



## PLANNING COMMISSION AGENDA

Regular Meeting Date: 12.02.2015

Planning Commission  
Meeting:

First Wednesday of every  
Month @ 7:00pm

Planning & Community  
Development Department

1812 Main Street  
Lake Stevens, WA 98258  
(425) 377-3235

[www.lakestevenswa.gov](http://www.lakestevenswa.gov)

Municipal Code

Available online:

[www.codepublishing.com/WA/LakeStevens/](http://www.codepublishing.com/WA/LakeStevens/)

- A. **CALL TO ORDER: 7:00pm**  
Pledge of Allegiance
- B. **ROLL CALL**
- C. **GUEST BUSINESS**
- D. **ACTION ITEMS**
  - 1. Approval of 11.04.2015 Meeting Minutes
  - 2. Rules and Procedures
- F. **DISCUSSION ITEMS**
  - 1. Critical Areas Introduction— Lucas\*
  - 2. Marijuana Regulations — Wright\*
- G. **COMMISSIONER REPORTS**
- H. **PLANNING DIRECTOR / STAFF REPORTS**
- I. **ADJOURN**

\*Items attached

\*\*Items previously  
distributed

# Items to be  
distributed

### 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, at (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,*

## PLANNING COMMISSION REGULAR MEETING MINUTES

Community Center  
1808 Main Street, Lake Stevens  
Wednesday, November 4, 2015

CALL TO ORDER: 7:00 pm by Chair Tom Matlack

MEMBERS PRESENT: Chair Tom Matlack, Vice Chair Jennifer Davis, Janice Huxford, Linda Hoult, Gary Petershagen, Vicky Oslund

MEMBERS ABSENT: None

STAFF PRESENT: Lead Senior Planner Russ Wright and Clerk Jill Meis

OTHERS PRESENT: Sally Jo Sebring, Tracey Trout, Dick Todd, Bernadette Miranda-Seguín, Danica (last name not given)

---

**Excused Absence:** None

**Guest business:** Sally Jo Sebring wanted an easier way to reach out to Planning Commissioners. She also asked for clarification on the Rules and Procedures when the term “unison” was used and if that meant the decision was unanimous or the decision was rendered by the Planning Commissioners at the same time.

**Announcements:** Lead Senior Planner Wright announced Director Rebecca Ableman McCrary will be leaving the employment of the City effective 11.11.2015.

### **Action Items:**

1. *Approve September 2, 2015 Meeting Minutes.* Commissioner Hoult made a motion to approve September 2, 2015 minutes, Commissioner Petershagen 2<sup>nd</sup>. Motion carried 6-0-0-0.

**Interjection:** Resident Dick Todd wanted to point out that there was a stumble on the part of the presenter of the HUR Code Amendment on what the vote entailed. He stated Director Ableman McCrary clarified that it was not a “unison” vote. Lead Senior Planner Wright responded that it was a briefing to council and the formal recommendation letter will be forwarded to council giving the breakdown of the vote.

**Discussion Items:** *2015-2016 Long-Range Planning Work Program* - Lead Senior Planner Wright explained there are some outside governmental agencies that have updated regulations that we need to come into compliance with. The storm-water manual and floodplain development protocol will be updated in the coming year. Critical area regulations have also changed which will impact the way the City processes permits. The work program is extensive and the timeline is aggressive. There was discussion on timing and phasing of the work proposed. The audience asked if the new elected officials and new city staff would be part of the selection process for the consultant for the subarea planning consultant. Lead Senior Planner described the process of selection and said he didn't have the timeframe that Council may be considering.

