27.11	\$0.00	\$27.11
101016542003102			Street Fund Operating Costs	\$27.11		
36262	27-Jan-14	1579	ACE HARDWARE			\$38.77
40753			Fasteners	\$10.70	\$0.00	\$10.70
001012572503100			Library - Office And Operating	\$10.70		
40839			water hoses	\$13.01	\$0.00	\$13.01
101016542003102			Street Fund Operating Costs	\$13.01		
40879			PVC tee fitting	\$4.33	\$0.00	\$4.33
101016542003102			Street Fund Operating Costs	\$4.33		
40888			Keys	\$7.55	\$0.00	\$7.55
101016542003102			Street Fund Operating Costs	\$7.55		
40904			Fasteners	\$3.18	\$0.00	\$3.18
001012572503100			Library - Office And Operating	\$3.18		

Detail Check Register

23-Jan-14

Lake Stevens

Check No	Check Date	VendorNo	Vendor	Check Amount	
36263	27-Jan-14	13243	Atlas Business Solutions, Inc		\$288.00
IVC079080			Schedule Anywhere	\$288.00	\$0.00
					\$288.00
001008521003104			Law Enforcement-Operating Cost	\$288.00	
36264	27-Jan-14	179	Blumenthal Uniforms		\$228.17
27351			Tactical Poncho	\$228.17	\$0.00
					\$228.17
001008521002600			Law Enforcment Clothing	\$228.17	
36265	27-Jan-14	11952	Carquest Auto Parts Store		\$162.97
2421-199760			combo wrench	\$72.75	\$0.00
					\$72.75
101016542003102			Street Fund Operating Costs	\$50.93	
410016542403102			Storm Water - Operating Costs	\$21.82	
2421-199794			Belt	\$68.21	\$0.00
					\$68.21
101016542004102			Street Fund-Sweeping	\$68.21	
2421-200136			Filter/Fuel line/Antifreeze	\$12.74	\$0.00
					\$12.74
410016542403102			Storm Water - Operating Costs	\$12.74	
2421-200242			Wheel Cover	\$9.27	\$0.00
					\$9.27
101016542003102			Street Fund Operating Costs	\$9.27	
36266	27-Jan-14	12404	CDW GOVERNMENT INC		\$1,806.56
JC68518			Antivirus software annual maint	\$1,806.56	\$0.00
					\$1,806.56
510013519103101			License Renewal/Annual Maint	\$1,806.56	
36267	27-Jan-14	13776	Chris L Griffen		\$600.00
2Z0250697			Public Defender services	\$300.00	\$0.00
					\$300.00
001013512800000			Court Appointed Attorney Fees	\$300.00	
2Z0250698			Public Defender services	\$300.00	\$0.00
					\$300.00
001013512800000			Court Appointed Attorney Fees	\$300.00	
36268	27-Jan-14	296	Code Publishing Co.		\$4,468.40
45394			2014 Municipal code web hosting	\$350.00	\$0.00
					\$350.00
001003514104100			City Clerks-Professional Servi	\$350.00	
45419			Municipal Code update	\$4,118.40	\$0.00
					\$4,118.40
001003514104100			City Clerks-Professional Servi	\$4,118.40	
36269	27-Jan-14	13030	COMCAST		\$109.76
01/14			Internet services	\$109.76	\$0.00
					\$109.76

Detail Check Register

23-Jan-14

Lake Stevens

Check No	Check Date	VendorNo	Vendor	Check Amount	
001003513104200			Administration-Communications	\$2.20	
001003514104200			City Clerks-Communications	\$6.59	
001003516104200			Human Resources-Communications	\$2.20	
001003518104200			IT Dept-Communications	\$4.39	
001004514234200			Finance - Communications	\$4.39	
001007558004200			Planning - Communication	\$17.56	
001008521004200			Law Enforcement - Communicatio	\$63.66	
001010576804200			Parks - Communication	\$2.93	
101016542004200			Street Fund - Communications	\$2.92	
410016542404200			Storm Water - Communications	\$2.92	
36270	27-Jan-14	91	Corporate Office Supply		\$1,529.55
146507i			Planning supplies	\$112.17	\$0.00
001007558003100			Planning - Office Supplies	\$112.17	
146514i			Supplies	\$65.02	\$0.00
001003516103100			Human Resources-Office Supplie	\$28.49	
001003518103100			IT Dept-Office Supplies	\$9.59	
001013519903100			General Government - Operating	\$26.94	
146532i			Planning supplies	\$11.94	\$0.00
001007558003100			Planning - Office Supplies	\$11.94	
146816i			office supplies	\$302.21	\$0.00
001008521003100			Law Enforcement - Office Suppl	\$302.21	
146821			color printers	\$1,042.54	\$0.00
001008521003100			Law Enforcement - Office Suppl	\$1,042.54	
146897			Laminate	(\$4.33)	\$0.00
001008521003100			Law Enforcement - Office Suppl	(\$4.33)	
36271	27-Jan-14	13182	Dean Thomas		\$10.41
011614			Binder	\$10.41	\$0.00
001008521003100			Law Enforcement - Office Suppl	\$10.41	
36272	27-Jan-14	13782	Department of Revenue		\$969.49
Q4.2013			Q4.2013 Leasehold Excise Tax	\$969.49	\$0.00
633013586000005			Leasehold Excise Tax Remit	\$969.49	
36273	27-Jan-14	14069	Donna Wormus		\$810.00
Deposit Refund			Rental depost refund	\$810.00	\$0.00

Detail Check Register

23-Jan-14

Lake Stevens

Check No	Check Date	VendorNo	Vendor	Check Amount	
001000389000000			Refunds or Overpayments	\$810.00	
36274	27-Jan-14	13896	eFileCabinet		\$784.73
20061			efile annual maintenance plan	\$784.73	\$0.00
001008521003104			Law Enforcement-Operating Cost	\$784.73	
36275	27-Jan-14	473	Electronic Business Machines		\$366.28
095526			copier maint	\$210.91	\$0.00
001013519904800			General Government - Repair/Ma	\$210.91	
095552			Copier maint	\$155.37	\$0.00
001008521004800			Law Enforcement - Repair & Mai	\$155.37	
36276	27-Jan-14	13935	Everett Steel		\$98.99
38423			Angle Steel	\$98.99	\$0.00
101016542003102			Street Fund Operating Costs	\$69.29	
410016542403102			Storm Water - Operating Costs	\$29.70	
36277	27-Jan-14	13764	Frontier		\$145.96
01/14 4253340835			Telephone service	\$87.46	\$0.00
001013519904200			General Government - Communica	\$29.15	
101016542004200			Street Fund - Communications	\$29.16	
410016542404200			Storm Water - Communications	\$29.15	
01/14 4253979674			Telephone services	\$58.50	\$0.00
101016542640000			Street Fund - Traffic Control	\$58.50	
36278	27-Jan-14	13010	Grainger		\$167.66
9331212499			Spotlight	\$91.49	\$0.00
101016542003102			Street Fund Operating Costs	\$64.04	
410016542403102			Storm Water - Operating Costs	\$27.45	
9331568197			Corrosion Inhibitor	\$76.17	\$0.00
101016542003102			Street Fund Operating Costs	\$53.32	
410016542403102			Storm Water - Operating Costs	\$22.85	
36279	27-Jan-14	13971	Granite Construction Co		\$528.56
51615			De-icer signs to be mounted on de-i	\$293.22	\$0.00
101016542660000			Street Fund - Snow & Ice Contr	\$293.22	
51845			Yellow thermo-plastic strips for mini-	\$235.34	\$0.00
101016542640000			Street Fund - Traffic Control	\$235.34	
36280	27-Jan-14	673	Home Depot		\$529.61

Detail Check Register

23-Jan-14

Lake Stevens

Check No	Check Date	VendorNo	Vendor	Check Amount		
6035322540969510	01/		Water Heater/sink	\$529.61	\$0.00	\$529.61
001010576803100			Parks - Operating Costs	\$132.40		
101016542003102			Street Fund Operating Costs	\$264.81		
410016542403102			Storm Water - Operating Costs	\$132.40		
36281	27-Jan-14	13177	James Barnes			\$39.16
011614			SRO mtg supplies	\$39.16	\$0.00	\$39.16
001008521004300			Law Enforce - Travel & Mtgs	\$39.16		
36282	27-Jan-14	13327	Jennifer Anderson			\$416.66
Jan 2014			Jan 2014 Dep Care Reimb	\$416.66	\$0.00	\$416.66
001000281000000			Payroll Liabilities	\$416.66		
36283	27-Jan-14	626	Lake Stevens Chamber of Commer			\$120.00
00335			2014 membership	\$120.00	\$0.00	\$120.00
001013519904900			General Government - Miscellan	\$120.00		
36284	27-Jan-14	11777	Lake Stevens Fire			\$155.00
7535			Annual Fire Inspection Museum	\$155.00	\$0.00	\$155.00
001010575304901			Historical Museum	\$155.00		
36285	27-Jan-14	852	Lake Stevens Journal			\$47.00
2014 sub			2014 Subscription	\$47.00	\$0.00	\$47.00
001013519903100			General Government - Operating	\$47.00		
36286	27-Jan-14	860	Lake Stevens Sewer District			\$693.00
01/2014			Utilities - sewer	\$693.00	\$0.00	\$693.00
001008521004700			Law Enforcement - Utilities	\$154.00		
001010576804700			Parks - Utilities	\$154.00		
001012572504700			Library - Utilities	\$77.00		
001013519904700			General Government - Utilities	\$308.00		
36287	27-Jan-14	13535	Lexipol LLC			\$2,450.00
10141			2014 Knowledge Mgmnt policy upda	\$2,450.00	\$0.00	\$2,450.00
001008521004101			Prof Serv-Lexipool	\$2,450.00		
36288	27-Jan-14	12827	MACAULAY & ASSOCIATES, LTD			\$3,800.00
13-208			Appraisal	\$3,800.00	\$0.00	\$3,800.00
101016595616100			Street Fund Capital	\$3,800.00		
36289	27-Jan-14	12684	NORTHWEST CASCADE INC.			\$138.00
1-834824			Honey Bucket rental	\$138.00	\$0.00	\$138.00

Detail Check Register

23-Jan-14

Lake Stevens

Check No	Check Date	VendorNo	Vendor	Check Amount	
001010576804500			Parks - Equipment Rental	\$138.00	
36290	27-Jan-14	1066	PERTEET ENGINEERING, INC.		\$1,630.22
20110012.006-5			Tenelco/Evergreen Tech Reports	\$1,630.22	\$0.00
001007558004107			Planning-CA - Developer Reimb	\$1,630.22	
36291	27-Jan-14	12450	PITNEY BOWES		\$112.17
9619164-JA14			Postage machine rental	\$112.17	\$0.00
001013519904500			General Government-Equip Renta	\$112.17	
36292	27-Jan-14	1177	Puget Sound Clean Air Agency		\$3,192.25
14-0495			Q1.2014 Clean Air Assessment	\$3,192.25	\$0.00
001013531705100			General Government - Air Pollu	\$3,192.25	
36293	27-Jan-14	13094	Rebecca Ableman		\$28.68
01/17/14			document scan	\$28.68	\$0.00
001007558004902			Planning - Printing and Bindin	\$28.68	
36294	27-Jan-14	13398	Right! Systems, Inc		\$4,202.56
126274			Email Archive Subscription Renewal	\$4,202.56	\$0.00
510013519103101			License Renewal/Annual Maint	\$4,202.56	
36295	27-Jan-14	12346	SNOHOMISH COUNTY AUDITOR		\$6,802.57
S-1113-11			Nov 2013 Election svcs	\$6,802.57	\$0.00
001001511805100			General Government-Elections C	\$6,802.57	
36296	27-Jan-14	13807	Snohomish County PUD		\$600.00
0390011377			2014 Bulk water use	\$600.00	\$0.00
101016542003102			Street Fund Operating Costs	\$600.00	
36297	27-Jan-14	13415	Staples		\$101.92
3220033663			Case 13-00257 Binders/dividers	\$101.92	\$0.00
001008521003100			Law Enforcement - Office Suppl	\$101.92	
36298	27-Jan-14	13396	StoneFly, Inc		\$923.20
13632			Storage Maintenance Contract Rene	\$923.20	\$0.00
510013519103101			License Renewal/Annual Maint	\$923.20	
36299	27-Jan-14	13891	Tacoma Screw Products Inc		\$160.29
30471474			Gloves/tape/screws	\$92.69	\$0.00

Detail Check Register

23-Jan-14

Lake Stevens

Check No	Check Date	VendorNo	Vendor	Check Amount	
001010576803100			Parks - Operating Costs	\$30.89	
101016542003102			Street Fund Operating Costs	\$30.90	
410016542403102			Storm Water - Operating Costs	\$30.90	
30473024			Ear plug replacements	\$67.60	\$0.00
001010576803100			Parks - Operating Costs	\$22.53	
101016542003102			Street Fund Operating Costs	\$22.53	
410016542403102			Storm Water - Operating Costs	\$22.54	
36300	27-Jan-14	13821	Terminix Commercial		\$304.08
331181008			Pest control Permit Center	\$217.20	\$0.00
001013519904800			General Government - Repair/Ma	\$217.20	
331181009			Pest control Permit Center	\$86.88	\$0.00
001013519904800			General Government - Repair/Ma	\$86.88	
36301	27-Jan-14	1491	The Everett Herald		\$147.92
LG536162			LUA2013-0096 I502 DNS	\$91.16	\$0.00
001007558004400			Planning - Advertising	\$91.16	
LG536168			LUA2013-0096 I502 Regs	\$56.76	\$0.00
001007558004400			Planning - Advertising	\$56.76	
36302	27-Jan-14	1584	WA Assoc. Of Sheriffs and Poli		\$245.00
DUES2014-00174			2014 Dues	\$245.00	\$0.00
001008521004900			Law Enforcement - Miscellaneou	\$245.00	
36303	27-Jan-14	1585	WA Cities Insurance Authority		\$227,212.00
20204			2014 Liability Program Assessments	\$227,212.00	\$0.00
001004514234600			Finance - Insurance	\$127.00	
001008521004600			Law Enforcement - Insurance	\$96,749.00	
001010576804600			Parks - Insurance	\$3,174.00	
001013519904600			General Government - Insurance	\$4,068.00	
101016542004600			Street Fund - Insurance	\$44,057.00	
410016542404600			Storm Water - Insurance	\$79,037.00	
36304	27-Jan-14	12194	WA Dept of Ecology		\$3,812.77
2014-WAR045523			2014 Annual Fee	\$3,812.77	\$0.00
410016542403130			Storm Water- DOE Annual Permit	\$3,812.77	
36305	27-Jan-14	11995	WA STATE CRIME PREVENTION		\$50.00
C Brooks			2014 Dues	\$50.00	\$0.00
001008521004900			Law Enforcement - Miscellaneou	\$50.00	

Detail Check Register

23-Jan-14

Lake Stevens

Check No	Check Date	VendorNo	Vendor	Check Amount	
36306	27-Jan-14	13052	WABO		\$50.00
27879			Job posting -Bldg/Code Compliance	\$50.00	\$0.00
001007559004400			Building Dept -Advertising	\$50.00	
36307	27-Jan-14	12761	WASHINGTON STATE PATROL		\$264.00
114004842			Weapons permit background check	\$264.00	\$0.00
633008589000006			Gun Permit - FBI Remittance	\$264.00	
36308	27-Jan-14	1653	Westside Fire and Safety Suppl		\$162.90
308212			Recharge fire extinguishers at muse	\$162.90	\$0.00
001010575304901			Historical Museum	\$162.90	
Total Of Checks:					\$271,748.23



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

Monday, January 13, 2014

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 Vern Little

COUNCILMEMBERS PRESENT: Todd Welch, Suzanne Quigley, Kathy Holder, Kim Daughtry, Marcus Tageant (left at 7:06 p.m.), Sam Low and John Spencer

COUNCILMEMBERS ABSENT:

STAFF MEMBERS PRESENT: City Administrator Jan Berg, City Attorney Cheryl Beyer, Planning Director Rebecca Ableman, Finance Director Barb Stevens, Public Works Director Mick Monken, Human Resource Director Steve Edin, Senior Planner Russ Wright, Interim Police Chief Dan Lorentzen, and City Clerk/Admin. Asst. Norma Scott

OTHERS:

Guest Business. None

Oaths of Office. Mayor Little gave the oaths of office to Councilmembers Kim Daughtry, Sam Low, Kathy Holder, and Marcus Tageant.

Councilmember Tageant left the meeting at 7:06 p.m.

Consent Agenda. Councilmember Spencer moved for approval of Consent Agenda Items A-D
A. Approve Dec ember 2013 vouchers [Payroll Direct Deposits 908056-908173 for \$241,454.23; Payroll Checks 36128-36129, 36131, 36132-36133 for \$10,239.08; Electronic Funds Transfers 674-678 for \$4,031.51; Claims 36130, 36134-36234 for \$362,575.99; Tax Deposit(s) 12/13/13, 12/17/13, 12/31/13 for \$95,036.31; Total Vouchers Approved of \$713,337.12]; B. Approve January 2014 vouchers [Electronic Funds Transfers 679-684 for \$138,461.18; Claims 36235 for \$1,308.60; Tax Deposit(s) 1/2/2014 for \$2,634.96; Total Vouchers Approved of \$142,404.74]; C. Approve Council regular meeting minutes of December 9, 2013 and D. Acceptance of 20th Street NE sidewalk project), seconded by Councilmember Welch; motion carried unanimously. (6-0-0-1)

Approve Emergency Management Services Interlocal with Snohomish County. Interim Police Chief Lorentzen reported this goes hand in hand with the emergency plan previously adopted. There are 13 cities who participate. The interlocal begins January 1 and ends December 31, 2015.

MOTION: Councilmember Spencer moved to authorize the Mayor to enter into agreement with the County for Emergency Management Services, seconded by Councilmember Low; motion carried unanimously. (6-0-0-1)

Approve Marysville Jail Services Agreement Amendment No. 10. Interim Police Chief Lorentzen noted the City has contracted for services since 1999. This is the yearly cost update. The booking rate is less than the County Jail and the officers are back into service quicker.

Councilmember Spencer asked what the transportation cost is. City Administrator Berg responded no transportation cost is included in the budget.

MOTION: Councilmember Holder moved to authorize the Mayor to sign Addendum No. 10 to the Inter-local agreement for Jail Service with the City of Marysville, seconded by Councilmember Daughtry; motion carried unanimously. (6-0-0-1)

Approve Public Safety Testing Agreement for Lieutenant Assessment Center. Human Resource Director Edin reported proposals were solicited from National Testing Network and Public Safety Testing. Police Commander Lorentzen and Me. Edin decided on Public Safety Testing as the best option, in part, because the testing programs can be customized to Lake Stevens. The agreement is for four exercises. Mr. Edin reviewed the testing process.

MOTION: Councilmember Daughtry moved to authorize the Mayor to execute an agreement for Public Safety Testing to conduct a Lieutenant Assessment Center on behalf of the City, seconded by Councilmember Spencer; motion carried unanimously. (6-0-0-1)

Adopt 2014 Legislative priorities. City Administrator Berg reported the Economic Development Committee met with the lobbyist and reviewed specific capital projects that are specific to Lake Stevens.

MOTION: Councilmember Spencer moved for Council to adopt the 2014 Legislative Priority List for the City of Lake Stevens and authorize our staff to work with our representatives in Olympia, Senate and the House, to encourage passage of this and support this agenda, seconded by Councilmember Welch; motion carried unanimously. (6-0-0-1)

Approve Professional Services Agreement with Strategies 360 for SR9 lobbying services and approve interlocal agreement with the City of Snohomish for SR9 lobbying services with Strategies 360. City Administrator Berg reported SR9 Coalition has been very successful in the past years. Arlington and Marysville supports the Coalition but not participation in the cost of the lobbyist since they don't have any projects on that corridor. The City of Snohomish has agreed to jointly participate with Lake Stevens in the cost of the lobbyist.

MOTION: Councilmember Holder moved to authorize the Mayor to sign Professional Services Agreement with Strategies 360 for lobbying services for State Route 9 Coalition and moved to authorize the Mayor to sign interlocal agreement with Snohomish for sharing the cost for the lobbyists, seconded by Councilmember Daughtry; motion carried unanimously. (6-0-0-1)

Election of Council President and Vice President.

MOTION: Councilmember Quigley moved to nominate Councilmember Spencer, seconded by Councilmember Holder.

Councilmember Welch stated he was interested in nominating Councilmember Daughtry since he has worked on Sound Transit and other coalitions. Councilmember Low noted the Municipal Code only allows a one-year term for President. Councilmember Spencer agreed to step down. Councilmember Quigley agreed to have Councilmember Daughtry step up. The nomination was changed to Councilmember Daughtry; motion carried unanimously. (6-0-0-1)

MOTION: Councilmember Holder nominated Councilmember Quigley as Vice-President, seconded by Councilmember Spencer; motion carried with Councilmembers Welch and Low voting no. (4-2-0-1)

Marijuana regulations briefing. Senior Planner Wright reviewed the following four regulatory options and requested Council direction: 1) Adopt permanent regulations for the licensing, production, processing and sale of marijuana and marijuana products pursuant to Chapter 314.55 WAC; 2) Adopt permanent regulations for licensing, production, processing and sale of marijuana and marijuana products pursuant to Chapter 314-55 WAC, with local amendments; 3) Adopt interim regulations for a year to analyze impacts; and 4) Prohibit the licensing, production, processing and sale of marijuana and marijuana products.

Councilmember Spencer is not in favor of interim regulations (Option 3) and suggested looking at Option 2 and scale back some of the size and distance regulations. Councilmember Welch also prefers Option 2.

Councilmember Quigley asked what the benefit for interim regulations is. Senior Planner Wright responded this would give an opportunity to look at legal issues.

Councilmember Quigley asked if the City could limit oil production because of safety risk issues. Mr. Wright responded he would check on this.

Mayor Little noted the Centennial Trail goes through the Industrial area and the trail is not considered a park.

Senior Planner Wright also mentioned under State rules there is a 1,000 foot separation from parks, but the State "park" definition specifically excludes trails. MRSC says the Liquor Control Board can establish the rules, but limited ability for cities.

Councilmember Daughtry suggested clarifying separation between facilities and size restrictions.

Councilmember Spencer suggested buffers or screenings for marijuana facilities adjacent to the Centennial Trail.

Consensus of Council was for Option 2.

Snow and Ice Plan update. Public Works Director Monken reported the first Snow and Ice Plan was adopted in 2010 and is working well with the Police Department and Public Works. The plan is a living document and is subject to minor administrative changes. Mr. Monken reviewed the changes and new strategies. A new map was added that changed some of the priority streets.

Lake Stevens City Council Regular Meeting Minutes

January 13, 2014

Liaison board/commission assignments. The following changes to the 2014 Councilmember assignments are as follows: Arts Commission Alternate – Holder; Fire District #8 Representative – Welch; SCCIT Alternate – Little; Senior Board Alternate – Welch; Sewer Utility Subcommittee added Spencer; and Budget Subcommittee – Tageant, Quigley, and Low.

Executive Session: Mayor Little called for an executive session on current litigation for 5 minutes and collective bargaining for 5 minutes with no action to follow. A three minute recess was called at 8:27 p.m. The executive session began at 8:34 p.m. and ended at 8:46 p.m.

Adjourn. Councilmember Low moved to adjourn at 8:46 p.m., seconded by Councilmember Spencer; motion carried unanimously. (6-0-0-1)

Vern Little, Mayor

Norma J. Scott, City Clerk/Admin. Asst.



LAKE STEVENS CITY COUNCIL
STAFF REPORT

Council Agenda Date: January 27, 2014

Subject: I-502 Marijuana Regulations (LUA2013-0096)

Contact Person/Department: Russ Wright, Planning &
Community Development

Budget Impact: none

RECOMMENDATION(S)/ACTION REQUESTED OF COUNCIL: Public hearing and First reading for Ordinance 980 related to the implementation of I-502 Marijuana Regulations (LUA2013-0096).

SUMMARY:

Public Hearing and First Reading of I-502 Marijuana Regulations (LUA2013-0096)

BACKGROUND/HISTORY:

Washington state voters approved Initiative Measure No. 502 (I-502) November 6, 2012 to legalize the production, processing, sale and use of marijuana and marijuana products, purchased from state licensed stores. Voters in Snohomish County approved I-502 by 54.59% and voters in Lake Stevens approved I-502 by 53.06%.

The Lake Stevens City Council approved Ordinance 900, enacting a six-month moratorium on August 21, 2013, prohibiting the establishment, permitting, licensing and operating, cultivation, production, and retail sales of marijuana and marijuana derivatives within the city of Lake Stevens because the city did not have adequate regulations in place to govern marijuana facilities, land use permitting and licensing.

Subsequent to the adoption of Ordinance 900, Deputy Attorney General James M. Cole issued a memorandum on August 29, 2013, outlining the federal government's guidance and enforcement priorities for states allowing marijuana facilities:

- Preventing distribution to minors;
- Preventing revenue from marijuana going to criminal enterprises;
- Preventing the diversion of marijuana from states where it is legal in some form to other states;
- Preventing state-authorized marijuana activity from being used a front for distributing other illegal drugs;
- Preventing violence and the use of firearms in the cultivation and distribution of marijuana;
- Preventing drugged driving;
- Preventing the growing of marijuana on public lands; and
- Preventing marijuana possession or use on federal property.

The guidance memo does not change federal law; but it implies marijuana businesses that abide by state regulations and conform to the federal enforcement priorities may not be subject to federal prosecution. Following the Attorney General guidance, the Liquor Control Board established administrative rules related to the production, processing, and retail sales of marijuana and marijuana products as Chapter 314-55 of the Washington Administrative Code (WAC). The rules include regulations for age verification; criminal background checks; financial investigation of start-up funds; residency

requirements; an operating plan; fees; and restrictions on sites located within 1,000 feet of schools, playgrounds, recreation facility, child care center, public park, public transit center, library, or arcade.

Staff has briefed City Council, City Administration, and the Planning Commission on implementation options that included:

1. Permanent regulations for the licensing, production, processing and sale of marijuana and marijuana products, pursuant to Chapter 314-55 WAC;
2. Permanent regulations for the licensing, production, processing and sale of marijuana and marijuana products, pursuant to Chapter 314-55 WAC, with local amendments;
3. Interim regulations to analyze impacts; and
4. Prohibiting the licensing, production, processing and sale of marijuana and marijuana products.

Planning and Police staff met with neighboring jurisdictions (e.g., Marysville, Arlington and Granite Falls) to discuss each city's individual approach to implementing I-502. There was not a consensus among the cities for a single regional approach. All cities were considering draft regulations and implementation alternatives for their city leadership.

- Marysville is currently under a moratorium and has formed a special committee to develop implementation alternatives for marijuana facilities, which include permanent regulations for production, processing and retail in designated zones, interim regulations and prohibition.
- Arlington is also currently under a moratorium. They will be developing permanent regulations for locating marijuana facilities for production, processing and retail in designated zones.
- Granite Falls is currently not allowing cultivation as its code does not permit production of agricultural crops in city limits. They will likely consider zoning based regulations for processing and retail sales.

Staff has also reviewed the regulations from other jurisdictions, notably Snohomish County and the cities of Mukilteo and Everett.

Staff has proposed regulations (**Exhibit 1**) that are consistent with intent of I-502 to create a regulated market for marijuana; implement the rules of Chapter 314-55 WAC; follow federal guidance; and establish local zoning controls for the production, processing, and retail sales of marijuana and marijuana products. The proposed regulations incorporate input from the City Council, City Administration, Planning Commission and the public along with approaches pursued by other jurisdictions. Additionally, staff mapped protected entities and applied a 1,000-foot buffer to identify potential zones for marijuana uses (**Exhibit 2**). Key elements of the proposed municipal code amendments include business license provisions, adoption of WAC definitions and rules, identification of allowed land uses by zone and local zoning controls (e.g., size restrictions for retail, production and processing and separation between marijuana facilities and protected entities).

Staff presented implementation options to Council on January 13, 2014. At this meeting, staff requested Council provide direction on its preferred option. By consensus, City Council directed staff to pursue Option 2 (permanent regulations with local amendments) as the city's implementation strategy. Council also directed staff to develop additional screening requirements for parcels adjacent to the Centennial Trail. A thorough summary of this briefing along with responses to Council questions (attached as **Exhibit 3**) was provided to the Planning Commission prior to its public hearing.

Planning Commission held a public hearing on January 15, 2014 to consider the proposed I-502 marijuana regulations. The Commission had questions related to proposed screening height in LSMC 14.44.097(d)2; relationship to medical marijuana facilities, definitions, tax distribution, gateway locations in relationship to proposed zoning, prohibition, and interim regulations. The Planning Commission

forwarded a recommendation that City Council approve the regulations as proposed and monitor the following issues: hours of operation, impact on surrounding businesses, and likelihood of revenue enhancements to the city (**Exhibit 4**). Staff has made minor non-substantive revisions to the recommended regulations based on attorney review and for internal consistency among sections. Staff is also recommending a change to section 14.44.097(d) to read,

“(d) Location.

(1) No more than one distinct marijuana facility business shall be located on a single parcel.”

Two house bills have been proposed in the State Legislature related to the implementation of I-502. House Bill 2322 (**Exhibit 5**) introduced on January 15, 2014 would prohibit local jurisdictions from taking actions preventing or impeding the creation or operation of commercial marijuana businesses licensed by the liquor control board. This legislation would allow the Liquor Control Board to determine if local ordinances impede the establishment of marijuana facilities and enable the LCB to withhold liquor revolving funds and bring legal action against the offending municipality. House Bill 2638 House Bill 2322 (**Exhibit 6**) introduced on January 23, 2014 would unequivocally establish the states preemptive authority to regulate the licensing, marketing, taxation, production, processing and retail sale of marijuana.

Subsequent to the public hearing, the Washington State Attorney General issued an opinion on January 16, 2014 (**Exhibit 7**) that found:

1. I-502, which establishes a licensing and regulatory system for marijuana producers, processors, and retailers, does not preempt counties, cities, and towns from banning such businesses within their jurisdictions.
2. Local ordinances that do not expressly ban state-licensed marijuana licensees from operating with the jurisdiction but make such operations impractical are valid if they properly exercise the local jurisdictions police power.

Following this opinion, the city could consider bans or additional local zoning amendments. This opinion does not create case law. If HB 2322 is adopted into the Revised Code of Washington, this would provide clear legislative intent from the Washington State Legislature.

FINDINGS AND CONCLUSIONS:

1. Compliance with selected Land Use Goals of the Comprehensive Plan

- Land Use Goal 4.1 – Ensure that land uses optimize economic benefit and the enjoyment and protection of natural resources while minimizing the threat to health, safety and welfare.
- Land Use Goal 4.3 – Economic development: attain the highest level of economic well-being possible for all citizens in Lake Stevens through the achievement of a stable and diversified economy offering a wide variety of employment opportunities
- Land Use Goal 4.4 – Neighborhood Conservation: Achieve a well balanced and well organized combination of open space, commercial, industrial, recreation and public uses served by a convenient and efficient transportation network while protecting the fabric and character of residential neighborhoods.
- Land Use Goal 4.8 – Coordinate growth and development with adjacent jurisdictions to promote and protect interjurisdictional interests.

Conclusions – The proposed code amendments are consistent with several Land Use goals.

2. Compliance with the State Environmental Policy Act (SEPA)(Chapter 97-11 WAC and Title 16 LSMC)

- Staff prepared an environmental checklist for the proposed code revisions, dated December 30,

2013 (**Exhibit 8**).

- The SEPA official issued a Determination of Nonsignificance on January 02, 2014 (**Exhibit 9**).
- The city has not received any appeals related to the SEPA determination.

Conclusions – The proposed code amendments have met local and state SEPA requirements.

3. Compliance with the Growth Management Act (RCW 36.70A.106)

- The city requested expedited review from the Department of Commerce on January 04, 2014 (**Exhibit 10**).
- The Department of Commerce sent a letter of acknowledgment on January 2, 2014 (**Exhibit 11**).
- The Department of Commerce sent an email granting expedited review on January 21, 2014 (**Exhibit 12**).
- Staff will file the final ordinance with the Department of Commerce within 10 days of City Council action.