*Planning Commission Rules and Procedure* - Lead Senior Planner Wright presented the Rules and Procedure the Planning Commission had previously approved. He asked for

feedback from the commissioners on content and procedures for cancellation of meetings. Lead Senior Planner Wright suggested general housekeeping for consistency. Commissioner Huxford asked if the Rules and Procedure needed to be updated to reflect electronic dissemination of information as a preferred method. It was decided that page 1 of the Rules and Procedure would be revised to no longer state "postmarked by one week prior to meeting" to "distributed no later than the Thursday prior to the meeting". It was suggested that the verbiage be changed to not consider the 3<sup>rd</sup> meeting of the month a special meeting. There was also a suggestion that the provisions set fourth for a quasi-judicial hearing be left in the Rules and Procedures incase the quasi-judicial duties were ever returned to the Planning Commission. All changes will be presented at the next planning commission meeting scheduled for December 2, 2015.

**Commissioner Reports:** Commissioner Oslund reported that the Petco building is up and looks nice. Chair Matlack attended the public meeting for the Ebey View subdivision and was disappointed to hear Staples was leaving. Commissioner Hoult thanked Director Ableman McCrary for the great job she did for our community. Commissioner Huxford will not be attending the 12.2.2015 meeting, the Davies Rd repair she hopes is temporary, the signs on fencing are growing and she hopes it can be addressed.

**Staff Report:** Lead Senior Planner Wright stated that City Council did approve the final Comprehensive Plan. The City Council has also adopted a 12 month moratorium on marijuana retail stores.

**Adjourn:** Motion by Commissioner Hoult, Commissioner Petershagen 2<sup>nd</sup>. Motion carried 6-0-0-0. Meeting adjourned at 8:06 p.m.

---

Tom Matlack, Chair

---

Jill Meis, Clerk, Planning &  
Community Development



## Staff Report City of Lake Stevens Planning Commission

Planning Commission Briefing  
Date: **December 02, 2015**

**SUBJECTS:** Planning Commission Rules of Procedure

**CONTACT PERSON/DEPARTMENT:** Russ Wright, *Interim Planning Director*

---

**SUMMARY:** Rules of Procedure

---

**ACTION REQUESTED OF PLANNING COMMISSION:** Adopt revised Rules of Procedure.

---

At the November Planning Commission meeting, staff presented the current of Rules of Procedure, adopted in 2010, to the commissioners for discussion. During the discussion the Planning Commission and staff proposed a few changes to the Rules, including: updating distribution method to email and posting on city website and bulletin boards, added code based definition related to the duties of the Planning Commission, clarified intent of second meeting as regular meeting "as needed." Other minor grammatical changes were made and footnotes updated.

Attached is an edited version of the Rules and Procedure for consideration.

**ATTACHED:**

1. Revised Rules of Procedure



**CITY OF LAKE STEVENS PLANNING COMMISSION**  
**Rules of Procedures**

**I. MEETINGS**

Location: All meetings shall be held in the Lake Stevens Community Center, unless otherwise directed by the Chairperson and appropriate notification to the media and public is provided. All meetings shall be open to the public.

Date and Time: Regular meetings shall be held on the first Wednesday of each month, at 7:00 p.m., for the primary purpose of advising the City Council on all matters relating to land use, comprehensive planning and zoning and conducting formal public hearings on Type VI land use applications. If a second meeting is required in a month, it shall be held on the third Wednesday of the month at the same time and place as regular meetings.

Rescheduling Meetings for Holidays: When a regular meeting falls on a holiday or is preempted by a City Council meeting, the meeting shall be rescheduled at the discretion of the Chairperson.

Special Meetings: Special meetings may be requested by the Planning and Community Development Department or City Council and held at the discretion of the Chairperson. Action to recommend approval or denial of an application for development or amend a long-range plan or land use application may take place at a special meeting, provided that appropriate public notice requirements are met.

Meeting Notices and Agenda: Written notice of all regular and special meetings shall be ~~post-marked one week in advance of~~ emailed to the Planning Commission and posted on the city's website and bulletin boards no later than close of business on the Thursday before the meeting date (Hard copies will be provided upon request). The notice shall include an agenda of the matters to be considered by the Planning Commission at the meeting. **ATTACHMENT 1** includes procedure for noticing special meetings.

Meeting Cancellation: If no matters over which the Planning Commission has jurisdiction are pending, a meeting may be cancelled at the discretion of the Chairperson. A notice of cancellation will be placed on the city's website and bulletin boards to notify the public of the change in schedule.