Conclusions – The proposed code amendments have met Growth Management Act requirements.

4. Public Notice and Comments (Exhibit 13)

- The city published a notice of SEPA determination in the Everett Herald on January 02, 2014.
- The city published a notice of the Planning Commission's Public Hearing in the Everett Herald on January 02, 2014 and Lake Stevens Journal on January 07, 2014.
- The city notified interested parties of the SEPA DNS and public hearing on January 02, 2014
- The city published a notice of the City Council's Public Hearing in the Lake Stevens Journal on January 15, 2014 and January 22, 2014.

Conclusions – The City has met public notice requirements per Chapter 14.16B LSMC.

APPLICABLE CITY POLICIES: Chapters 4.04, 14.08, 14.16C, 14.40, 14.44 and 14.756 of the Lake Stevens Municipal Code

BUDGET IMPACT: There is not a budget impact.

EXHIBITS (attached):

Exhibit 1 – Draft Ordinance 980

Exhibit 2 – Draft Overlay Maps

Exhibit 3 – January 13, 2014 Council Meeting Summary

Exhibit 4 – Planning Commission Recommendation Letter

Exhibit 5 – House Bill 2322

Exhibit 6 – House Bill 2638

Exhibit 7 – Attorney General Opinion

Exhibits 8 – 13 available upon request.

CITY OF LAKE STEVENS
Lake Stevens, Washington

ORDINANCE NO. 908

AN ORDINANCE OF THE CITY OF LAKE STEVENS, WASHINGTON REGULATING THE LICENSING, PRODUCTION, PROCESSING AND SALE OF MARIJUANA AND MARIJUANA PRODUCTS; AMENDING SECTION 4.04.030 "LICENSE REQUIRED" TO ADD SUBSECTION 4.04.030(g); AMENDING SUBSECTION 4.04.070(c) TO "PROCEDURE FOR ISSUANCE OF LICENSE"; AMENDING SECTION 4.04.150(a) "SUSPENSION OR REVOCATION OF LICENSE - GROUNDS"; AMENDING SECTION 14.08.010 "DEFINITIONS OF BASIC TERMS"; AMENDING SUBSECTION 14.16C.070(e) TO "HOME OCCUPATIONS"; AMENDING SECTION 14.38.020 "ZONING DISTRICTS"; AMENDING TABLE 14.40-I REFERENCED IN SECTION 14.40.010 "TABLE OF PERMISSIBLE USES"; ADDING SECTION 14.44.097 "STATE-LICENSED MARIJUANA FACILITIES"; AND AMENDING SECTION 14.76.090 "ADDITIONAL SCREENING REQUIREMENTS"; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, Initiative Measure No. 502 (I-502), decriminalizes, for purposes of state law, the production, manufacture, processing, packaging, delivery, distribution, sale or possession of marijuana, as long as such activities are in compliance with I-502; and

WHEREAS, the Washington State Liquor Control Board adopted rules to implement the provisions of I-502 as Chapter 314-55 of the Washington Administrative Code; and

WHEREAS, the City Council deems it to be in the public interest to establish zoning regulations related to state-licensed marijuana facilities and to require all such facilities to obtain a City business license; and

WHEREAS, the City prepared a State Environmental Policy Act (SEPA) checklist, dated December 30, 2013 and issued a Determination of Non-Significance for the proposed code amendments on January 2, 2014 and published notice of the same, in accordance with City of Lake Stevens procedures and regulations; and

WHEREAS, in taking the actions set forth in this ordinance, the City has complied with the requirements of the State Environmental Policy Act, Chapter 43.21C RCW; and

WHEREAS, pursuant to RCW 36.70A.106, the City submitted a Notice of Proposed Amendment and Request for Expedited Review to the Washington State Department of Commerce on January 02, 2014 for review; and

WHEREAS, the Washington State Department of Commerce granted expedited review on January 21, 2014; and

WHEREAS, the City published public hearing notices for the City Council and Planning Commission, related to proposed code amendments to allow state-licensed marijuana facilities, in accordance with City of Lake Stevens procedures and regulations; and

WHEREAS, the Lake Stevens Planning Commission conducted a public hearing on January 15, 2014 to consider the proposed code amendments and recommended approval of the same; and

WHEREAS, the Lake Stevens City Council has reviewed the Planning Commission's findings, conclusion, and recommendations; and

WHEREAS, the Lake Stevens City Council conducted public hearings on January 27, 2014 and February 10, 2014 to consider the proposed code amendments.

WHEREAS, the City Council adopts the foregoing as its findings of facts justifying the adoption of this ordinance;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAKE STEVENS DO ORDAIN AS FOLLOWS:

Section 1. LSMC 4.04.030(g) – Added. LSMC 4.04.030 is hereby amended to add subsection (g) to read as follows (all other provisions of 4.04.030 remain unchanged and in effect):

4.04.030 License Required.

(g) Marijuana producers, processors and retail facilities are subject to licensing, fees and building permit requirements.

Section 2. LSMC 4.04.070(c) – Amended. LSMC 4.04.040(c) is hereby amended to read as follows (all other provisions of 4.04.070 remain unchanged and in effect):

4.04.070 Procedure for Issuance of License.

- (c) An application for a business license shall be denied if:
- (1) It contains a material omission of fact, misrepresentation or fraud;
 - (2) The applicant has been convicted of a felony and if the time elapsed since the felony is less than 10 years and the felony for which the applicant was convicted directly relates to the specific business for which the license is sought. Applicants who have a current state license to operate a marijuana facility and who have applied for a business license to operate a marijuana business are subject to Washington State Liquor Control Board Rules regarding felony convictions;
 - (3) The premises on or in which the business will be operated violates a building, zoning, fire or any other applicable law of the City;
 - (4) The applicant has not received or has been denied a land use permit to operate the proposed business at the address proposed;
 - (5) The business for which the license is sought will result in a danger to the public health, safety or welfare, or the violation of any Federal (except for current state-licensed recreational marijuana producers, processors or retailers), State or local law, ordinance or regulations; or
 - (6) The applicant has had a similar license revoked by the City within a period of one year prior to the date of making application for a license hereunder; provided, that any applicant denied a license under the provisions of this chapter may reapply if and when the reasons for denial no longer exist.

Section 3. LSMC 4.04.150(a) – Amended. LSMC 4.04.150(a) is hereby amended to read as follows (all other provisions of 4.04.150 remain unchanged and in effect):

4.04.150 Suspension or Revocation of License - Grounds.

- (a) Depending upon the severity of any public health and safety problem presented by a violation of this chapter and based upon the recommendation of the appropriate department head, the City Clerk may suspend, deny or revoke any business license when the licensee, licensee’s officers, employees or agents does any of the following:
- (1) Knowingly causes, aids, abets or conspires with another to cause any person to violate any of the laws of this State, or the City which may affect or relate to the licensee’s business;
 - (2) Has obtained a license or permit by fraud, misrepresentation, concealment or through inadvertence or mistake;
 - (3) Has been convicted of a felony and if the time elapsed since the felony is less than 10 years and the felony for which the licensee was convicted directly relates to the specific business for which the license was sought, except for business licenses issued to operators of a marijuana facility who have a current state license to operate a marijuana facility, which are subject to the Washington State Liquor Board rules for ;
 - (4) Violates Lake Stevens Municipal Code Title 14, Land Use Code;
 - (5) Engages in unfair or deceptive acts or practices in the conduct of the business, operated the business in such a manner as to constitute breach of the peace, or menace to the health, safety or general welfare of the public; or
 - (6) Fails to renew a business license within 90 days after the expiration date of the license.

Section 4. LSMC 14.08.010 – Amended. LSMC 14.08.010 entitled “Definitions of Basic Terms” is hereby amended to revise the following existing definitions and add new definitions as follows (all other provisions/definitions of 14.08.010 remain unchanged and in effect):

14.08.010 Definitions of Basic Terms.

Child Care Center (Definition related to recreational marijuana facilities regulations only). An entity that regularly provides child day care and early learning services for a group of children for periods of less than twenty-four hours licensed by the Washington State Department of Early Learning under chapter 170-295 WAC. Child care centers include “Commercial Day Care Center” and “In-Home Day Care” entities.

Day Care Center, Commercial. Any child care arrangement that provides day care on a regular basis for more than 12 children of whom at least one is unrelated to the provider. See “Child Care Center” definition.

Day Care, In-Home. Any child care arrangement that provides day care on a regular basis for less than 12 children of whom at least one is unrelated to the provider. See “Child Care Center” definition.

Elementary school (Definition related to recreational marijuana facilities regulations only). A school for early education that provides the first four to eight years of basic education and recognized by the Washington State Superintendent of Public Instruction.

Game Arcade (Definition related to recreational marijuana facilities regulations only). An entertainment venue featuring primarily video games, simulators, and/or other amusement devices where persons under twenty-one years of age are not restricted.

Library (Definition related to recreational marijuana facilities regulations only). An organized collection of resources made accessible to the public for reference or borrowing supported with money derived from taxation.

Marijuana Facility (Definition related to recreational marijuana facilities regulations only). A state-licensed marijuana production, processing, or retail facility.

Marijuana Processing Facility (Definition related to recreational marijuana facilities regulations only). A person or entity licensed by the Washington State Liquor Control Board to process marijuana into useable marijuana and marijuana-infused products, package and label usable marijuana and marijuana-infused products for sale in retail outlets, and sell useable marijuana and marijuana-infused products at wholesale to marijuana retailers.

Marijuana Production Facility (Definition related to recreational marijuana facilities regulations only). A person or entity licensed by the Washington State Liquor Control Board to produce marijuana at wholesale to marijuana processor licensees and to other marijuana producers.

Marijuana Retail Facility (Definition related to recreational marijuana facilities regulations only). A person or entity licensed by the Washington State Liquor Control Board to sell only usable marijuana, marijuana-infused products and marijuana paraphernalia to persons twenty-one years of age and older in a retail outlet.

Playground (Definition related to recreational marijuana facilities regulations only). A public outdoor recreation area for children, usually equipped with swings, slides, and other playground equipment, owned and/or managed by a city, county, state, or federal government.

Public Park (Definition related to recreational marijuana facilities regulations only). An area of land for the enjoyment of the public, having facilities for rest and/or recreation, such as a baseball diamond or basketball court, owned and/or managed by a city, county, state, federal government, or metropolitan park district. Public park does not include trails.

Public Transit Center (Definition related to recreational marijuana facilities regulations only). A facility located outside of the public right-of-way that is owned and managed by a transit agency or city, county, state, or federal government for the express purpose of staging people and vehicles where several bus or other transit routes converge. They serve as efficient hubs to allow bus riders from various locations to assemble at a central point to take advantage of express trips or other route to route transfers.

Recreation Center or Facility (Definition related to recreational marijuana facilities regulations only). A supervised center that provides a broad range of activities and events intended primarily for use by persons under twenty-one years of age, owned and/or managed by a charitable nonprofit organization, city, county, state, or federal government.

Secondary School (Definition related to recreational marijuana facilities regulations only). A high and/or middle school: A school for students who have completed their primary education, usually attended by children in grades seven to twelve and recognized by the Washington State Superintendent of Public Instruction.

Section 5. LSMC 14.16C.070(e) – Amended. LSMC 14.16C.070(e) is hereby amended to read as follows (all other provisions/definitions of 14.16C.070 remain unchanged and in effect):

14.16C.070 Home Occupations.

- (e) Prohibited home occupations are enterprises which may create objectionable noise, fumes, odor, dust or electrical interference and may involve hazardous materials or on-site storage of petroleum products, and which are not compatible with residential development. The following is a nonexhaustive list of examples of such prohibited enterprises:
- (1) Automobile, truck and heavy equipment repair;
 - (2) Autobody work or painting;
 - (3) Parking and storage of heavy equipment;
 - (4) Storage of building materials for use on other properties; ~~((~~or~~))~~
 - (5) Marijuana production, processing or retail facility; or
 - ~~(6)~~ Similar types of enterprises.

Section 6. LSMC 14.38.020 – Amended. LSMC 14.38.020 entitle “Zoning Districts” is hereby amended to read as follows:

14.38.020 Zoning Districts.

- (a) Business District (BD). The purpose of this district is to promote community and regional employment and accommodate land uses such as corporate offices, general offices, research and development, medical clinics, technology, and light manufacturing and assembly. Secondary uses include warehousing, storage and distribution associated with a principal use and small-scale retail and services that support the principal uses and objectives of the district. This district should be located in areas with direct access to highways and arterials in addition to transit facilities, adequate public services and traffic capacity.
- (1) Principal Uses.
 - (i) Educational services (colleges and/or technical schools);
 - (ii) Finance and insurance;
 - (iii) Health care services;
 - (iv) Light manufacturing and assembly;
 - (v) Management of companies and enterprises;
 - (vi) Professional, scientific, and technical services; and
 - (vii) Transit-oriented development (including transit facilities/stops).
 - (2) Secondary Uses.
 - (i) Food services;
 - (ii) Information services;
 - (iii) Personal services;
 - (iv) Retail trade;
 - (v) Wholesale trade; and
 - (vi) Warehousing, storage and distribution.

(3) Special Regulations.

- (i) Secondary service uses and retail trade shall not exceed 5,000 gross square feet;
- (ii) Wholesale trade accessory to the principal use shall not exceed 15 percent of the gross floor area of individual structures;
- (iii) Warehousing, storage and distribution accessory to the principal use shall not exceed 25 percent of the gross floor area of individual structures;
- (iv) Places of worship over 10,000 gross square feet require a conditional use permit per Section [14.16C.045](#); ~~and~~
- (v) Wireless and cellular communications facilities require an administrative conditional use permit per Section [14.16C.015](#); ~~and~~
- (vi) Marijuana facilities are not allowed.

(b) Commercial District (CD). The purpose of this district is to accommodate the high-intensity retail needs of the community and regional market by attracting a mix of large to small format retail stores and restaurants to create a vibrant and unified regional shopping center. Transportation accessibility, exposure to highways and arterials with adequate public services and traffic capacity characterize this district.

(1) Principal Uses.

- (i) Accommodation services;
- (ii) Arts and entertainment;
- (iii) Food services;
- (iv) Retail trade; and
- (v) Transit-oriented development (including transit facilities/stops).

(2) Secondary Uses.

- (i) Amusement and recreation industries;
- (ii) Commercial parking structures/lots;
- (iii) Educational services (colleges and/or technical schools);
- (iv) Finance and insurance;
- (v) Health care services;
- (vi) Information services;
- (vii) Personal services;
- (viii) Professional, scientific, and technical services; and
- (ix) Public administration.

(3) Residential Uses.

- (i) Mixed use multi-family residential units including apartments, condominiums, and live/work units, where the majority of residential units are located above commercial uses.

- (4) Special Regulations.
 - (i) Health care, professional, scientific, and technical services require a conditional use permit per Section [14.16C.045](#) when the structure's footprint exceeds 10,000 gross square feet;
 - (ii) Places of worship over 10,000 gross square feet require a conditional use permit per Section [14.16C.045](#);
 - (iii) Wireless and cellular communications facilities require an administrative conditional use permit per Section [14.16C.015](#); ~~and~~;
 - (iv) Outdoor retail sales of building materials, garden equipment and supplies, and vehicles are permitted.; and
 - (v) Marijuana retail facilities are permitted, subject to LSMC 14.44.097.
- (c) Main Street District (MS). The purpose of this district is to provide pedestrian-oriented commercial uses that serve the community and region by attracting a variety of small (up to 10,000 gross square feet) to mid-sized (approximately 30,000 gross square feet) businesses along with high-density residential uses in proximity to other retail and residential areas. Building design and pedestrian-oriented features would support an active and pleasant streetscape. This district should include enhanced sidewalks, public spaces and amenities for pedestrians and cyclists that emphasize pedestrian movement over vehicular movement.
 - (1) Principal Uses.
 - (i) Arts and entertainment;
 - (ii) Food services;
 - (iii) Small to mid-size retail trade; and
 - (iv) Transit facilities/stops.
 - (2) Secondary Uses.
 - (i) Amusement and recreation industries;
 - (ii) Commercial parking structures/lots;
 - (iii) Finance and insurance;
 - (iv) Health care services;
 - (v) Personal services;
 - (vi) Professional, scientific, and technical services; and
 - (vii) Public administration.
 - (3) Residential Uses.
 - (i) Mixed use multi-family residential units including apartments, condominiums, and live/work units, where the majority of residential units are located above commercial uses.
 - (4) Special Regulations.
 - (i) Automotive, boat, and recreational vehicle sales and services are not allowed.
 - (ii) Drive-through uses are not allowed between the building and right-of-way and are subject to screening requirements found in the applicable design guidelines.

- (iii) Theaters and performing arts venues are limited to a maximum size of 500 seats.
 - (iv) The footprint of small to mid-size retail trade uses, in any single-use structure, may not exceed 30,000 gross square feet.
 - (v) Health care, professional, scientific, or technical service structures' footprints may not exceed 5,000 gross square feet.
 - (vi) Wireless and cellular communications facilities require an administrative conditional use permit per Section [14.16C.015](#).
 - (vii) Marijuana facilities are not allowed.
- (d) Mixed Use Neighborhood (MUN). The purpose of this district is to accommodate higher density residential development in proximity to employment and retail centers and provide basic convenience goods and services in areas with available public services and adequate traffic capacities. This district would have a minimum density of 15 dwelling units per acre. This district would create a transition between higher and lower intensity land uses.
- (1) Principal Uses.
 - (i) Multi-family apartments and condominiums;
 - (ii) Townhomes and row houses; and
 - (iii) Residential over retail/office including live/work units.
 - (2) Secondary Uses.
 - (i) Neighborhood-oriented retail trade and personal services that meet the convenience shopping and services needs of the immediate and surrounding area.
 - (3) Special Regulations.
 - (i) Mixed use building configurations may include a vertical or horizontal stratification.
 - a. Retail and service uses located in attached mixed use buildings are limited to the ground level;
 - b. Sites with retail and service uses located in detached buildings are limited to a maximum floor area of 10,000 gross square feet;
 - c. Detached buildings with a footprint greater than 10,000 gross square feet require a conditional use permit per Section [14.16C.045](#);
 - d. Commercial uses should be oriented toward the primary frontage, with residential uses behind.
 - (ii) In the 20th Street SE Corridor, the district will allow innovative housing options per Chapter [14.46](#).
 - (iii) Automotive, boat, and recreational vehicle sales and services are not allowed.
 - (iv) Drive-through uses are not allowed between the building and right-of-way and are subject to screening requirements found in the applicable design guidelines.
 - (v) Wireless and cellular communications facilities require an administrative conditional use permit per Section [14.16C.015](#).
 - (vi) Marijuana facilities are not allowed.

(e) Neighborhood Business (NB). The purpose of this district is to provide convenience goods, services, and opportunities for smaller scale shopping centers near neighborhoods that cater to pedestrians and commuters. This district should be located in areas with available public services, transportation accessibility to arterials and adequate traffic capacities.

(1) Principal Uses.

- (i) Arts and entertainment;
- (ii) Food services;
- (iii) Personal services;
- (iv) Small retail trade; and
- (v) Transit facilities/stops.

(2) Secondary Uses.

- (i) Amusement and recreation industries;
- (ii) Finance and insurance;
- (iii) Professional, scientific, and technical services; and
- (iv) Public administration.

(3) Special Regulations.

- (i) Automotive, boat, and recreational vehicle sales are not allowed.
- (ii) Drive-through uses are subject to screening requirements found in the applicable design guidelines.
- (iii) The footprint of any single structure may not exceed 10,000 gross square feet.
- (iv) Wireless and cellular communications facilities require an administrative conditional use permit per Section [14.16C.015](#).
- (v) Marijuana facilities are not allowed.

(f) Other Zones. The subareas may also contain the Urban Residential (UR), High Urban Residential (HUR), and Public/Semi-Public (P/SP) zoning districts, as described in Chapter [14.36](#) or as modified below.

- (1) High Urban Residential (HUR). Within the subareas, the purpose of the HUR district is to accommodate higher-density residential uses that may include multi-family condominiums, apartments, townhouses and row houses, as well as any small lot single-family residential units or innovative housing options per Chapter [14.46](#) in areas served by public water and sewer facilities, as well as the other uses described in Table 14.40-I of Chapter [14.40](#).
- (2) Public/Semi-Public (P/SP). Within the subareas, the purpose of P/SP district is to accommodate public and semi-public uses, such as schools, government facilities, public utilities, community facilities, parks, etc., as well as the other uses described in Table 14.40-I of Chapter [14.40](#).

Section 7. LSMC 14.40.010 Table 14.40-I – Amended. Table 14.40-I referenced in LSMC 14.40.010 is hereby amended to add Use Descriptions 27.000, 27.100, 27.200 and 27.300 and

footnote 21 to read as follows (all other provisions of 14.40.010 and Table 14.40-I remain unchanged and in effect):

14.40.010 Table of Permissible Uses.

TABLE 14.40-I: TABLE OF PERMISSIBLE USES BY ZONES¹⁶

A blank box indicates a use is not allowed in a specific zone. Note: Reference numbers within matrix indicate special conditions apply. P - Permitted Use; A - Administrative Conditional Use; C - Conditional Use (See Section 14.40.020 for explanation of combinations)														
USE DESCRIPTIONS	SR	WR	UR	HUR	MFR	NC ⁴	LB	CBD	MU ¹	PBD ⁵	SRC	LI	GI	P/SP
27.000 STATE-LICENSED MARIJUANA FACILITIES ²¹														
27.100 Marijuana Processing Facility – Indoor Only												P	P	
27.200 Marijuana Production Facility – Indoor Only												P	P	
27.300 Marijuana Retail Facility												P	P	

²¹ Subject to Section [14.44.097](#) (State-Licensed Marijuana Facilities).

Section 8. Chapter 14.44 LSMC – Amended. Chapter 14.44 LSMC is hereby amended to add a new section LSMC 14.44.097 entitled “State-Licensed Marijuana Facilities” to read as follows:

14.44.097 State-Licensed Marijuana Facilities.

All state-licensed marijuana facilities shall meet the following development standards:

- (a) All facilities must be state-licensed and comply with all requirements of state law and the Washington State Liquor Control Board’s regulations for state-licensed marijuana facilities.
- (b) No marijuana facility shall be allowed as a home occupation.
- (c) The definitions set forth in RCW 69.50.101-.102, WAC 314-55-010 and LSMC 14.08.010 shall control.
- (d) Location.
 - (1) No more than one facility shall be located on a single parcel.
 - (2) No parcel containing a state-licensed marijuana facility shall be located within 1,000 feet of the perimeter of any other parcel containing a legally established, state-licensed

marijuana facility. For the purposes of administering the 1,000-foot separation between parcels with state-licensed marijuana facilities, state-licensed marijuana facilities shall be considered legally established in the order in which they are issued a city business license.

- (2) Marijuana retail and processing facilities shall be located fully within a permanent structure designed to comply with the city building code and constructed under a building/tenant improvement permit from the city regardless of the size or configuration of the structure.
 - (3) Marijuana production shall be located within a fully enclosed secure indoor facility or greenhouse with rigid walls, a roof, and doors designed to comply with the city building code and constructed under a building/tenant improvement permit from the city regardless of the size or configuration of the structure.
 - (4) Marijuana facilities shall not be located in mobile or temporary structures.
 - (5) No state-licensed marijuana facility shall be located within 1,000 feet of the perimeter of a parcel, which has at least one of the land uses listed below:
 - (i) Elementary or secondary school (public or private);
 - (ii) Playground;
 - (iii) Recreation center or facility;
 - (iv) Child care center;
 - (v) Public park;
 - (vi) Public transit center;
 - (vii) Library;
 - (viii) Any game arcade, which allows admission to persons less than 21 years of age.
- (e) Size.
- (1) State-licensed production and processing facilities will be limited in size to 10,000 total square feet or less including processing, storage, office and other incidental spaces; and
 - (2) State-licensed retail locations will be limited in size to 1,000 total square feet or less including sales, storage, office and other incidental spaces.
- (f) No production, processing or delivery of marijuana may be visible to the public nor may it be visible through windows.
- (g) All fertilizers, chemicals, gases and hazardous materials shall be handled in compliance with all applicable local, state and federal regulations. No fertilizers, chemicals, gases or hazardous materials shall be allowed to enter a sanitary sewer or stormwater sewer system nor be released into the atmosphere outside of the structure where the facility is located.
- (h) No odors shall be allowed to migrate beyond the interior portion of the structure where a marijuana facility is located.
- (i) A City of Lake Stevens business license pursuant to Chapter 4.04 LSMC and a state license pursuant to Chapter 314-55 WAC shall be obtained prior to the start of facility operations.
- (i) All facilities shall comply with Chapter 19.27 RCW, State Building Code Act and Chapter 14.80 LSMC Buildings and Construction. Appropriate permits shall be obtained for all changes of

use, tenant improvements, mechanical system improvements, electrical upgrades and similar work.

- (j) Each state-licensed retail facility may have one sign, limited to sixteen hundred square inches (11.11 square feet), identifying the retail outlet by the licensee's business name or trade name, affixed or hanging in the windows or on the outside of the premises visible to the general public from the public right of way, subject to issuance of a sign permit pursuant to Chapter 14.68 LSMC.

Section 9. LSMC 14.76.090 – Amended. LSMC 14.76.090 entitled “Additional Screening Requirements” is hereby amended to read as follows:

14.76.090 Additional Screening Requirements.

- (a) Due to the potential for adverse impacts between the following noncompatible uses, a 30-foot-wide landscaped screen shall be maintained between State Route 204, State Route 92 and/or State Route 9 and all residential and industrial uses.
- (b) Due to the potential for adverse impacts, Light Industrial and General Industrial zoned properties directly abutting the Centennial Trail shall provide a Type A screen, pursuant to 14.76.040(a)(1) in areas abutting the Centennial Trail.
- (c) The screen shall have a height of at least 30 feet at maturity. It is intended to exclude all visual and noise contact between uses in all seasons of the year. The use of existing significant trees which are not prone to windthrow within the screen is strongly encouraged.
- (d) The Planning Director may approve reduced buffer widths to prevent denial of all reasonable use of property.

TABLE 14.76-I: SCREENING REQUIREMENTS

Zone in Which Development Occurs	SR, WR, UR, HUR	MFR	PRD	NC	CBD, MU, LB	SRC, PBD	LI	GI	P/SP
Zone of Adjacent Property									
SR,WR,UR, HUR		B	B	C	B	A	A	A	B
MFR	-		-	C	B	A	A	A	B
PRD	-	-		C	-	A	A	A	B
NC	C	C	C		-	-	A	A	-
CBD, MU, LB	B	-	B	-		-	A	A	-
SRC, PBD	C	B	B	-	-		A	A	-
LI	C	C	C	-	-	-		B	-
GI	A	A	A	A	A	A	B		A
P/SP	B	B	C	-	-	-	A	A	

Section 10. Severability. If any section, clause, phrase, or term of this ordinance is held for any reason to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance, and the remaining portions shall be in full force and effect.

Section 11. Effective Date and Publication. A summary of this ordinance consisting of its title shall be published in the official newspaper of the City. This ordinance shall take effect and be in full force five days after the date of publication.

PASSED by the City Council of the City of Lake Stevens this 10 day of February 2014.

Vern Little, Mayor

ATTEST/AUTHENTICATION:

City Clerk

APPROVED AS TO FORM:

Grant K. Weed, City Attorney

First Reading: January 27, 2014
Second and Final Reading: February 10, 2014
Published:
Effective Date: February 22, 2014



----- CITY OF -----
LAKE STEVENS
 DRAFT MARIJUANA OVERLAY MAP

Features

- City of Lake Stevens
- Unincorporated UGA
- Protected Entities*
- 1000-Buffer

Subarea Zones

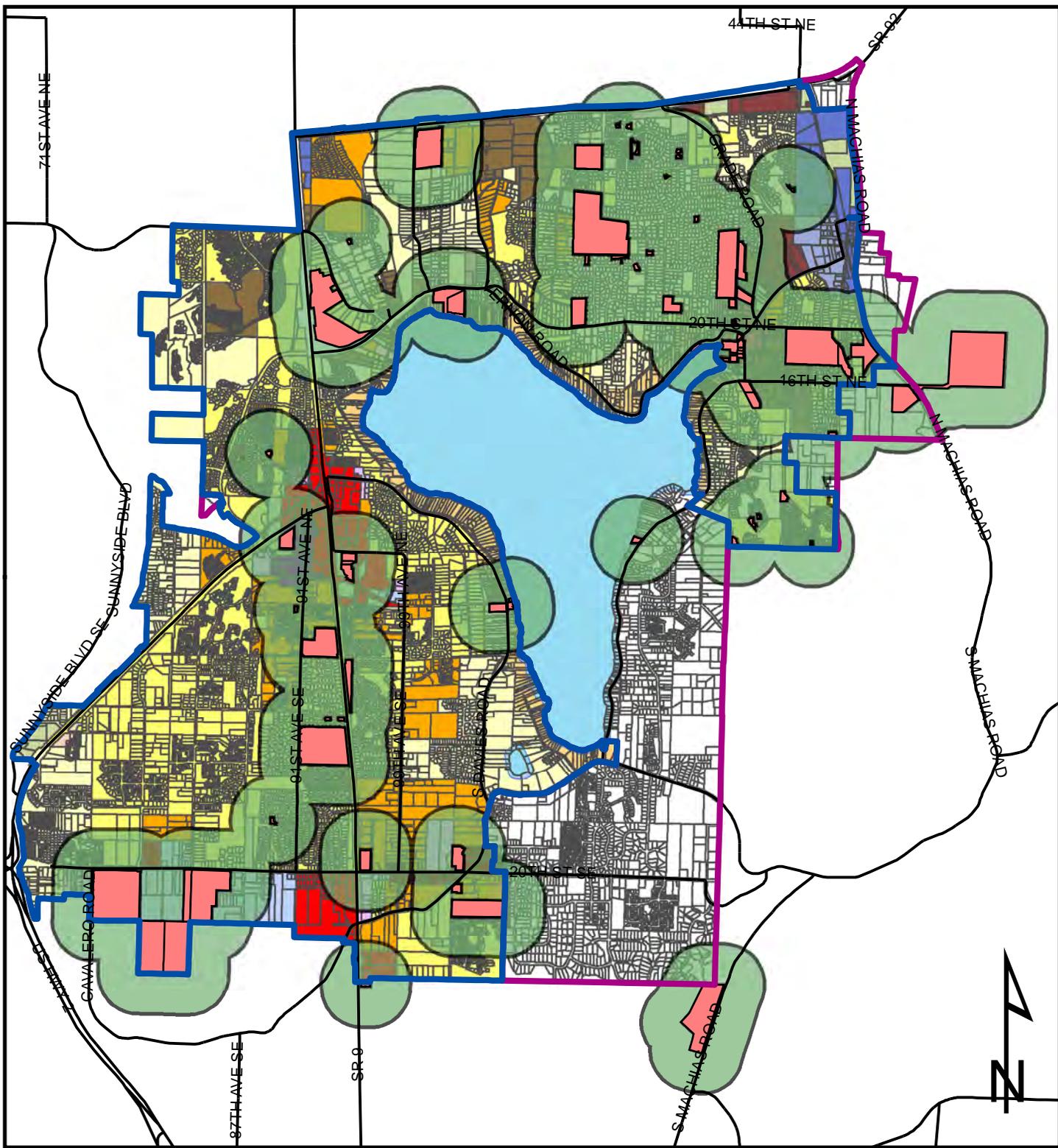
- Urban Residential (UR)
- High Urban Residential (HUR)
- Mixed-Use Neighborhood (MUN)
- Main Street (MS)
- Commercial District (CD)
- Neighborhood Business (NB)
- Business District (BD)
- Public / Semi-Public (P/SP)

City Zones

- Suburban Residential (SR)
- Urban Residential (UR)
- High Urban Residential (HUR)
- Waterfront Residential (WR)
- Multi-Family Residential (MFR)
- MF Development Agreement (MFDA)
- Local Business (LB)
- Mixed Use (MU)
- Central Business District (CBD)
- Planned Business District (PBD)
- Light Industrial (LI)
- General Industrial (GI)
- GI Development Agreement (GIDA)
- Public / Semi-Public (P/SP)

DRAFT 12-31-13

*Protected entities are those entities described in WAC 314-55-050 (10) and are subject to a 1,000 foot separation from marijuana facilities.