**II. ORGANIZATION OF THE PLANNING COMMISSION (Pursuant to Chapter 2.64 LSMC)**

Membership: The Planning Commission membership shall be per the Lake Stevens Municipal Code, Section 2.64.020, or as amended.

Term of Office: Each member shall serve a four year term. The term shall terminate on the last day of the respective calendar year.

Election of Officers: The officers of the Planning Commission shall consist of a Chairperson and Vice-Chairperson elected from the members of the Planning Commission by a majority vote of the members. The Chairperson and Vice-Chairperson shall be elected at the first regularly scheduled meeting in January of each year. Any officer may be removed at any time by a majority vote of the Planning Commission. The vacancy of an office caused by the resignation or removal of any officer of the Planning Commission during his or her term of office shall be filled for the remaining term by a majority vote of the members of the Planning Commission.

Duties of the Planning Commission: The duties of the Planning Commission shall be per the Lake Stevens Municipal Code, Section 2.64.060, or as amended.

Duties of the Chairperson and Vice-Chairperson: The Chairperson shall preside over the meetings of the Planning Commission and will exercise all the powers usually incident to the office. The Chairperson may create standing or temporary committees to examine, investigate and inquire into subjects of interest to the Planning Commission. No standing or temporary committee shall have the power to commit the Planning Commission to endorse any plan or program.

The Vice-Chairperson shall, in the absence of the Chairperson, perform all duties of the Chairperson at a regular or special meeting. In the absence of the Chairperson and Vice-Chairperson, the members present may elect a temporary Chairperson to preside at the meeting.

Secretary: The Planning and Community Development Department shall assign a staff member to serve as the secretary to the Planning Commission. The secretary shall be primarily responsible for all official records, the preparation of minutes of Planning Commission hearings, regular and special meetings, and shall prepare all notices of meetings, requiring notice to be given to the media and the public in according with the appropriate statutes.

### **III. OPERATIONS AND CONDUCTING BUSINESS**

Quorum: A quorum is required for the Planning Commission to conduct business. It shall consist of at least four Planning Commission members of record, including the Chairperson, at the call for a vote on a question. If members leave during the course of a meeting, reducing the attendance below three members, the quorum will have ceased. Action shall be by majority of those present and voting, when those present constitute a quorum, at any regular or special meeting of the Planning Commission.

Motions and Voting: All members of the Planning Commission may make and vote on motions to recommend approval, approval with conditions, or denial of any development proposal or amendment to a long-range plan or land use application. All motions shall be made in the affirmative. For matters requiring a public hearing, all motions shall be accompanied by an oral statement, by the person making the motion, of reasons and findings supporting the motion. This statement may include reference to any part or all of the planning staff's report and to testimony or evidence submitted at the hearing.

Motions addressing development proposals may be acted on by a majority of the Planning Commission present at the time of a vote on the question, provided there is a quorum present. Recommendations for approval on amendments to the text or maps of long-range plans and land use applications require an affirmative vote by a majority of the Planning Commission.

Planning Commission members must be present to vote on motions; proxy votes are not considered valid votes. A tie vote means the motion fails. A member may abstain from voting.

Where not otherwise specified in these rules of procedure, the meetings of the Lake Stevens Planning Commission and the manner of conducting business shall be governed by Robert's Rules of Order Newly Revised (RONR).

Conflict of Interest and Appearance of Fairness: Any member of the Planning Commission who in his or her opinion has a personal interest in any matters before the Planning Commission that would tend to prejudice his or her actions shall indicate such interest. In the event of a conflict, he or she shall remove him or herself from the proceedings and retire to another room until a vote is taken on the item. In the event there is an appearance that any member could not make a fair and impartial decision because of a real or perceived interest in a matter before the commission, the member shall state the real or perceived interest, or have interest described by other members of the commission or the audience and remove him or herself from the proceedings.