----- CITY OF -----
LAKE STEVENS
 DRAFT MARIJUANA OVERLAY MAP - NE

Features

- City of Lake Stevens
- Unincorporated UGA
- Protected Entities*
- 1000-Buffer

City Zones

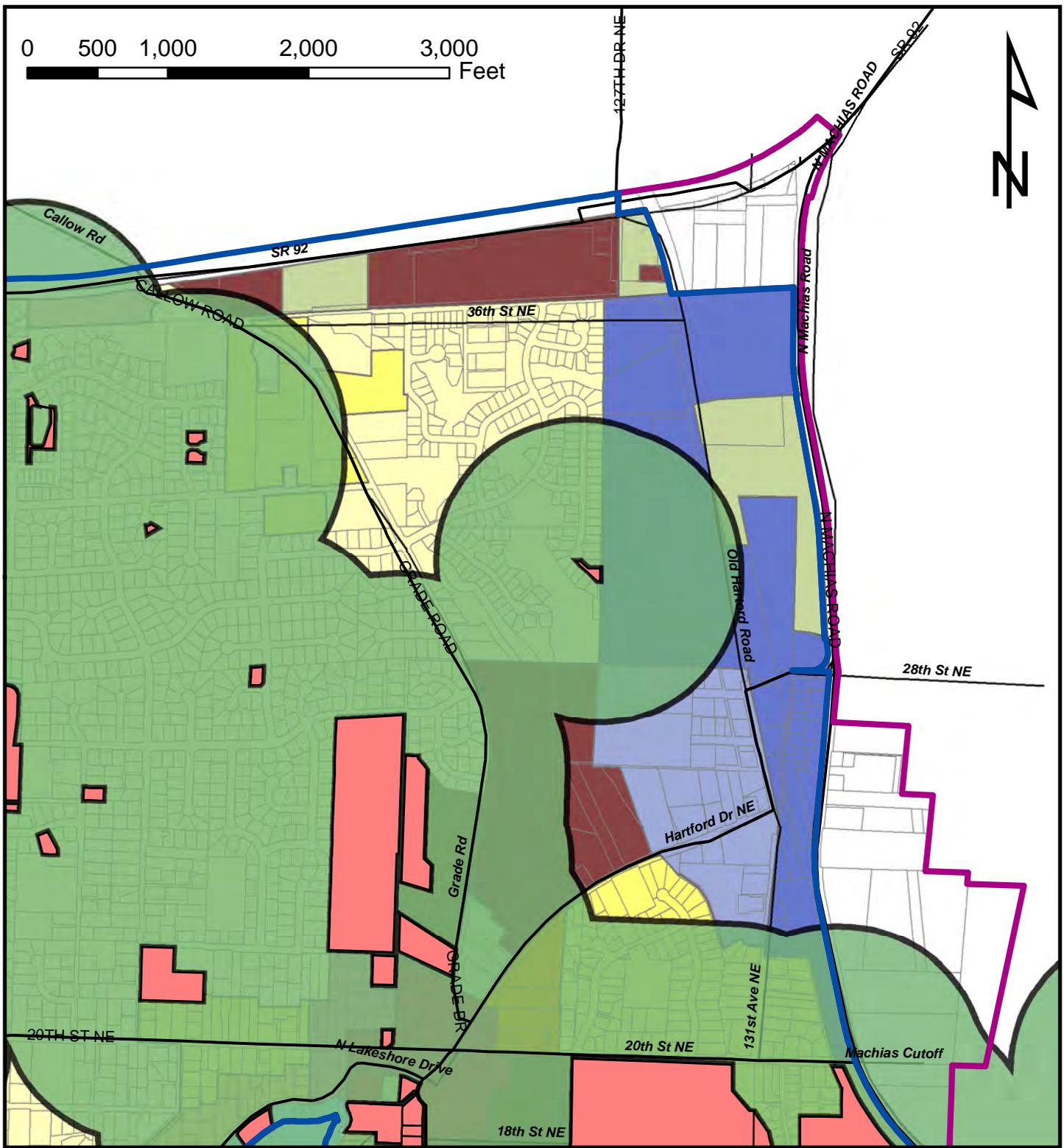
- Suburban Residential (SR)
- Urban Residential (UR)
- High Urban Residential (HUR)
- Waterfront Residential (WR)
- Multi-Family Residential (MFR)
- MF Development Agreement (MFDA)
- Local Business (LB)

- Mixed Use (MU)
- Central Business District (CBD)
- Planned Business District (PBD)
- Light Industrial (LI)
- General Industrial (GI)
- GI Development Agreement (GIDA)
- Public / Semi-Public (P/SP)

*Protected entities are those entities described in WAC 314-55-050 (10) and are subject to a 1,000 foot separation from marijuana facilities.

Properties outside the protective buffer with appropriate zoning may have marijuana uses subject to review & approval

DRAFT 12-31-13





CITY OF
LAKE STEVENS

DRAFT MARIJUANA OVERLAY MAP - LSC

Features

- City of Lake Stevens
- Unincorporated UGA
- Protected Entities*
- 1000-Buffer

Subarea Zones

- Urban Residential (UR)
- High Urban Residential (HUR)
- Mixed-Use Neighborhood (MUN)
- Main Street (MS)
- Commercial District (CD)
- Neighborhood Business (NB)
- Business District (BD)
- Public / Semi-Public (P/SP)

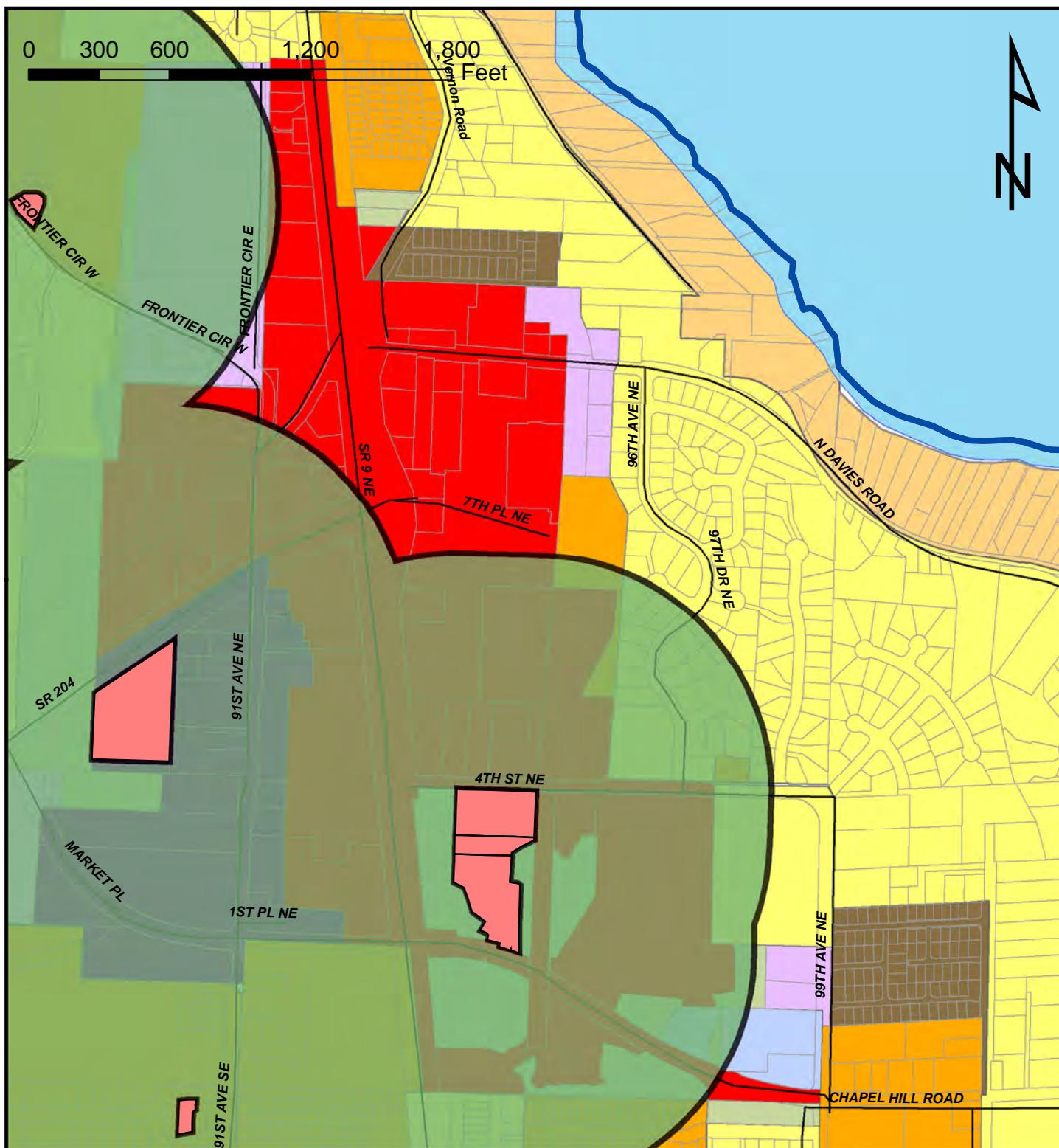
City Zones

- Suburban Residential (SR)
- Urban Residential (UR)
- High Urban Residential (HUR)
- Waterfront Residential (WR)
- Multi-Family Residential (MFR)
- MF Development Agreement (MFDA)
- Local Business (LB)
- Mixed Use (MU)
- Central Business District (CBD)
- Planned Business District (PBD)
- Light Industrial (LI)
- General Industrial (GI)
- GI Development Agreement (GIDA)
- Public / Semi-Public (P/SP)

DRAFT 12-31-13

*Protected entities are those entities described in WAC 314-55-050 (10) and are subject to a 1,000 foot separation from marijuana facilities.

Properties outside the protective buffer with appropriate zoning may have marijuana uses subject to review & approval





CITY OF
LAKE STEVENS

DRAFT MARIJUANA OVERLAY MAP - South

Features

- City of Lake Stevens
- Unincorporated UGA
- Protected Entities*
- 1000-Buffer

Subarea Zones

- Urban Residential (UR)
- High Urban Residential (HUR)
- Mixed-Use Neighborhood (MUN)
- Main Street (MS)
- Commercial District (CD)
- Neighborhood Business (NB)
- Business District (BD)
- Public / Semi-Public (P/SP)

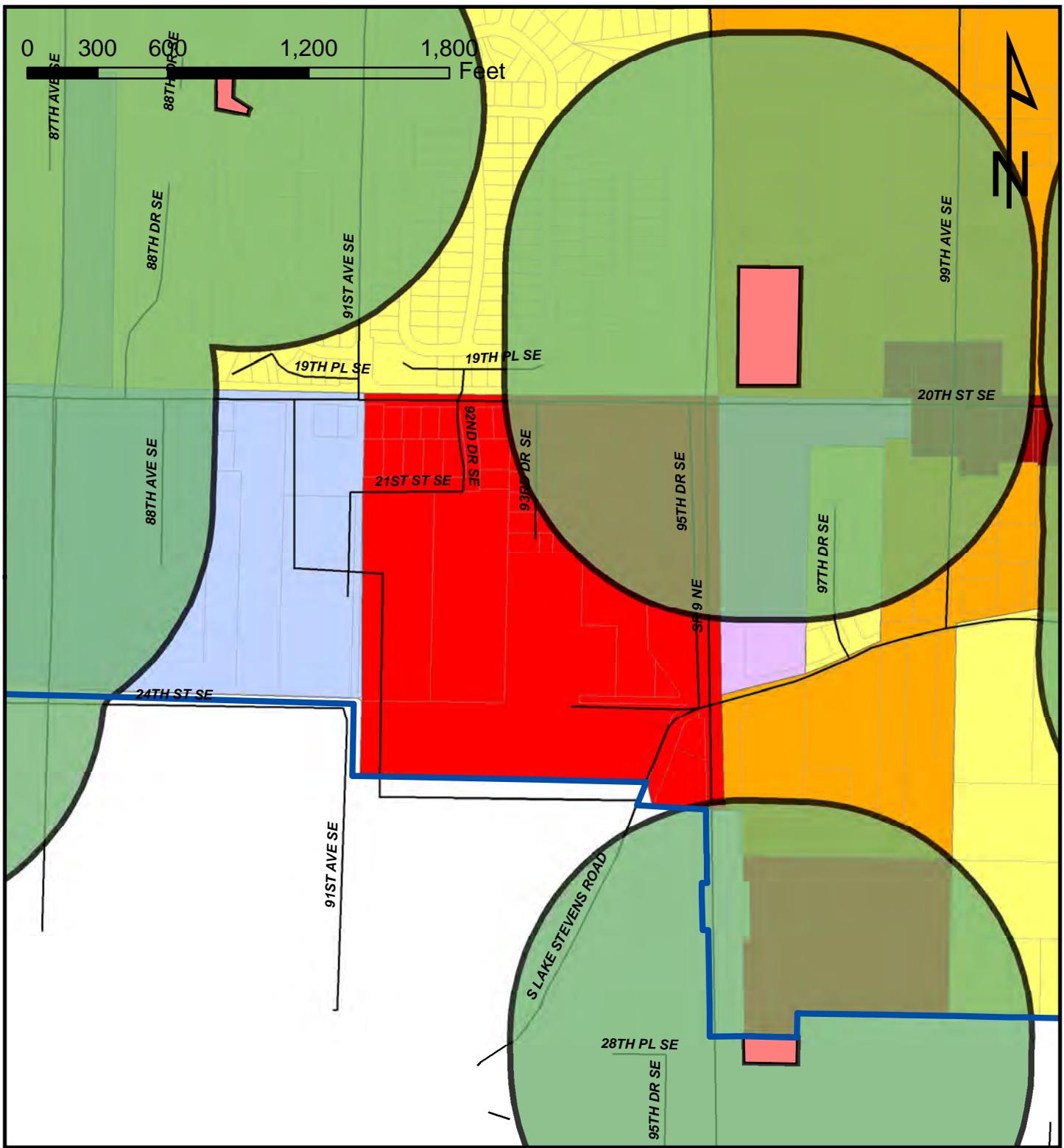
City Zones

- Suburban Residential (SR)
- Urban Residential (UR)
- High Urban Residential (HUR)
- Waterfront Residential (WR)
- Multi-Family Residential (MFR)
- MF Development Agreement (MFDA)
- Local Business (LB)
- Mixed Use (MU)
- Central Business District (CBD)
- Planned Business District (PBD)
- Light Industrial (LI)
- General Industrial (GI)
- GI Development Agreement (GIDA)
- Public / Semi-Public (P/SP)

DRAFT 12-20-13

*Protected entities are those entities described in WAC 314-55-050 (10) and are subject to a 1,000 foot separation from marijuana facilities.

Properties outside the protective buffer with appropriate zoning may have marijuana uses subject to review & approval





Memorandum

Date: January 15, 2014
To: Planning Commission
From: Russ Wright, Senior Planner
Subject: **Council Direction on I-502 Marijuana Regulations (LUA2013-0096)**

At the January 13, 2014 Council Meeting, staff presented four I-502 implementation options to City Council and requested that Council provide direction on a preferred option. Planning Commission comments, a review of actions taken by neighboring jurisdictions and an analysis of codes adopted by other Snohomish County jurisdictions formed the basis of the proposed options, which included:

1. Adopt permanent regulations for the licensing, production, processing and sale of marijuana and marijuana products pursuant to Chapter 314-55 WAC.
2. Adopt permanent regulations for the licensing, production, processing and sale of marijuana and marijuana products pursuant to Chapter 314-55 WAC, **with local amendments**.
3. Adopt interim regulations for a year to analyze impacts.
4. Prohibit the licensing, production, processing and sale of marijuana and marijuana products.

After a thorough discussion, **City Council directed staff to pursue Option 2 as the city's implementation strategy**, by consensus. Council rejected Option 1 because Council was more comfortable adopting regulations specifically tailored to the needs of Lake Stevens. Council rejected Option 3 because it felt the city should take a firm stance when implementing new regulations. Council also expressed concerns about vesting and potentially creating nonconforming uses if it adopted interim regulations. Council rejected Option 4 due to legal uncertainties related to a prohibition.