#### **IV. GUEST BUSINESS**

A time for guest business is included on the agenda of each Planning Commission meeting. **ATTACHMENT 2** includes specific procedures.

#### **V. PUBLIC HEARING PROCEDURES**

- A. The Chairperson shall open the public hearing on the subject case by identifying and briefly describing the proposal. **ATTACHMENT 2** includes general public hearing procedures. **ATTACHMENT 3** includes public hearing script for Chair for regular public hearings. **ATTACHMENT 4** includes script for Chair for quasi-judicial, open record hearings.
- B. The chair shall state that testimony and input will be taken in a prescribed fashion. All persons wishing to speak on the matter before the Commission must first be recognized by the Chairperson. For the record, that person shall state his or her name and address, and group or organization he or she represents, if any. All statements by the speaker shall be addressed to the Chairperson of the Planning Commission. The Chairperson may limit the amount of time allowed to any person or group in order to give all who wish the opportunity to speak. Speakers should keep their statements to the issue at hand and avoid repeating information already presented. The Chairperson may limit input to avoid duplication. Because public hearings are to gather information, there will be no cross-examination of speakers.

C. The presentation and speaking order shall be as follows:

1. Staff Planner: Presentation of staff report and other materials and correspondence into the record.
2. Proponent: Presentation and statements by one representative of the proponent/applicant.
3. Members of the Public: Presentations and statements by the public who wish to speak for or against the application.

D. The public testimony portion of the public hearing is then closed. Planning commissioners then deliberate on the application and the testimony received. Members may ask questions of both staff and any other speakers to clarify their understanding of relevant points or to gather additional information; all questions shall be coordinated through the Chairperson who shall ask the appropriate party for answers.

E. A motion for disposition can then be made. This motion may be to continue the hearing to gather additional information, to recommend approval, approval with conditions, or denial of the proposal.

F. The Planning Commission shall present its actions in unison to the City Council. Planning Commission actions shall be transmitted to the City Council in writing and shall include the recommendation, the tally of the vote, findings of fact if different from the planning staff report, the planning staff report, other correspondence, in any, and a summary of testimony presented to the Planning Commission.

G. Written minutes of all public hearings shall be prepared for the review and approval of the Planning Commission at its next regularly scheduled meeting.

**VI. AMENDMENTS**

These Rules of Procedure of the City of Lake Stevens Planning Commission may be amended at any regular or special meeting of the Planning Commission by majority vote of the entire membership.

DATED THIS ~~6th day of October, 2010~~<sup>2nd day of December 2015</sup>. SIGNED:

\_\_\_\_\_  
Chairperson

\_\_\_\_\_  
Vice-Chairperson

\_\_\_\_\_  
Member of the Commission

Member of the Commission

ATTACHMENT 1

*Special Meeting Notices*

1. A special meeting is when the board/commission changes the date, time **or** place of their regular meeting as well as adding any additional meetings, i.e. Planning Commission meets on the first Wednesday at 7:00 p.m. at the Community Center, if ~~they~~ the Planning Commission decides to have a meeting on the third Wednesday this would not be considered a special meeting. **Any item you plan to take action on must be listed on the special meeting notice as an action item, cannot take action on anything not listed.**
2. For special meetings, State law requires 24 hour noticing to the board/commission members, newspaper(s) of record (~~Journal and Herald~~), and posting on our outdoor bulletin board at City Hall (this is our official posting place). Special meeting packets will be emailed to Planning Commissioners in the same manner as regular meeting. You can e-mail the notice or hand deliver, if there is enough time you can mail the notice (with the PC packet since they are mailed Thursday/Friday for the next Wednesday meeting).
3. The notice is attached.
4. Affidavit of posting and mailing are also attached:
  - a. Attach a copy of the notice to the affidavit of posting and a copy of the e-mail to the affidavit of mailing
  - b. I will forward the distribution lists that I used for Park Board and Planning Commission. **Remember** if you mail the notice to the “world” which includes the newspapers and the Planning Commission or Park Board at the same time, make sure the boards are sent as “blind copies” – their e-mails are not public and should never be disclosed to the general public
  - c. Print off the e-mail that was sent and attach to affidavit of mailing
  - d. If the board/commission is receiving an agenda packet for the special meeting – note under “Information” on the agenda that the notice is attached and include in packet (this is your proof of mailing along with the affidavit)
  - e. Your affidavit of mailing for the general e-mail distribution list (which includes the two newspapers) and PC agenda packet should be done on the same day so you don’t have to create two separate affidavits of mailing
  - f. Have the affidavits notarized
5. File the affidavits in a special folder for future reference or audit purposes.