During its discussion of Option 2, Council supported separations between facilities and size restrictions for all marijuana facilities. Council noted a discrepancy between Subsections 14.44.097(d) (2) and (5) related to the 1000-foot separation. Staff proposes to modify **Subsection 14.44.097(d)(2)** to read,

"(2) No parcel containing a state-licensed marijuana facility shall be located within 1,000 feet of the perimeter of any other parcel containing a legally established, state-licensed marijuana facility. For the purposes of administering the 1,000 foot separation between parcels with state-licensed marijuana facilities, state-licensed marijuana facilities shall be considered legally established in the order in which they are issued a city business license."

Council asked if the city could regulate marijuana production as an agricultural use like Granite Falls is proposing. Under Table 14.40-I, agricultural uses are outright or conditionally permitted (this use category could be applied to marijuana production) in the Light Industrial and General Industrial zoning districts. Table 14.40-I also permits processing uses outright or conditionally as a manufacturing / processing use in these zones.

Council also asked about security requirements for marijuana facilities. WAC 314-55-083 establishes security requirements for marijuana facilities including identification, alarm systems, surveillance systems, products traceability, etc. The Liquor Control Board is responsible for oversight of security systems.

Council also discussed definitions, specifically the definition of “Public Park” and the exclusion of trails from this definition. Council asked if the city could locally amend this definition or other definitions. Staff noted marijuana-related definitions came directly from the Washington Administrative Code (WAC) 314-55-010. Staff discussed this issue previously with legal counsel from the Municipal Research Services Center, who advised it would be more prudent and legally sound to retain state definitions because the legislature authorized the Liquor Control Board to adopt state rules and definitions for statewide consistency. Following this discussion, Council directed staff to explore the feasibility of creating additional screening or buffering requirements for marijuana facilities adjacent to the Centennial Trail.

Staff proposes to modify **Section 14.76.090 Additional Screening Requirements** to read,

“(b) Due to the potential for adverse impacts, Light Industrial and General Industrial zoned properties directly abutting the Centennial Trail shall provide a Type A screen, pursuant to 14.76.040(a)(1) in areas abutting the Centennial Trail.”

Finally, Council asked if the city’s regulations could limit the extraction of marijuana derivatives, such as oils and other refined products. Various sections in Chapter 314-55 explicitly establish regulations for processor extractions and storage of derivatives. As state rules clearly allow this process and establish limits for the storage of subsequent products, restricting this type of processing would be in direct conflict with the WAC rules and not advisable for the same reasons noted not to amend definitions.

Staff submits Council’s policy direction and proposed changes to the draft regulations, identified in this memorandum, to the Planning Commission for its consideration as part of the public hearing.



January 17, 2014

Lake Stevens City Council
1812 Main Street
Lake Stevens, WA 98258

Subject: Planning Commission Recommendation I-502 Marijuana Regulations (LUA2013-0096)

Dear Council Members:

The Lake Stevens Planning Commission held a public hearing on Wednesday, January 15, 2014 to consider including regulations for the licensing, production, processing and sale of marijuana and marijuana products in the Lake Stevens Municipal Code, implementing Chapter 314-55 of the Washington Administrative Code.

Commissioners Present: Commissioners Barnet, Davis, Hoult, Huxford, Matlack, Petershagen, and Thurber

PLANNING COMMISSION PUBLIC HEARING (January 15, 2014)

Planning and Community Development staff presented the proposed code amendments, provided City Council's direction, summarized findings and conclusions from the staff report, and answered the Commission's questions. The Commission had questions related to proposed screening height (LSMC 14.44.097(d)2; relationship to medical marijuana facilities, definitions, tax distribution, gateway locations in relationship to proposed zoning, prohibition, and interim regulations.

Three residents were present at the public hearing. Two residents provided public testimony.

FINDINGS AND CONCLUSIONS

The Planning Commission hereby adopts staff's findings and conclusions, as outlined in the staff report dated January 15, 2014, and concludes that the proposed amendments:

- (1) Are consistent with the adopted Lake Stevens Comprehensive Plan;
- (2) Comply with the Growth Management Act; and
- (3) Advance the public health, safety and welfare.

PLANNING COMMISSION RECOMMENDATION

MOTION (Code Amendment) – Commissioner Matlack **RECOMMENDATION:** Forward a recommendation to the City Council to APPROVE Sections 1-8 of the draft regulations and the Council directed changes; motion carried (6-0-1-0). Vice-Chair Huxford abstained.

The commission also recommended Council consider/monitor the following issues:

- 1. Hours of Operation for marijuana businesses,
- 2. Study the impact to surrounding business; and
- 3. Study the likelihood of revenue enhancements to the city.

Respectfully submitted,

Lake Stevens Planning Commission

Gary Petershagen, Chair

Janice Huxford, Vice Chair

HOUSE BILL 2322

State of Washington 63rd Legislature 2014 Regular Session

By Representatives Sawyer, Condotta, Appleton, Kirby, Fey, Farrell, Fitzgibbon, Hunt, Reykdal, Springer, and Ryu

Read first time 01/15/14. Referred to Committee on Government Accountability & Oversight.

1 AN ACT Relating to prohibiting local governments from taking
2 actions preventing or impeding the creation or operation of commercial
3 marijuana businesses licensed by the liquor control board; amending RCW
4 66.08.170, 82.08.170, and 66.08.050; adding a new section to chapter
5 69.50 RCW; and declaring an emergency.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 NEW SECTION. **Sec. 1.** A new section is added to chapter 69.50 RCW
8 to read as follows:

9 (1) Cities, counties, and towns must cooperate with the liquor
10 control board with respect to the establishment within their
11 jurisdictional boundaries of businesses involved in the production,
12 processing, or sale of recreational marijuana where such businesses are
13 licensed under RCW 69.50.325. Subject to the regulatory requirements
14 of this chapter, licensed marijuana businesses attempting to locate
15 within the jurisdictional boundaries of a municipality must be treated
16 the same as other businesses within that jurisdiction with respect to
17 ordinances or regulations that include, but are not limited to, those
18 pertaining to local business licensing, zoning, and land use.

1 (2) Cities, counties, and towns are prohibited from enacting any
2 ordinance or other regulation pertaining to business licensing, zoning,
3 or land use that has the effect of preventing or impeding the
4 establishment of a recreational marijuana business licensed under RCW
5 69.50.325. In the event the liquor control board determines that a
6 municipality has engaged in regulatory practices that impede the
7 establishment of such businesses in violation of this section, the
8 liquor control board may:

9 (a) Penalize the offending municipality by making it ineligible to
10 receive any funds from the liquor revolving fund established in RCW
11 66.08.170 and the liquor excise tax fund established under RCW
12 82.08.170. Upon the determination that a municipality is ineligible to
13 receive moneys from such funds under this section, the liquor control
14 board may direct the state treasurer to withhold the revenues to which
15 a county, city, or town would otherwise be entitled from the liquor
16 revolving fund and the liquor excise tax fund. In the event the liquor
17 control board later determines that the offending municipality has
18 become compliant with the requirements of this section, it shall direct
19 the state treasurer to resume distributing revenues from these funds to
20 the municipality; and

21 (b) Bring legal action in superior court against the offending
22 municipality for injunctive relief for violations of this section. The
23 municipality shall pay all court costs and other litigation-related
24 expenses for legal actions brought under this section.

25 **Sec. 2.** RCW 66.08.170 and 2011 1st sp.s. c 50 s 959 are each
26 amended to read as follows:

27 (1) There shall be a fund, known as the "liquor revolving fund",
28 which shall consist of all license fees, permit fees, penalties,
29 forfeitures, and all other moneys, income, or revenue received by the
30 board. The state treasurer shall be custodian of the fund. All moneys
31 received by the board or any employee thereof, except for change funds
32 and an amount of petty cash as fixed by the board within the authority
33 of law shall be deposited each day in a depository approved by the
34 state treasurer and transferred to the state treasurer to be credited
35 to the liquor revolving fund. During the 2009-2011 fiscal biennium,
36 the legislature may transfer funds from the liquor revolving (~~account~~
37 ~~{fund}~~) fund to the state general fund and may direct an additional

1 amount of liquor profits to be distributed to local governments.
2 Neither the transfer of funds nor the additional distribution of liquor
3 profits to local governments during the 2009-2011 fiscal biennium may
4 reduce the excess fund distributions that otherwise would occur under
5 RCW 66.08.190. During the 2011-2013 fiscal biennium, the state
6 treasurer shall transfer from the liquor revolving fund to the state
7 general fund forty-two million five hundred thousand dollars for fiscal
8 year 2012 and forty-two million five hundred thousand dollars for
9 fiscal year 2013. The transfer during the 2011-2013 fiscal biennium
10 may not reduce the excess fund distributions that otherwise would occur
11 under RCW 66.08.190. Sales to licensees are exempt from any liquor
12 price increases that may result from the transfer of funds from the
13 liquor revolving fund to the state general fund during the 2011-2013
14 fiscal biennium. Disbursements from the revolving fund shall be on
15 authorization of the board or a duly authorized representative thereof.
16 In order to maintain an effective expenditure and revenue control the
17 liquor revolving fund shall be subject in all respects to chapter 43.88
18 RCW but no appropriation shall be required to permit expenditures and
19 payment of obligations from such fund.

20 (2) Transfers of funds to local governments from the liquor
21 revolving fund are subject to the provisions of section 1 of this act.
22 Local governments are ineligible to receive such funding if the liquor
23 control board determines that the local government is noncompliant with
24 the requirements of section 1 of this act.

25 **Sec. 3.** RCW 82.08.170 and 2012 2nd sp.s. c 5 s 4 are each amended
26 to read as follows:

27 (1) Except as provided in subsection (4) of this section, during
28 the months of January, April, July, and October of each year, the state
29 treasurer must make the transfers required under subsections (2) and
30 (3) of this section from the liquor excise tax fund and then the
31 apportionment and distribution of all remaining moneys in the liquor
32 excise tax fund to the counties, cities, and towns in the following
33 proportions: (a) Twenty percent of the moneys in the liquor excise tax
34 fund must be divided among and distributed to the counties of the state
35 in accordance with the provisions of RCW 66.08.200; and (b) eighty
36 percent of the moneys in the liquor excise tax fund must be divided

1 among and distributed to the cities and towns of the state in
2 accordance with the provisions of RCW 66.08.210.

3 (2) Each fiscal quarter and prior to making the twenty percent
4 distribution to counties under subsection (1)(a) of this section, the
5 treasurer shall transfer to the liquor revolving fund created in RCW
6 66.08.170 sufficient moneys to fund the allotments from any legislative
7 appropriations for county research and services as provided under
8 chapter 43.110 RCW.

9 (3) During the months of January, April, July, and October of each
10 year, the state treasurer must transfer two million five hundred
11 thousand dollars from the liquor excise tax fund to the state general
12 fund.

13 (4) During calendar year 2012, the October distribution under
14 subsection (1) of this section and the July and October transfers under
15 subsections (2) and (3) of this section must not be made. During
16 calendar year 2013, the January, April, and July distributions under
17 subsection (1) of this section and transfers under subsections (2) and
18 (3) of this section must not be made.

19 (5) All transfers of funds to local governments from the liquor
20 excise tax fund are subject to the provisions of section 1 of this act.
21 Local governments are ineligible to receive such funding if the liquor
22 control board determines that the local government is noncompliant with
23 the requirements of section 1 of this act.

24 **Sec. 4.** RCW 66.08.050 and 2012 c 2 s 107 are each amended to read
25 as follows:

26 The board, subject to the provisions of this title and the rules,
27 must:

28 (1) Determine the nature, form and capacity of all packages to be
29 used for containing liquor kept for sale under this title;

30 (2) Execute or cause to be executed, all contracts, papers, and
31 documents in the name of the board, under such regulations as the board
32 may fix;

33 (3) Pay all customs, duties, excises, charges and obligations
34 whatsoever relating to the business of the board;

35 (4) Require bonds from all employees in the discretion of the
36 board, and to determine the amount of fidelity bond of each such
37 employee;

1 (5) Perform services for the state lottery commission to such
2 extent, and for such compensation, as may be mutually agreed upon
3 between the board and the commission;

4 (6) Accept and deposit into the general fund-local account and
5 disburse, subject to appropriation, federal grants or other funds or
6 donations from any source for the purpose of improving public awareness
7 of the health risks associated with alcohol consumption by youth and
8 the abuse of alcohol by adults in Washington state. The board's
9 alcohol awareness program must cooperate with federal and state
10 agencies, interested organizations, and individuals to effect an active
11 public beverage alcohol awareness program;

12 (7) Perform all other matters and things, whether similar to the
13 foregoing or not, to carry out the provisions of this title and chapter
14 69.50 RCW regarding the production, processing, and sale of
15 recreational marijuana, and has full power to do each and every act
16 necessary to the conduct of its regulatory functions, including all
17 supplies procurement, preparation and approval of forms, and every
18 other undertaking necessary to perform its regulatory functions
19 whatsoever, subject only to audit by the state auditor. However, the
20 board has no authority to regulate the content of spoken language on
21 licensed premises where wine and other liquors are served and where
22 there is not a clear and present danger of disorderly conduct being
23 provoked by such language or to restrict advertising of lawful prices.

24 NEW SECTION. **Sec. 5.** This act is necessary for the immediate
25 preservation of the public peace, health, or safety, or support of the
26 state government and its existing public institutions, and takes effect
27 immediately.

--- END ---

HOUSE BILL 2638

State of Washington

63rd Legislature

2014 Regular Session

By Representative Wylie

1 AN ACT Relating to the establishment of state preemption of laws
2 and ordinances of local governments regarding provisions of the
3 controlled substances act, chapter 69.50 RCW; and amending RCW
4 69.50.608.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 **Sec. 1.** RCW 69.50.608 and 1989 c 271 s 601 are each amended to
7 read as follows:

8 (1) The state of Washington fully occupies and preempts the entire
9 field of the regulation of controlled substances under this chapter and
10 setting penalties for violations of the controlled substances act.
11 This preemption also includes, but is not limited to, statutory
12 provisions pertaining to licensing, marketing, taxation, production,
13 processing, and retail sale of marijuana.

14 (2) Cities, towns, and counties or other municipalities may enact
15 only those laws and ordinances relating to controlled substances that
16 are consistent with this chapter. Such local ordinances shall have the
17 same penalties, rules, and requirements as provided for by state law.
18 Local laws and ordinances that are inconsistent with the requirements
19 of state law, or that in any way have the effect of interfering with

Exhibit 7

1 the development, implementation, or maintenance of a state regulated
2 market regarding the production, processing, possession, or use of
3 legal marijuana, shall not be enacted and are preempted and
4 (~~repealed~~) unenforceable, regardless of the nature of the code,
5 charter, or home rule status of the city, town, county, or
6 municipality.

--- END ---

Exhibit 7
Opinion
ATTORNEY GENERAL
WASHINGTON

Robert W. Ferguson

Attorney General of Washington

**STATUTES—INITIATIVE AND REFERENDUM—ORDINANCES—COUNTIES—
CITIES AND TOWNS—PREEMPTION—POLICE POWERS—Whether Statewide
Initiative Establishing System For Licensing Marijuana Producers, Processors, And
Retailers Preempts Local Ordinances**

- 1. Initiative 502, which establishes a licensing and regulatory system for marijuana producers, processors, and retailers, does not preempt counties, cities, and towns from banning such businesses within their jurisdictions.**
- 2. Local ordinances that do not expressly ban state-licensed marijuana licensees from operating within the jurisdiction but make such operation impractical are valid if they properly exercise the local jurisdiction's police power.**

January 16, 2014

The Honorable Sharon Foster
Chair, Washington State Liquor Control Board
3000 Pacific Avenue SE
Olympia, WA 98504-3076

Cite As:
AGO 2014 No. 2

Dear Chair Foster:

By letter previously acknowledged, you have requested our opinion on the following paraphrased questions:

- 1. Are local governments preempted by state law from banning the location of a Washington State Liquor Control Board licensed marijuana producer, processor, or retailer within their jurisdiction?**
- 2. May a local government establish land use regulations (in excess of the Initiative 502 buffer and other Liquor Control Board requirements) or business license requirements in a fashion that makes it impractical for a licensed marijuana business to locate within their jurisdiction?**

BRIEF ANSWERS

1. No. Under Washington law, there is a strong presumption against finding that state law preempts local ordinances. Although Initiative 502 (I-502) establishes a licensing and regulatory system for marijuana producers, processors, and retailers in Washington State, it includes no clear indication that it was intended to preempt local authority to regulate such

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businesses. We therefore conclude that I-502 left in place the normal powers of local governments to regulate within their jurisdictions.

2. Yes. Local governments have broad authority to regulate within their jurisdictions, and nothing in I-502 limits that authority with respect to licensed marijuana businesses.

BACKGROUND

I-502 was approved by Washington voters on November 6, 2012, became effective 30 days thereafter, and is codified in RCW 69.50. It decriminalized under state law the possession of limited amounts of useable marijuana¹ and marijuana-infused products by persons twenty-one years or older. It also decriminalized under state law the production, delivery, distribution, and sale of marijuana, so long as such activities are conducted in accordance with the initiative's provisions and implementing regulations. It amended the implied consent laws to specify that anyone operating a motor vehicle is deemed to have consented to testing for the active chemical in marijuana, and amended the driving under the influence laws to make it a criminal offense to operate a motor vehicle under the influence of certain levels of marijuana.

I-502 also established a detailed licensing program for three categories of marijuana businesses: production, processing, and retail sales. The marijuana producer's license governs the production of marijuana for sale at wholesale to marijuana processors and other marijuana producers. RCW 69.50.325(1). The marijuana processor's license governs the processing, packaging, and labeling of useable marijuana and marijuana-infused products for sale at wholesale to marijuana retailers. RCW 69.50.325(2). The marijuana retailer's license governs the sale of useable marijuana and marijuana-infused products in retail stores. RCW 69.50.325(3).

Applicants for producer, processor, and retail sales licenses must identify the location of the proposed business. RCW 69.50.325(1), (2), (3). This helps ensure compliance with the requirement that "no license may be issued authorizing a marijuana business within one thousand feet of the perimeter of the grounds of any elementary or secondary school, playground, recreation center or facility, child care center, public park, public transit center, or library, or any game arcade admission to which is not restricted to persons aged twenty-one years or older." RCW 69.50.331(8).

Upon receipt of an application for a producer, processor, or retail sales license, the Liquor Control Board must give notice of the application to the appropriate local jurisdiction. RCW 69.50.331(7)(a) (requiring notice to the chief executive officer of the incorporated city or town if the application is for a license within an incorporated city or town, or the county legislative authority if the application is for a license outside the boundaries of incorporated

¹ Useable marijuana means "dried marijuana flowers" and does not include marijuana-infused products. RCW 69.50.101(II).

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cities or towns). The local jurisdiction may file written objections with respect to the applicant or the premises for which the new or renewed license is sought. RCW 69.50.331(7)(b).

The local jurisdictions' written objections must include a statement of all facts upon which the objections are based, and may include a request for a hearing, which the Liquor Control Board may grant at its discretion. RCW 69.50.331(7)(c). The Board must give "substantial weight" to a local jurisdiction's objections based upon chronic illegal activity associated with the applicant's operation of the premises proposed to be licensed, the applicant's operation of any other licensed premises, or the conduct of the applicant's patrons inside or outside the licensed premises. RCW 69.50.331(9). Chronic illegal activity is defined as a pervasive pattern of activity that threatens the public health, safety, and welfare, or an unreasonably high number of citations for driving under the influence associated with the applicant's or licensee's operation of any licensed premises. RCW 69.50.331(9).²

In addition to the licensing provisions in statute, I-502 directed the Board to adopt rules establishing the procedures and criteria necessary to supplement the licensing and regulatory system. This includes determining the maximum number of retail outlets that may be licensed in each county, taking into consideration population distribution, security and safety issues, and the provision of adequate access to licensed sources of useable marijuana and marijuana-infused products to discourage purchases from the illegal market. RCW 69.50.345(2). The Board has done so, capping the number of retail licenses in the least populated counties of Columbia County, Ferry County, and Wahkiakum County at one and the number in the most populated county of King County at 61, with a broad range in between. *See* WAC 314-55-081.

The Board also adopted rules establishing various requirements mandated or authorized by I-502 for locating and operating marijuana businesses on licensed premises, including minimum residency requirements, age restrictions, and background checks for licensees and employees; signage and advertising limitations; requirements for insurance, recordkeeping, reporting, and taxes; and detailed operating plans for security, traceability, employee qualifications and training, and destruction of waste. *See generally* WAC 314-55.

Additional requirements apply for each license category. Producers must describe plans for transporting products, growing operations, and testing procedures and protocols. WAC 314-55-020(9). Processors must describe plans for transporting products, processing operations, testing procedures and protocols, and packaging and labeling. WAC 314-55-020(9). Finally, retailers must also describe which products will be sold and how they will be displayed, and may only operate between 8 a.m. and 12 midnight. WAC 314-55-020(9), -147.

The rules also make clear that receipt of a license from the Liquor Control Board does not entitle the licensee to locate or operate a marijuana processing, producing, or retail business in violation of local rules or without any necessary approval from local jurisdictions. WAC 314-

² The provision for objections based upon chronic illegal activity is identical to one of the provisions for local jurisdictions to object to the granting or renewal of liquor licenses. RCW 66.24.010(12).

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-55-020(11) provides as follows: “The issuance or approval of a license shall not be construed as a license for, or an approval of, any violations of local rules or ordinances including, but not limited to: Building and fire codes, zoning ordinances, and business licensing requirements.”

ANALYSIS

Your question acknowledges that local governments have jurisdiction over land use issues like zoning and may exercise the option to issue business licenses. This authority comes from article XI, section 11 of the Washington Constitution, which provides that “[a]ny county, city, town or township may make and enforce within its limits all such local police, sanitary and other regulations as are not in conflict with general laws.” The limitation on this broad local authority requiring that such regulations not be “in conflict with general laws” means that state law can preempt local regulations and render them unconstitutional either by occupying the field of regulation, leaving no room for concurrent local jurisdiction, or by creating a conflict such that state and local laws cannot be harmonized. *Lawson v. City of Pasco*, 168 Wn.2d 675, 679, 230 P.3d 1038 (2010).

Local ordinances are entitled to a presumption of constitutionality. *State v. Kirwin*, 165 Wn.2d 818, 825, 203 P.3d 1044 (2009). Challengers to a local ordinance bear a heavy burden of proving it unconstitutional. *Id.* “Every presumption will be in favor of constitutionality.” *HJS Dev., Inc. v. Pierce County ex rel. Dep’t of Planning & Land Servs.*, 148 Wn.2d 451, 477, 61 P.3d 1141 (2003) (internal quotation marks omitted).

A. Field Preemption

Field preemption arises when a state regulatory system occupies the entire field of regulation on a particular issue, leaving no room for local regulation. *Lawson*, 168 Wn.2d at 679. Field preemption may be expressly stated or may be implicit in the purposes or facts and circumstances of the state regulatory system. *Id.*

I-502 does not express any indication that the state licensing and operating system preempts the field of marijuana regulation. Although I-502 was structured as a series of amendments to the controlled substances act, which does contain a preemption section, that section makes clear that state law “fully occupies and preempts the entire field of *setting penalties* for violations of the controlled substances act.” RCW 69.50.608 (emphasis added).³ It also allows “[c]ities, towns, and counties or other municipalities [to] enact only those laws and

³ RCW 69.50.608 provides: “The state of Washington fully occupies and preempts the entire field of setting penalties for violations of the controlled substances act. Cities, towns, and counties or other municipalities may enact only those laws and ordinances relating to controlled substances that are consistent with this chapter. Such local ordinances shall have the same penalties as provided for by state law. Local laws and ordinances that are inconsistent with the requirements of state law shall not be enacted and are preempted and repealed, regardless of the nature of the code, charter, or home rule status of the city, town, county, or municipality.” The Washington Supreme Court has interpreted this provision as giving local jurisdictions concurrent authority to criminalize drug-related activity. *City of Tacoma v. Luvene*, 118 Wn.2d 826, 835, 827 P.2d 1374 (1992).

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ordinances relating to controlled substances that are consistent with this chapter.” RCW 69.50.608. Nothing in this language expresses an intent to preempt the entire field of regulating businesses licensed under I-502.

With respect to implied field preemption, the “legislative intent” of an initiative is derived from the collective intent of the people and can be ascertained by material in the official voter’s pamphlet. *Dep’t of Revenue v. Hoppe*, 82 Wn.2d 549, 552, 512 P.2d 1094 (1973); *see also Roe v. TeleTech Customer Care Mgmt., LLC*, 171 Wn.2d 736, 752-53, 257 P.3d 586 (2011). Nothing in the official voter’s pamphlet evidences a collective intent for the state regulatory system to preempt the entire field of marijuana business licensing or operation. Voters’ Pamphlet 23-30 (2012). Moreover, both your letter and the Liquor Control Board’s rules recognize the authority of local jurisdictions to impose regulations on state licensees. These facts, in addition to the absence of express intent suggesting otherwise, make clear that I-502 and its implementing regulations do not occupy the entire field of marijuana business regulation.

B. Conflict Preemption

Conflict preemption arises “when an ordinance permits what state law forbids or forbids what state law permits.” *Lawson*, 168 Wn.2d at 682. An ordinance is constitutionally invalid if it directly and irreconcilably conflicts with the statute such that the two cannot be harmonized. *Id.*; *Weden v. San Juan County*, 135 Wn.2d 678, 693, 958 P.2d 273 (1998). Because “[e]very presumption will be in favor of constitutionality,” courts make every effort to reconcile state and local law if possible. *HJS Dev.*, 148 Wn.2d at 477 (internal quotation marks omitted). We adopt this same deference to local jurisdictions.

An ordinance banning a particular activity directly and irreconcilably conflicts with state law when state law specifically entitles one to engage in that same activity in circumstances outlawed by the local ordinance. For example, in *Entertainment Industry Coalition v. Tacoma-Pierce County Health Department*, 153 Wn.2d 657, 661-63, 105 P.3d 985 (2005), the state law in effect at the time banned smoking in public places except in designated smoking areas, and specifically authorized owners of certain businesses to designate smoking areas. The state law provided, in relevant part: “A smoking area may be designated in a public place by the owner” Former RCW 70.160.040(1) (2004), *repealed by* Laws of 2006, ch. 2, § 7(2) (Initiative Measure 901). The Tacoma-Pierce County Health Department ordinance at issue banned smoking in all public places. The Washington Supreme Court struck down the ordinance as directly and irreconcilably conflicting with state law because it prohibited what the state law authorized: the business owner’s choice whether to authorize a smoking area.

Similarly, in *Parkland Light & Water Co. v. Tacoma-Pierce County Board of Health*, 151 Wn.2d 428, 90 P.3d 37 (2004), the Washington Supreme Court invalidated a Tacoma-Pierce County Health Department ordinance requiring fluoridated water. The state law at issue authorized the water districts to decide whether to fluoridate, saying: “A water district by a

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majority vote of its board of commissioners may fluoridate the water supply system of the water district.” RCW 57.08.012. The Court interpreted this provision as giving water districts the ability to regulate the content and supply of their water systems. *Parkland Light & Water Co.*, 151 Wn.2d at 433. The local health department’s attempt to require fluoridation conflicted with the state law expressly giving that choice to the water districts. As they could not be reconciled, the Court struck down the ordinance as unconstitutional under conflict preemption analysis.

By contrast, Washington courts have consistently upheld local ordinances banning an activity when state law regulates the activity but does not grant an unfettered right or entitlement to engage in that activity. In *Weden v. San Juan County*, the Court upheld the constitutionality of the County’s prohibition on motorized personal watercraft in all marine waters and one lake in San Juan County. The state laws at issue created registration and safety requirements for vessels and prohibited operation of unregistered vessels. The Court rejected the argument that state regulation of vessels constituted permission to operate vessels anywhere in the state, saying, “[n]owhere in the language of the statute can it be suggested that the statute creates an unabridged right to operate [personal watercraft] in all waters throughout the state.” *Weden*, 135 Wn.2d at 695. The Court further explained that “[r]egistration of a vessel is nothing more than a precondition to operating a boat.” *Id.* “No unconditional right is granted by obtaining such registration.” *Id.* Recognizing that statutes often impose preconditions without granting unrestricted permission to participate in an activity, the Court also noted the following examples: “[p]urchasing a hunting license is a precondition to hunting, but the license certainly does not allow hunting of endangered species or hunting inside the Seattle city limits,” and “[r]eaching the age of 16 is a precondition to driving a car, but reaching 16 does not create an unrestricted right to drive a car however and wherever one desires.” *Id.* at 695 (internal citation omitted).

Relevant here, the dissent in *Weden* argued: “Where a state statute licenses a particular activity, counties may enact reasonable regulations of the licensed activity within their borders but they may not prohibit same outright[,]” and that an ordinance banning the activity “renders the state permit a license to do nothing at all.” *Weden*, 135 Wn.2d at 720, 722 (Sanders, J., dissenting). The majority rejected this approach, characterizing the state law as creating not an unabridged right to operate personal watercraft in the state, but rather a registration requirement that amounted only to a precondition to operating a boat in the state.

In *State ex rel. Schillberg v. Everett District Justice Court*, 92 Wn.2d 106, 594 P.2d 448 (1979), the Washington Supreme Court similarly upheld a local ban on internal combustion motors on certain lakes. The Court explained: “A statute will not be construed as taking away the power of a municipality to legislate unless this intent is clearly and expressly stated.” *Id.* at 108. The Court found no conflict because nothing in the state laws requiring safe operation of vessels either expressly or impliedly provided that vessels would be allowed on all waters of the state.

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The Washington Supreme Court also rejected a conflict preemption challenge to the City of Pasco's ordinance prohibiting placement of recreational vehicles within mobile home parks. *Lawson*, 168 Wn.2d at 683-84. Although state law regulated rights and duties arising from mobile home tenancies and recognized that such tenancies may include recreational vehicles, the Court reasoned "[t]he statute does not forbid recreational vehicles from being placed in the lots, nor does it create a right enabling their placement." *Id.* at 683. The state law simply regulated recreational vehicle tenancies, where such tenancies exist, but did not prevent municipalities from deciding whether or not to allow them. *Id.* at 684.

Accordingly, the question whether "an ordinance . . . forbids what state law permits" is more complex than it initially appears. *Lawson*, 168 Wn.2d at 682. The question is not whether state law permits an activity in some places or in some general sense; even "[t]he fact that an activity may be licensed under state law does not lead to the conclusion that it must be permitted under local law." *Rabon v. City of Seattle*, 135 Wn.2d 278, 292, 957 P.2d 621 (1998) (finding no preemption where state law authorized licensing of "dangerous dogs" while city ordinance forbade ownership of "vicious animals"). Rather, a challenger must meet the heavy burden of proving that state law creates an entitlement to engage in an activity in circumstances outlawed by the local ordinance. For example, the state laws authorizing business owners to designate smoking areas and water districts to decide whether to fluoridate their water systems amounted to statewide entitlements that local jurisdictions could not take away. But the state laws requiring that vessels be registered and operated safely and regulating recreational vehicles in mobile home tenancies simply contemplated that those activities would occur in some places and established preconditions; they did not, however, override the local jurisdictions' decisions to prohibit such activities.

Here, I-502 authorizes the Liquor Control Board to issue licenses for marijuana producers, processors, and retailers. Whether these licenses amount to an entitlement to engage in such businesses regardless of local law or constitute regulatory preconditions to engaging in such businesses is the key question, and requires a close examination of the statutory language.

RCW 69.50.325 provides, in relevant part:

(1) There shall be a marijuana producer's license to produce marijuana for sale at wholesale to marijuana processors and other marijuana producers, regulated by the state liquor control board and subject to annual renewal. . . .

(2) There shall be a marijuana processor's license to process, package, and label useable marijuana and marijuana-infused products for sale at wholesale to marijuana retailers, regulated by the state liquor control board and subject to annual renewal. . . .