ATTACHMENT 2

**City of Lake Stevens Planning Commission**  
Public Participation: Rules of Procedure

**Guest Business:**

This is an opportunity for the public to address the Planning Commission about problems or issues which are not scheduled elsewhere on the Agenda or which will be scheduled for a public hearing at a later date. Essentially, this opportunity is an oral substitute for a letter, although the latter is preferred so that the facts and observations can be reviewed in a more orderly and efficient manner. Comments may be used to summarize an issue which is discussed in greater detail in a letter and submitted to the Commission.

Those who desire to testify should go to the podium and state their full name, address, and relationship to the City (e.g., resident, property owner, business owner / employee, etc.). A five minute limit is strictly observed.

**Public Hearing:**

The purpose of a public hearing is for interested people to provide the Commission with information and opinions on the subject for which the hearing was convened. It is an official “on-the-record”, direct communication which allows Commission members to obtain data they should consider in their decision-making process.

**How to Participate:**

1. After the public hearing has been opened, the Chair will ask the representative of the Department of Planning and Community Development to make a presentation. Following that, the applicant will be invited to speak, then those in support of the application, and finally those in opposition.
2. Those who desire to testify may go to the podium, state their name, address, and relationship to the City (e.g. resident, property owner, business owner / employee, etc.), sign in, and give their testimony.
3. Testimony should be limited in length. A three minute limit is usually imposed; the chair person can modify this limit at his discretion. Complex information should be put in writing, with copies provided to the Commission for insertion into the record. Although petitions will not be considered as substantive testimony, the Planning Commission will consider them as an expression of the signatories' opinion.
4. Repetition should be avoided. Unless new information is presented, a brief statement of support or disagreement with previous testimony is all that should be presented.
5. When the last person desiring to speak has testified, the Chair will allow speakers to rebut the testimony of others. Rebuttals must not be repetitive of previous testimony and should not exceed two minutes per speaker.
6. Commissioners may ask questions of speakers during or immediately after their testimony, or later in the hearing during the deliberation.
7. After all testimony and rebuttal has been given, the Commission will begin its deliberation. When sufficient information is obtained, the public hearing will be closed and a recommendation made.

ATTACHMENT 3

**PUBLIC HEARING PROCEDURE**

1. The public hearing before the Planning Commission in consideration of \_\_\_\_\_ is now open.
  
2. Everyone present will be given an opportunity to be heard. This meeting is recorded; therefore, when you address the Commission, begin by stating your name and address. Public testimony will be limited to three minutes per person. (Start timer after you type in their name and address) I also ask that those giving testimony sign the register at the back of the room prior to leaving this evening so we have the correct spelling of your name and address for the record.
  
3. Before hearing from the audience, \_\_\_\_\_ will present the staff report:

**This is where the Chair of the Planning Commission continues with the process and uses the agenda public hearing format.**

**PUBLIC HEARING PROCEDURE (QUASI-JUDICIAL; OPEN RECORD HEARING)\***

1. The public hearing before the Planning Commission, in consideration of \_\_\_\_\_ is now open.
2. Everyone present will be given an opportunity to be heard. This meeting is recorded; therefore, when you address the Commission, begin by stating your name and address. I also ask those giving testimony to sign the register at the back of the room prior to leaving this evening so that I have the correct spelling of your name and address. Because the applicant has the burden of proof, the applicant will not be limited in time to make a presentation. The initial testimony of other interested persons will be limited to three minutes. After all interested parties have had an opportunity to present testimony, if any interested party wishes to make additional comments, an opportunity will be allowed. The applicant will be allowed an opportunity to present rebuttal comments also.
3. Before hearing testimony, it is necessary to insure that this hearing is fair both in fact and appearance. Does anyone have any objection to me serving as chair of this meeting? [If objections stated, make determination on record] Does anyone have any objection to any member of this commission hearing and deciding this matter? [If objection stated, make determination on the record]
  - a. Does anyone have a conflict of interest to disclose?
  - b. Does anyone have private information about the subject of this application?
  - c. Has anyone received any ex parte communications about this application or matter?
  - d. Can all decide this matter in a fair and impartial manner based upon the record of this proceeding?

**Do not read this: *Make determination on the record if all can serve.***

4. Before hearing from the audience, Planning Department, will present the staff report.

**After staff report is where the Chair of the Planning Commission continues with the process and uses the agenda public hearing format.**

\* There are currently no quasi-judicial authorities assigned to the Planning Commission in the Lake Stevens Municipal Code.



# Staff Report City of Lake Stevens Planning Commission

Planning Commission Briefing

Date: **December 2, 2015**

**Subject: Amendments to the City of Lake Stevens Critical Areas Regulations**

Contact Person/Department: **Russ Wright**, Interim Planning & Community Development Director  
/ **Amy Lucas**, Associate Planner

---

## **SUMMARY:**

Scope and Schedule for proposed amendments to the City of Lake Stevens Critical Areas Regulations development regulations as mandated and outlined by RCW 36.70A.130 as part of the Comprehensive Plan update process.

---

## **ACTION REQUESTED OF PLANNING COMMISSION:**

This is an informational briefing and no action is requested at this time.

---

## **BACKGROUND / DISCUSSION:**

Under the Planning Goals outlined in the Growth Management Act (RCW 36.70A.020), Cities and Counties subject to plan under RCW 36.70A.040, are required to designate and protect Critical Areas within their boundaries. Cities within Snohomish County are required to consider updates to their development regulations including Critical Areas Ordinances as part of their scheduled Comprehensive Plan Update as outlined in RCW 36.70A.130(5)(a), or every eight years. According to RCW 36.70A.030(5) critical areas are defined as:

- (a) Wetlands;
- (b) Areas with a critical recharging effect on aquifers used for potable water;
- (c) Fish and wildlife habitat conservation areas;
- (d) Frequently flooded areas; and
- (e) Geologically hazardous areas.

The purpose of this briefing is to discuss a draft work plan and schedule and receive feedback on the initial scope and schedule of the amendment project. As part of the 2015 Comprehensive Plan update process, the City of Lake Stevens has identified five major issues which require an update to the City of Lake Stevens Critical Areas Regulations:

1. Internal consistency of definitions and application of standards across all critical area types;
2. Clarify the status of maintenance and monitoring bonds in LSMC 14.88.277 and 14.88.278;
3. Clarify and outline the procedures for establishing easements versus tracts to establish Native Growth Protection Areas in LSMC 14.88.290;
4. Review the five acre threshold in LSMC 14.88.295 and remove the size limitation if appropriate;

5. Adopt the new Washington State Department of Ecology Wetland Rating System and review and revise the wetland scoring and buffers in Chapter 14.88 LSMC Part VIII Wetlands according to the new rating system and any other references in the chapter that discuss the old scoring system or buffers.

Other needed changes may be revealed as staff completes the initial research and review process for the code amendments. Staff is proposing a five month process to review the code and draft revisions for the Planning Commission and the City Council to consider. Other tasks included in the scope of the project include SEPA notification and actions, various staff reports and briefings to the Planning Commission and City Council, WA Department of Commerce 60-day review, public notification and public hearings as needed.

**Attachment:** City of Lake Stevens Critical Area Regulations Code Revision Work Program

**Attachment 1**

**City of Lake Stevens CRITICAL AREA REGULATIONS Code Revision Work Program**

ACTIVITY	Critical Area Regulations Update Draft Regulations						
	NOVEMBER	DECEMBER	JANUARY	FEBRUARY	MARCH	APRIL	
Research	11/16/2015 – 12/21/2015						
Draft Code Amendments		12/21/2015 – 1/4/2016	1/4/2016 – 1/18/2016				
Draft Ordinances							
Attorney Review				1/27/2016 – 2/3/2016			
Prepare & Issue SEPA (comment/appeal)		1/4/2016					
Commerce Review		1/4/2016					
Publish Notice Planning Commission Public Hearing			Notice Twice – 1 <sup>st</sup> notice 10 Days Before Hearing				
Planning Commission Review (B-briefing; PH-public hearing)		12/2/2015 (B)	1/20/2016 (B)	2/3/2016 (PH)			
Publish Notice City Council Public Hearing					Notice 10 Days Before Hearing	Notice 10 Days Before Hearing	
City Council Briefings & Workshops (B-briefing; PH-public hearing)			1/12/2016 (B)	2/9/2016 (B)			
City Council Public Hearing, 1 <sup>st</sup> Reading					3/8/2016 (PH) 1 <sup>st</sup> Reading		
City Council Public Hearing, 2nd & Final Reading						4/12/2016 (PH) 2 <sup>nd</sup> Reading	
Effective date						Code Revisions Effective - 5 Days After Publication	

Purpose: Consideration of proposed amendments to the Critical Areas Regulations for inclusion in the Lake Stevens Municipal Code.



## Staff Report City of Lake Stevens Planning Commission

Planning Commission Briefing  
Date: **December 02, 2015**

**SUBJECTS:** Marijuana Regulations

**CONTACT PERSON/DEPARTMENT:** Russ Wright, *Interim Planning Director*

---

**SUMMARY:** Potential amendments to the city's marijuana regulations in relationship to community feedback and amendments to state law.

---

**ACTION REQUESTED OF PLANNING COMMISSION:** No action requested at this time.

---

### **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. The Liquor and Cannabis Board (AKA Liquor Control Board) prepared state rules to implement I-502 as Chapter 314-55 of the Washington Administrative Code (WAC). The Lake Stevens City Council adopted local regulations related to the siting and administration of marijuana facilities and uses on February 10, 2014. The Lake Stevens ordinance paralleled the WAC requirements for licensing and buffers. The city's regulations added requirements providing an overall cap of 100,000 square feet for production and processing, establishing size requirements for retail locations and setting zoning for production/processing and retail. Under a previous action, on June 10, 2013, the City Council prohibited the siting of Collective Gardens for medical marijuana based on uncertainty of land use impacts and legal status. The city's current provision are attached as Attachment 1. The Governor recently signed Second Engrossed Substitute House Bill 2136, which adopts reforms to the previous state marijuana regulations. The medical marijuana legislation has also been revised under Second Substitute Senate Bill 5052. Primary changes are listed below:

### **Recreational Marijuana**

- Eliminates the 25 percent producer and processor taxes and increases retail tax to 37 percent.
- Provides a sales and use tax exemption to qualifying patients and designated providers.
- Liquor Control Board renamed Liquor and Cannabis Board (LCB).
- Provides marijuana tax revenues for local jurisdictions, distributed based on retail sales and population.
- Modifies defined appropriations and distribution of revenues.
- Provides \$95,000 to the State Building Code Council in fiscal year 2016 for the development of fire and building code regulations for marijuana facilities.
- Modifies marijuana retailer signage requirements, allowing for one additional sign identifying the business or trade name 1600 square inches (approximately 11 square feet).

- Permits local jurisdictions to revise the buffer distance provisions for the siting of marijuana licensees and require notice to certain nearby entities.
- Collective Gardens replaced with “Medical Marijuana Collectives.” Medical marijuana cooperatives can be located in retail locations and are subject to buffer distances similar to marijuana licensees.
- Allows a marijuana business to use a common carrier to transport marijuana if the carrier is licensed by the LCB.
- Prohibits the operation of a marijuana club.
- Includes public noticing requirements for marijuana business prior to opening.
- Creates penalties for the manufacture and distribution of spice and bath salts.
- Modifies the definition of marijuana concentrates.

### **Medical Marijuana**

- Liquor Control Board renamed Liquor and Cannabis Board (LCB).
- Establishes a medical marijuana endorsement to sell medical marijuana at a marijuana retail location.
- LCB must reopen the license period for retail stores and allow for additional licenses to be issued to address the needs of the medical market.
- Medical marijuana authorization database (database) is created.
- Health care professionals who authorize the medical use of marijuana must use an authorization form developed by DOH.
- Possession limits modified based on participation in database.
- Collective Gardens replaced with “Medical Marijuana Cooperatives.”
- Rules established for participation in collectives.
- Licensed marijuana producers may be permitted to increase the amount of their production space if the additional amount is to be used to grow plants identified as appropriate for medical use.

At the July 13, 2015 Council meeting, staff provided Council with information on the current status of marijuana facilities in the city and potential changes from new state regulations. Staff also informed Council that it had received comments from the public to reconsider the “co-location prohibition” included in the city’s current marijuana ordinance.

At the September 8, 2015 Council meeting staff discussed a project scope with City Council to provide direction on potential changes to the city’s marijuana regulations based on the public comments and state changes. Primary changes to the code follow:

1. Repeal prohibition on Collective Gardens due to changes in state law.
  - This prohibition can be replaced with a broader prohibition on all medical marijuana / cannabis facilities; or

- Replaced with language authorizing Medical Marijuana Cooperatives; and/or
  - Authorizing sale of medical marijuana / cannabis at licensed retail locations with endorsements.
2. Modify definitions as needed.
  3. Remove local co-location prohibition.

Additionally, some councilmembers are interested in reducing the square footage cap for producers in the city based on rapid market saturation in the industrial areas. Subsequent to the City Council providing direction, the Liquor and Cannabis board removed its cap on local retail locations, which has resulted in the adoption of a 12-month moratorium for new marijuana retail locations in the city. Establishing a local allotment for retail locations would also be considered as part of the code update.

**ATTACHED:**

1. Draft Schedule

### City of Lake Stevens Recreational Marijuana Code Revision Work Program

ACTIVITY	Moratorium / Draft Regulations							
	OCTOBER	NOVEMBER	DECEMBER	JANUARY	FEBRUARY	MARCH	APRIL	MAY - OCTOBER
Research								
Draft Code Amendments								
Draft Ordinances								
Attorney Review								
Prepare & Issue SEPA (comment/appeal)			14-day review					
Commerce Review			60 day review					
Publish Notice Planning Commission Public Hearing					Publish twice – 10 days prior			
Planning Commission Review (B-briefing; PH-public hearing)		11/4/2015(B)	12/2/2015(B)	1/6/2015(B)				
Publish Notice City Council Public Hearing		11/4 & 11/11				Publish twice – 10 days prior		
City Council Briefings & Workshops (B-briefing; PH-public hearing)		11/24/15 Moratorium (PH)			2/24/2015(B)			
City Council Public Hearing, 1 <sup>st</sup> Reading								
City Council Public Hearing, 2nd & Final Reading						3/8/2015(PH) 1st Reading	4/5/2015(PH) 2 <sup>nd</sup> Reading	
Effective date	10/18/2015 Moratorium effective						4/10/2016 Code Revisions Effective	10/18/2016 Moratorium expires

Purpose: Determine the appropriate number of local marijuana retailers and revise the city’s adopted marijuana regulations for consistency with updates to state rules for inclusion in the Lake Stevens Municipal Code.

Note: The moratorium enacted by Ordinance 941 will expire on or around October 18, 2016. The city of Lake Stevens will endeavor to complete permanent regulations within that period. If the city needs additional time to complete the work program and adopt permanent regulations, it may extend the moratorium subject to public notice and an additional public hearing.