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(3) There shall be a marijuana retailer's license to sell useable marijuana and marijuana-infused products at retail in retail outlets, regulated by the state liquor control board and subject to annual renewal. . . .

RCW 69.50.325(1)-(3). Each of these subsections also includes language providing that activities related to such licenses are not criminal or civil offenses under Washington state law, provided they comply with I-502 and the Board's rules, and that the licenses shall be issued in the name of the applicant and shall specify the location at which the applicant intends to operate. They also establish fees for issuance and renewal and clarify that a separate license is required for each location at which the applicant intends to operate. RCW 69.50.325.

While these provisions clearly authorize the Board to issue licenses for marijuana producers, processors, and retail sales, they lack the definitive sort of language that would be necessary to meet the heavy burden of showing state preemption. They simply state that there "shall be a . . . license" and that engaging in such activities with a license "shall not be a criminal or civil offense under Washington state law." RCW 69.50.325(1). Decriminalizing such activities under state law and imposing restrictions on licensees does not amount to entitling one to engage in such businesses regardless of local law. Given that "every presumption" is in favor of upholding local ordinances (*HJS Dev., Inc.*, 148 Wn.2d at 477), we find no irreconcilable conflict between I-502's licensing system and the ability of local governments to prohibit licensees from operating in their jurisdictions.

We have considered and rejected a number of counterarguments in reaching this conclusion. First, one could argue that the statute, in allowing Board approval of licenses at specific locations (RCW 69.50.325(1), (2), (3)), assumes that the Board can approve a license at any location in any jurisdiction. This argument proves far too much, however, for it suggests that a license from the Board could override any local zoning ordinance, even one unrelated to I-502. For example, I-502 plainly would not authorize a licensed marijuana retailer to locate in an area where a local jurisdiction's zoning allows no retail stores of any kind. The Board's own rules confirm this: "The issuance or approval of a license shall not be construed as a license for, or an approval of, any violations of local rules or ordinances including, but not limited to: Building and fire codes, zoning ordinances, and business licensing requirements." WAC 314-55-020(11).

Second, one could argue that a local jurisdiction's prohibition on marijuana licensees conflicts with the provision in I-502 authorizing the Board to establish a maximum number of licensed retail outlets in each county. RCW 69.50.345(2); *see also* RCW 69.50.354. But there is no irreconcilable conflict here, because the Board is allowed to set only a *maximum*, and nothing in I-502 mandates a minimum number of licensees in any jurisdiction. The drafters of I-502 certainly could have provided for a minimum number of licensees per jurisdiction, which would have been a stronger indicator of preemptive intent, but they did not.

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Third, one could argue that because local jurisdictions are allowed to object to specific license applications and the Board is allowed to override those objections and grant the license anyway (RCW 69.50.331(7), (9)); local jurisdictions cannot have the power to ban licensees altogether. But such a ban can be harmonized with the objection process; while some jurisdictions might want to ban I-502 licensees altogether, others might want to allow them but still object to specific applicants or locations. Indeed, this is the system established under the state liquor statutes, which I-502 copied in many ways. *Compare* RCW 69.50.331 with RCW 66.24.010 (governing the issuance of marijuana licenses and liquor licenses, respectively, in parallel terms and including provisions for local government input regarding licensure). The state laws governing liquor allow local governments to object to specific applications (RCW 66.24.010), while also expressly authorizing local areas to prohibit the sale of liquor altogether. *See generally* RCW 66.40. That the liquor opt out statute coexists with the liquor licensing notice and comment process undermines any argument that a local marijuana ban irreconcilably conflicts with the marijuana licensing notice and comment opportunity.

Fourth, RCW 66.40 expressly allows local governments to ban the sale of liquor. Some may argue that by omitting such a provision, I-502's drafters implied an intent to bar local governments from banning the sale of marijuana. Intent to preempt, however, must be "clearly and expressly stated." *State ex rel. Schillberg*, 92 Wn.2d at 108. Moreover, it is important to remember that cities, towns, and counties derive their police power from article XI, section 11 of the Washington Constitution, not from statute. Thus, the relevant question is not whether the initiative provided local jurisdictions with such authority, but whether it removed local jurisdictions' preexisting authority.

Finally, in reaching this conclusion, we are mindful that if a large number of jurisdictions were to ban licensees, it could interfere with the measure's intent to supplant the illegal marijuana market. But this potential consequence is insufficient to overcome the lack of clear preemptive language or intent in the initiative itself. The drafters of the initiative certainly could have used clear language preempting local bans. They did not. The legislature, or the people by initiative, can address this potential issue if it actually comes to pass.

With respect to your second question, about whether local jurisdictions can impose regulations making it "impractical" for I-502 licensees to locate and operate within their boundaries, the answer depends on whether such regulations constitute a valid exercise of the police power or otherwise conflict with state law. As a general matter, as discussed above, the Washington Constitution provides broad authority for local jurisdictions to regulate within their boundaries and impose land use and business licensing requirements. Ordinances must be a reasonable exercise of a jurisdiction's police power in order to pass muster under article XI, section 11 of the state constitution. *Weden*, 135 Wn.2d at 700. A law is a reasonable regulation if it promotes public safety, health, or welfare and bears a reasonable and substantial relation to accomplishing the purpose pursued. *Id.* (applying this test to the personal watercraft ordinance); *see also Duckworth v. City of Bonney Lake*, 91 Wn.2d 19, 26, 586 P.2d 860 (1978) (applying this

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test to a zoning ordinance). Assuming local ordinances satisfy this test, and that no other constitutional or statutory basis for a challenge is presented on particular facts, we see no impediment to jurisdictions imposing additional regulatory requirements, although whether a particular ordinance satisfies this standard would of course depend on the specific facts in each case.

We trust that the foregoing will be useful to you.



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City of Lake Stevens

Memo

To: Council
From: Mayor Little
Re: Park Board Reappointments
Date: January 27, 2014

To the **Park Board**, I am recommending reappointment of Terry Van Wyck, Marlene Sweet, and Leland Adams.

With these reappointments the Park Board will continue with full membership.



LAKE STEVENS CITY COUNCIL
STAFF REPORT

Council Agenda Date: January 21, 2014

Subject: **ORDINANCE NO. 907**

AN ORDINANCE OF THE CITY OF LAKE STEVENS, WASHINGTON
ENACTING LAKE STEVENS MUNICIPAL CODE CHAPTER 7.18, ENTITLED
"TOW TRUCK BUSINESSES USED BY THE CITY", PROVIDING FOR
SEVERABILITY AND AN EFFECTIVE DATE

Contact Person/Department: Chief Dan Lorentzen Budget Impact: N/A

RECOMMENDATION(S)/ACTION REQUESTED OF COUNCIL: Adopt Ordinance 907, amending Lake Stevens Municipal Code to add Chapter 7.18 "Tow Truck Businesses used by the City."

SUMMARY/BACKGROUND: The City currently pays market rate for tow truck services for vehicles impounded as evidence and for mobilizing City owned vehicles (Between \$275 - \$400). The adoption of this chapter will allow the City to produce a Request for Proposals (RFP) for tow truck services at a flat rate (Estimated to be between \$95 - \$125).

APPLICABLE CITY POLICIES:

BUDGET IMPACT: N/A

ATTACHMENTS:

- ▶ Exhibit A: LAKE STEVENS MUNICIPAL CODE CHAPTER 7.18, TOW TRUCK BUSINESSES USED BY THE CITY

**CITY OF LAKE STEVENS
LAKE STEVENS, WASHINGTON**

ORDINANCE NO. 907

AN ORDINANCE OF THE CITY OF LAKE STEVENS, WASHINGTON ENACTING LAKE STEVENS MUNICIPAL CODE CHAPTER 7.18, ENTITLED "TOW TRUCK BUSINESSES USED BY THE CITY", PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE

WHEREAS, the City desires to provide for impartial referral of City initiated towing business to tow truck operators and to regulate impound and storage facilities for tow truck businesses;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAKE STEVENS DO ORDAIN AS FOLLOWS:

SECTION 1. A new Chapter 7.18, entitled "Tow Truck Businesses Used by the City" is hereby enacted and shall be added to Lake Stevens Municipal Code Title 7, Vehicles and Traffic, which shall read as follows:

**Chapter 7.18
TOW TRUCK BUSINESSES USED
BY THE CITY**

Sections:

- 7.18.010 Purpose of provisions.**
- 7.18.020 Definitions.**
- 7.18.030 List of qualified tow truck operators.**
- 7.18.040 Qualifications.**
- 7.18.050 Practices and procedures.**
- 7.18.060 Appeals.**

7.18.010 Purpose.

The purpose of this chapter is to provide for impartial referral of City business to tow truck operators who are best qualified to serve the interests of persons within the City limits and to provide for regulations relating to impound and storage facilities for tow truck businesses whether referred by the City or not. This chapter supplements the regulation of tow truck operators by the Washington State Department of Licensing and the Washington State Patrol pursuant to Chapter 46.55 RCW. Any inconsistencies between state regulations and this chapter shall be resolved in favor of the state regulations.

7.18.020 Definitions.

(1) "Police department" means the City of Lake Stevens Police Department, and any of its uniformed officers, including on-duty reserve officers.

(2) "Tow truck" means a motor vehicle which is equipped for and used in the business of towing vehicles with equipment as approved by the Washington State Patrol.

(3) "Tow truck business" means the transporting upon public streets and highways of the City of vehicles, together with personal effects and cargo, by a tow truck of a registered operator.

(4) "Tow truck operator" means any person who engages in the impounding, transporting or storage of unauthorized vehicles, { of unauthorized what?} or the disposal of, abandoned vehicles.

7.18.030 List of qualified tow truck operators.

(1) The police department shall establish and maintain a list of tow truck operators who meet the qualifications of this chapter and who are willing to accept police impounds and police referrals subject to the conditions of this chapter.

(2) Whenever police officers are called upon to impound a vehicle or refer a vehicle owner to a tow truck operator, the officers shall use the police department list of qualified tow truck operators referred to herein. The officers shall impartially rotate through all operators on the list and shall make reasonable attempts to provide an equal opportunity for business to all such operators; provided, that nothing herein shall be construed as granting any tow truck operator a vested right to do police impounds or other police-related towing services and nothing contained herein shall give rise to claims or liability against the City for failure to strictly adhere to the policies and procedure contained herein.

(3) Nothing herein shall preclude any vehicle owner or operator from requesting services from a tow truck operator of such owner or operator's choice, unless, in the opinion of the police department, the accommodation of such request would result in undue delay, an impact or potential impact to public safety, or a hazardous situation or condition.

(4) The list of qualified tow truck operators shall be reviewed by the police department at least annually to determine if the operators are still in compliance with the requirements of this chapter. A willful violation of any of the requirements of this chapter shall be cause for the police chief to suspend a tow truck operator from the list. Written notice of such suspension, and the terms thereof, shall be immediately sent to the tow truck operator. If any tow truck operator suffers three or more suspensions in a five year period, the police chief may permanently remove such operator from the list. A suspension or removal from the list is subject to appeal as provided in Lake Stevens Municipal Code 7.18.060.

7.18.040 Qualifications.

In order to qualify to be placed on the list of qualified tow truck operators, and to maintain qualification, for the police department's list or to conduct any business within the City limits, a tow truck business must comply with or satisfy all of the following requirements:

(1) The tow truck business must hold a current business license from the City of Lake Stevens. Provided, Ordinance No. 907

tow truck businesses located outside of the Lake Stevens City limits while towing vehicles at the request of the owner of said vehicle into, out of, or within the City of Lake Stevens shall not be required to have a Lake Stevens business license. (Reference Lake Stevens Municipal Code 4.04.040(b)(7))

(2) The tow truck operator must have a current registration with the State Department of Licensing.

(3) The tow truck business must have a registered office address within ten (10) miles of the City limits of the City of Lake Stevens.

(4) The tow truck business must maintain a secure storage/redemption yard within ten (10) miles of the City limits of the City of Lake Stevens. Such storage/redemption yard shall comply with the State Department of Licensing requirements for registered disposers (WAC 308-61-110). All vehicles impounded within the City of Lake Stevens must be taken to said yard unless otherwise requested by the vehicle owner. Repeated losses or thefts of property from stored vehicles may result in suspension or removal of the tow truck operator from the police department's list.

(5) The tow truck business must have at least two tow trucks available for Lake Stevens business. Such tow trucks shall have a minimum manufacturer's gross weight of 18,000 pounds and shall be equipped with dual tires on the rear axle or duplex-type tires, sometimes referred to as "super single," with a load rating that is comparable to the dual-tire rating. Tow trucks shall meet all regulations of the State Department of Licensing; provided, however, tow truck businesses that do not wish to qualify for the police department's list but otherwise wish to conduct tow truck business within the City limits shall not be required to have at least two tow trucks available for Lake Stevens business; provided, further, tow truck business who tow vehicles at the request of the owner or operator of said vehicle shall not be required to comply with subsections (3), (4) and (5) of this section.

7.18.050 Practices and procedures.

In order to continue its qualified status on the police department's list, a tow truck operator shall comply with the following practices and procedures with respect to all business obtained through police department calls or referrals:

(1) The tow truck operator must consistently abide by the fee schedule filed with the State Department of Licensing and there shall be no supplemental fees or additional charges which do not appear on the schedule.

(2) The response time between the initial telephone call from the police department to a tow truck operator and the arrival of the tow truck at the location of a vehicle within the City, shall not exceed 60 minutes. If for any reason a tow truck operator is unable, or fails, to respond within such time limits, it may forfeit its turn on the rotation list and the police department may contact another tow truck operator. Consistent refusal or failure to respond to calls from the police department may result in suspension or removal from the list.

- (3) A tow truck operator shall advise the police department when it receives a private call for a tow and the circumstances indicate that the tow is for a vehicle which has been involved in an accident or other such incident on a public roadway, or when an accident or incident on private property has resulted in bodily injury or death.
- (4) A tow truck operator will notify the police department before moving any vehicle involved in an accident or incident on a public highway, or where it appears to the tow truck operator that the driver of the vehicle to be moved is under the influence of intoxicants or drugs or is otherwise incapacitated.
- (5) When the police department is in charge of an accident scene or other such incident, a tow truck operator shall not respond to such scene unless its services have been specifically requested by the police department or by the vehicle operator/owner or his agent.
- (6) The tow truck operator shall be available 24 hours a day, 7 days a week for the purpose of receiving calls and releasing vehicles.
- (7) The tow truck operator shall notify the police department of the release of impounded vehicles within 24 hours after the release of such vehicles. Notification to the police department will be made in such manner as is prescribed by the chief of police.
- (8) The interiors of the tow trucks will be reasonably clean.
- (9) Tow truck drivers will clean accident/incident scenes of all glass and debris.
- (10) All equipment used in conjunction with a tow truck must be in compliance with the manufacturer's basic boom rating.

7.18.060 Appeals.

If the police chief suspends or removes a tow truck operator from the City's list, as provided in this chapter, written notice of the same shall be immediately sent to the tow truck operator at its place of business. The suspension or removal shall not be effective for a period of 10 days following the date thereof. If within the 10-day period, the tow truck operator files a written appeal with the City Clerk, the effectiveness of the order of suspension or removal shall be stayed until the City Land Use Hearing Examiner holds a hearing on the appeal. The City Land Use Hearing Examiner is hereby delegated authority to conduct said appeal hearings. The tow truck operator shall be given notice of the hearing date. The City hearing examiner may affirm, modify or reverse an order of suspension or removal. The police chief must demonstrate, by a preponderance of the evidence that the tow truck operator is in violation of any provisions of this chapter. The decision of the City hearing examiner shall be immediately effective and shall be final.

SECTION 2. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or

unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

SECTION 3. Effective Date and Publication. A summary of this ordinance consisting of its title shall be published in the official newspaper of the City. This ordinance shall take effect and be in force five (5) days after the date of publication.

PASSED by the City Council of the City of Lake Stevens this ____ day of _____, 2014.

Vern Little, Mayor

ATTEST/AUTHENTICATION:

Norma J. Scott, City Clerk/Admin Asst

APPROVED AS TO FORM:

Grant K. Weed, City Attorney

First Reading:
Second Reading:
Third and Final Reading:
Published:
Effective: