



PLANNING COMMISSION AGENDA

Regular Meeting Date: 04.06.2016

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

Municipal Code

Available online:

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 March 2, 2016 Meeting Minutes
- E. **PUBLIC HEARING—Marijuana Code Amendment**

Public hearing presentation will follow the public hearing format listed below:

PUBLIC HEARING FORMAT

- 1. PC Chair Opens Public Hearing
- 2. Staff Presentation
- 3. Commission's questions for staff
- 4. Proponent's comments
- 5. Comments from the audience
- 6. Proponent rebuttal comments
- 7. Close public comments portion of hearing by motion
- 8. Re-open public comment portion of hearing for additional comments (optional)
- 9. Close Hearing by motion
- 10. COMMISSION ACTION BY MOTION—Recommendation to Council
 - A. Approve
 - B. Deny
 - C. Continue

- F. **DISCUSSION ITEMS**
1. Administrative Authority
- G. **COMMISSIONER REPORTS**
- H. **PLANNING DIRECTOR'S REPORT**
- I. **ADJOURN**

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,

*Items attached

**Items previously
distributed

Items to be
distributed

PLANNING COMMISSION REGULAR MEETING MINUTES

Community Center
1808 Main Street, Lake Stevens
Wednesday, March 2, 2016

CALL TO ORDER: 7:01 pm by Chair Tom Matlack

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

MEMBERS ABSENT: Tracey Trout and Vicki Oslund

STAFF PRESENT: Senior Planner Stacie Pratschner and Clerk Jill Meis

OTHERS PRESENT: Sally Jo Sebring and Council Member Rauchel McDaniel

Excused Absence: Commissioner Hoult made a motion to excuse Commissioner Oslund, Commissioner Huxford 2nd. Motion carried 5-0-0-2.

Guest business: None.

Action Items:

1. *Approve February 3, 2016 Meeting Minutes.* Commissioner Hoult made a motion to approve February 3, 2016 minutes, Commissioner Davis 2nd. Motion carried 5-0-0-2.

Public Hearing A: 2016 Comprehensive Plan Docket

PC Chair Opens Meeting - Commissioner Hoult opened the public hearing, Commissioner Davis 2nd. Motion carried 5-0-0-2.

Staff Presentation –Senior Planner Stacie Pratschner presented the Comprehensive Plan Docket and gave a brief description of the process of how the docket gets ratified. Senior Planner Pratschner went through the proposed changes and described the contents of the staff report.

Commissioner's questions for staff – Commissioners asked questions about changing zoning within the subarea and suggested giving it more time before rezoning the land and getting input from the property owners. Staff agreed that additional research would be needed and would be presented. Commissioners also expressed concern over the rezone of the Planned Business District in the north section of the city bordering Highway 92 in regards to the traffic report and increased intensity in the area. Commissioner Hoult commented that the proposed increased commercial zoning in south Lake Stevens would increase potential jobs. It was decided that all of the proposed map adjustments met the criteria and further investigation would be done at the project level.

Proponent's comments – None

Comments from the audience – None

Proponent rebuttal comments – None

Comments from the audience – None

Proponent rebuttal comments – None

Close public comments portion of hearing by motion- Commissioner Huxford made motion to close public portion, Commissioner Hoult 2nd, motion carried 5-0-0-2.

Close public hearing- Commissioner Petershagen made a motion to close public hearing, Commissioner Hoult 2nd, motion carried 5-0-0-2.

Commission Action by Motion –

M-1 Minor Map Amendment, Commissioner Huxford made a motion to approve, Commissioner Hoult 2nd. Motion carried 5-0-0-2.

M-2 Minor Map Amendment, Commissioner Petershagen made a motion to approve, Commissioner Hoult 2nd. Motion carried 5-0-0-2.

M-3 City-Expanded Map Amendment, Commissioner Huxford made a motion to approve, Commissioner Petershagen 2nd. Motion carried 5-0-0-2.

M-4 City-Initiated Map Amendment, Commissioner Petershagen made a motion to approve, Commissioner Huxford 2nd. Motion carried 5-0-0-2. Commissioner Huxford wanted it noted that comments above should be attached.

T-1 Chapter 5 – Parks, Recreation & Open Space, Commissioner Hoult made a motion to approve, Commissioner Petershagen 2nd. Motion carried 5-0-0-2.

T-2 Chapter 8 Capital Facilities, Commissioner Hoult made a motion to approve, Commissioner Petershagen 2nd. Motion carried 5-0-0-2.

T-3 Placeholder, Commissioner Huxford made a motion to approve, Commissioner Davis 2nd. Motion carried 5-0-0-2.

T-4 Appendices, Commissioner Hoult made a motion to approve, Commissioner Huxford 2nd. Motion carried 5-0-0-2.

T-5 Update Dates & Table of Contents, Commissioner Hoult made a motion to approve, Commissioner Davis 2nd. Motion carried 5-0-0-2.

Discussion Items: Content Based Sign Regulation briefing. Staff presented the Supreme Court findings in Reed vs. The Town of Gilbert and explained what is needed to update the LSMC to reflect this ruling. The Supreme Court found that it was unlawful to have sign codes based on content of signage. The city would be changing the LSMC to cease regulating the content of signs.

Commissioner Reports: Commissioner Hoult wanted to make sure the city had a delegate to Snohomish County Tomorrow Growth Management Board and also the Transportation Policy board as there is some federal money available if the city of Lake Stevens is designated a growth center. Commissioner Huxford gave an update on the Aquafest Royalty Pageant.

Planning Director Report: Senior Planner Stacie Pratschner let the commission know that the 2015 Comprehensive Plan was certified by PSRC. The Planning Department has made changes to the website to improve public notice.

Adjourn: Motion by Commissioner Hoult to adjourn, Commissioner Huxford 2nd, motion carried 5-0-0-2. Meeting adjourned at 8:05 p.m.

Tom Matlack, Chair

Jill Meis, Clerk, Planning &
Community Development



Staff Report City of Lake Stevens Planning Commission

Planning Commission Briefing
Date: **April 6, 2016**

SUBJECTS: Marijuana Regulations LUA2016-0017

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

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

ACTION REQUESTED OF PLANNING COMMISSION: Hold a public hearing and forward recommendation to the City Council.

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 to administer marijuana facilities and uses on February 10, 2014. The Lake Stevens ordinance paralleled the WAC requirements for licensing and buffers. The city's regulations set an overall cap of 100,000 square feet for production and processing, established size requirements for retail locations and set zoning standards for production/processing and retail. On June 10, 2013, the City Council prohibited the siting of medical marijuana Collective Gardens.

Recently, the State Legislature adopted reforms to the recreational and medical marijuana regulations. On July 13, 2015, staff provided Council with information on the current status of marijuana facilities in the city and potential changes from the 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 its September 8, 2015 meeting, City Council provided direction on a scope of work for potential changes to the city's marijuana regulations based on the public comments and state changes. The primary changes to the city's marijuana regulations follow (**Attachment 1 – revised code**):

1. Modify definitions as needed;
2. Authorize the sale of medical marijuana / cannabis at licensed retail locations with endorsements;
3. Remove local co-location prohibition;
4. Establish a local cap on number of allowed retail locations;
5. Revise the square footage cap for producers in the industrial area based on rapid market saturation; and
6. Change the permitting process from outright permitted to requiring an administrative conditional use permit for production/processors.

Subsequent to the City Council providing direction, the Liquor and Cannabis Board (LCB) 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. On December 16, 2015, the LCB clarified its allocation strategy in a press release, which increasing the statewide cap from 334 to 556 marijuana stores to accommodate changes to medical marijuana regulations. This would mean Lake Stevens could receive one additional retail location (**Attachment 2**) based on LCB considering this recommendation on January 6, 2016. A chief justification for allowing additional retail locations is to facilitate the transition of unregulated medical marijuana facilities and further reduce the market share of illicit marijuana production.

Staff has discussed this amendment with the Planning Commission in December, January and February. The Planning Commission has not expressed a unified opinion on proposed amendments, specifically as it relates to the number of new retail locations. Staff has provided redlined amendments for the Planning Commission's recommendation to Council that include the elements addressed above and the goal of making the city's regulations up to date with state regulations.

FINDINGS AND CONCLUSIONS:

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

- Land Use Goal 2.6: Promote an active, healthy and diverse Hartford Road Industrial District
- Land Use Goal 2.10: Ensure that land uses optimize economic benefit and the enjoyment and protection of natural resources while minimizing the threat to health, safety and welfare.
- Economic Development Goal 6.4: Support employment growth in the city.
- Economic Development Goal 6.8: Support businesses and job creation.

Conclusions – The proposed code amendments are consistent with several Comprehensive Plan 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 February 25, 2016.
- The SEPA official issued a Determination of Nonsignificance on February 29, 2016 (**Exhibit 3**).
- 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) (Exhibits 4a-4c)

- The city requested expedited review from the Department of Commerce on February 29, 2016.
- The Department of Commerce sent a letter of acknowledgment on March 1, 2016 and granted approval of expedited review on March 15, 2016.
- 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

- The city published a notice of SEPA determination in the Everett Herald on February 29, 2016.
- The city published a notice of Public Hearing in the Everett Herald on January 02, 2014 and January 07, 2014.
- The city notified interested parties of the SEPA DNS and public hearing at the same times.

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

RECOMMENDATION: Forward a recommendation to the City Council to APPROVE the proposed I-502 Marijuana Regulations (LUA2016-0017).

ATTACHED:

1. Proposed Regulations
2. LCB Proposed Retail Allocations
3. DNS
4. Commerce Review
 - a) Review Request
 - b) Letter of acknowledgment
 - c) Approval email

14.08.010 Definitions

Cooperative. A cooperative established under RCW 69.51A.250 to produce and process marijuana only for the medical use of members of the cooperative (definition related to medical marijuana regulations only).

Marijuana. All parts of the plant Cannabis, whether growing or not, with a THC concentration greater than 0.3 percent on a dry weight basis; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. The term does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

Marijuana Concentrates. Any product consisting wholly or in part of the resin extracted from any part of the plant Cannabis and having a THC concentration greater than ten percent

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

Marijuana Products. Useable marijuana, marijuana concentrates, and marijuana-infused products as defined in this section.

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

Marijuana-Infused Products. Products that contain marijuana or marijuana extracts, are intended for human use, are derived from marijuana as defined in this section, and have a THC concentration no greater than ten percent. The term "marijuana-infused products" does not include either useable marijuana or marijuana concentrates.

Marijuana Retail Facility (definition related to recreational marijuana facilities regulations only). A person or entity licensed by the Washington State Liquor ~~Control~~ and Cannabis Board to sell marijuana only usable concentrates, useable marijuana, marijuana-infused products and ~~marijuana paraphernalia to persons 21 years of age and older~~ in a retail outlet.

14.40.040 Permissible and Prohibited Uses

(b) Without limiting the generality of the foregoing provisions, the following uses are specifically prohibited in all districts:

~~(5) — Medical cannabis (marijuana) collective gardens and medical cannabis (marijuana) dispensaries, as those terms are defined or described in this code and/or under state law, are prohibited in all zoning districts of the City of Lake Stevens.~~

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](#) to [69.50.102](#), WAC [314-55-010](#) and Section [14.08.010](#) shall control.

(d) Location.

~~(1) No more than one distinct marijuana business shall be located within a single structure.~~

~~(21)~~ 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.

~~(32)~~ 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.

~~(43)~~ Marijuana facilities shall not be located in mobile or temporary structures.

~~(54)~~ 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.

(6) Total number of retail locations will be per allocation of the Liquor and Cannabis Board.

(e) Size.

(1) State-licensed marijuana producers will be limited in size to Tier 2 production facilities, pursuant to WAC [314-55-075](#).

(2) The maximum amount of space for State-licensed marijuana production and processing will be limited to ~~10060~~,000 square feet citywide.

(3) 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. Applicants must demonstrate that adequate odor control exists on site prior to certificate of occupancy.

(i) A City of Lake Stevens business license pursuant to Chapter [4.04](#) and a State license pursuant to Chapter [314-55](#) WAC shall be obtained prior to the start of facility operations.

(j) All facilities shall comply with Chapter [19.27](#) RCW, State Building Code Act and Chapter [14.80](#), Building and Construction. Appropriate permits shall be obtained for all changes of use, tenant improvements, mechanical system improvements, electrical upgrades and similar work.

(k) Each State-licensed retail facility may have one sign, limited to 1,600 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](#). (Ord. 908, Sec. 8, 2014)

TABLE 14.40-I: TABLE OF PERMISSIBLE USES BY ZONES

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	NC4	LB	CBD	MU1	PBD5	SRC	LI	GI	P/SP
27.000	STATE-LICENSED MARIJUANA FACILITIES ²³													
27.100	Marijuana Processing Facility - Indoor Only											<u>PA</u>	<u>PA</u>	
27.200	Marijuana Production Facility - Indoor Only											<u>P</u> <u>A</u>	<u>PA</u>	
27.300	Marijuana Retail Facility ²⁴											P	P	

24. Medical marijuana / cannabis can be sold at licensed retail facilities with endorsements from the Liquor and Cannabis Board pursuant to RCW 69.50.375.



**Washington State
Liquor and Cannabis Board**

Legend

Counties increased by 75%	
Counties increased 100%	
Ban or Moratorium	

Jurisdiction	Allotments	Current or pending license	Proposed Additional Allotment	Total Proposed Allotment	Ban or Moratorium
Adams County					
At Large	2	0	1	3	
Asotin County					
At Large	2	2	1	3	
Benton County					
At Large	2	2	0	2	Moratorium
Kennewick	4	1	0	4	Ban
Richland	3	0	0	3	Ban
West Richland	1	1	0	1	Ban
Chelan County					
At Large	3	3	0	3	Moratorium
Wenatchee	3	2	2	5	
Clallam County					
At Large	3	3	2	5	
Port Angeles	2	2	1	3	
Sequim	1	1	1	2	
Clark County					
At Large	6	5	0	6	Ban
Battle Ground	1	1	1	2	
Camas	1	1	0	1	Ban
Vancouver	6	6	6	12	
Washougal	1	1	0	1	Ban

Columbia County					
At Large	1	0	0	1	Ban

Jurisdiction	Allotments	Current or pending license	Proposed Additional Allotment	Total Proposed Allotment	Ban or Moratorium
Cowlitz County					
At Large	3	3	3	6	
Kelso	1	0	1	2	
Longview	3	3	3	6	
Douglas County					
At Large	2	3	0	2	Moratorium
East Wenatchee	1	1	1	2	
Ferry County					
At Large	1	1	1	2	
Franklin County					
At Large	1	0	0	1	Ban
Pasco	4	3	0	4	Ban
Garfield County					
At Large	1	0	0	1	Ban
Grant County					
At Large	3	2	2	5	
Ephrata	1	1	1	2	
Moses Lake	2	2	1	3	
Quincy	1	0	0	1	Ban
Grays Harbor County					
At Large	3	3	2	5	
Aberdeen	1	2	1	2	
Hoquiam	1	1	1	2	
Ocean Shores	1	1	1	2	
Island County					
At Large	3	3	2	5	
Oak Harbor	1	1	1	2	

Jefferson County					
At Large	3	3	2	5	
Port Townsend	1	1	1	2	
Jurisdiction	Allotments	Current or pending license	Proposed Additional Allotment	Total Proposed Allotment	Ban or Moratorium
King County					
At Large	11	11	11	22	
Auburn (part)	2	2	2	4	
Bellevue	4	4	4	8	
Burien	1	0	1	2	
Des Moines	1	1	1	2	
Federal Way	3	4	0	3	Moratorium
Issaquah	1	1	1	2	
Kent	3	3	0	3	Ban
Kirkland	2	2	2	4	
Maple Valley	1	0	1	2	
Mercer Island	1	0	1	2	
Redmond	2	2	2	4	
Renton	3	3	3	6	
Sammamish	1	0	0	1	Ban
SeaTac	1	1	0	1	Ban
Seattle	21	27	21	42	
Shoreline	2	2	2	4	
Tukwila	1	0	1	2	
Kitsap County					
At Large	7	7	7	14	
Bainbridge Island	1	1	1	2	
Bremerton	2	3	2	4	
Kittitas County					
At Large	2	2	1	3	
Ellensburg	2	2	1	3	
Klickitat County					
At Large	3	2	2	5	
Goldendale	1	1	0	1	Ban

Lewis County					
At Large	4	3	3	7	
Centralia	2	2	1	3	
Chehalis	1	1	1	2	
Jurisdiction	Allotments	Current or pending license	Proposed Additional Allotment	Total Proposed Allotment	Ban or Moratorium
Lincoln County					
At Large	2	0	1	3	
Mason County					
At Large	4	4	3	7	
Shelton	1	1	1	2	
Okanogan County					
At Large	4	3	3	7	
Omak	1	1	0	1	Ban
Pacific County					
At Large	2	2	1	3	
Pend Oreille County					
At Large	2	1	1	3	
Pierce County					
At Large	17	17	0	17	Ban
Bonney Lake	1	1	0	1	Ban
Lakewood	2	2	0	2	Ban
Puyallup	2	2	0	2	Ban
Tacoma	8	9	8	16	
University Place	1	0	0	1	Ban
San Juan County					
At Large	0	0	0	0	
San Juan Island	1	1	1	2	
Lopez Island	1	1	1	2	
Orcas Island	1	1	1	2	

Skagit County					
At Large	4	4	4	8	
Anacortes	1	1	1	2	
Burlington	1	1	1	2	
Mount Vernon	3	3	3	6	
Sedro-Woolley	1	1	1	2	
Jurisdiction	Allotments	Current or pending license	Proposed Additional Allotment	Total Proposed Allotment	Ban or Moratorium
Skamania County					
At Large	2	2	1	3	
Snohomish County					
At Large	16	16	16	32	
Arlington	1	1	1	2	
Bothell (part)	1	1	1	2	
Edmonds	2	1	2	4	
Everett	5	5	5	10	
Lake Stevens	1	1	1	2	
Lynnwood	2	2	2	4	
Marysville	3	3	0	3	Ban
Mill Creek	1	1	0	1	Ban
Monroe	1	0	1	2	
Mountlake Terrace	1	1	1	2	
Mukilteo	1	0	1	2	
Spokane County					
At Large	7	7	7	14	
Spokane	8	8	8	16	
Spokane Valley	3	3	0	3	Moratorium
Stevens County					
At Large	4	3	3	7	
Thurston County					
At Large	6	6	6	12	
Lacey	2	2	2	4	
Olympia	2	2	2	4	
Tumwater	1	1	1	2	

Wahkiakum County					
At Large	1	0	1	2	
Walla Walla County					
At Large	2	2	0	2	Ban
Walla Walla	2	2	1	3	
Jurisdiction	Allotments	Current or pending license	Proposed Additional Allotment	Total Proposed Allotment	Ban or Moratorium
Whatcom County					
At Large	7	6	7	14	
Bellingham	6	6	6	12	
Ferndale	1	1	1	2	
Lynden	1	0	0	1	Ban
Whitman County					
At Large	1	0	1	2	
Pullman	3	3	2	5	
Yakima County					
At Large	6	5	0	6	Ban
Grandview	1	0	0	1	Ban
Selah	1	0	0	1	Ban
Sunnyside	1	1	0	1	Ban
Yakima	5	5	0	5	Moratorium
Total	334	305	222	556	35



DETERMINATION OF NONSIGNIFICANCE

Issuance Date: February 29, 2016

Project Name (No.): Amended Marijuana Regulations (LUA2016-0017)

Proponent: City of Lake Stevens

Applicant: City of Lake Stevens, 1812 Main Street, P.O. Box 257, Lake Stevens, WA 98258

Description of Proposal: The scope of the project is to consider changes to the city's marijuana land use regulations including, Modify definitions as needed; Repeal prohibition on Collective Gardens due to changes in state law by authorizing sale of medical marijuana / cannabis at licensed retail locations with endorsements; Remove local co-location prohibition; Add local cap on number of allowed retail locations; and Consider reducing the square footage cap for producers in the city based on rapid market saturation in the industrial areas.

Project Location: The proposed regulations would restrict marijuana facilities to the city's Commercial District, Light Industrial and General Industrial zoning districts.

Contact Person: Russ Wright, Interim Planning Director

Phone: (425) 212-3315

Threshold Determination: The City of Lake Stevens, acting as lead agency for this proposal has determined that it does not have a probable significant adverse impact on the environment. An environmental impact statement is not required under RCW 43.21.030(2)(c). This decision was made after review of a completed environmental checklist and other information on file with the lead agency. This information is available to the public on request. This DNS is issued under 197-11-340(2); the lead agency will not act on this proposal for 14 days from the date below.

SEPA Responsible Official:


Russ Wright, Interim Planning Director

Comments on the Threshold Determination: If you would like to comment on this Threshold Determination, your written comments should be sent to the address below by **March 14, 2016**. The Responsible Official may incorporate any substantial comments into the DNS. If the DNS is substantially modified, it will be reissued for further public review.

Appeals: You may appeal this determination of non-significance by submitting an appeal to the address below no later than 4:00 PM, **March 14, 2016**. The appeal must be in written form, contain a concise statement of the matter being appealed and the basic rationale for the appeal. A fee is required per the City's Fee Resolution. Please note that failure to file a timely and complete appeal shall constitute a waiver of all rights to an administrative appeal under City code. All comments or appeals are to be directed to City Hall, P.O. Box 257, Lake Stevens WA, 98258, Attn: Russ Wright.



Department of Commerce

Innovation is in our nature.

Notice of Proposed Amendment Request for Expedited Review

Pursuant to RCW 36.70A.106(3)(b), the following jurisdiction provides notice of a proposed development regulation amendment and requests expedited state agency review under the Growth Management Act.

*****Under statute, proposed amendments to comprehensive plans are not eligible for expedited review. The expedited review period is 10 business days (14 calendar days).***

(If needed, you may expand this form and the fields below, but please try to keep the entire form under two pages in length.)

Jurisdiction:	City of Lake Stevens
Mailing Address:	PO Box 257, Lake Stevens WA 98208
Date:	February 29, 2016

Contact Name:	Russ Wright
Title/Position:	Interim Planning Director
Phone Number:	425-212-3315
E-mail Address:	rwright@lakestevenswa.gov

Brief Description of the Proposed/Draft Development Regulations Amendment: <i>(40 words or less)</i>	The scope of the project is to consider changes to the city's marijuana land use regulations including, Modify definitions as needed; Repeal prohibition on Collective Gardens due to changes in state law by authorizing sale of medical marijuana / cannabis at licensed retail locations with endorsements; Remove local co-location prohibition; Add local cap on number of allowed retail locations; and Consider reducing the square footage cap for producers in the city based on rapid market saturation in the industrial areas
Public Hearing Date:	Planning Board/Commission: April 6, 2016 Council/County Commission: April 26, 2016
Proposed Adoption Date:	April 26, 2016

REQUIRED: Attach or include a copy the proposed amendment text.



STATE OF WASHINGTON
DEPARTMENT OF COMMERCE
1011 Plum Street SE • PO Box 42525 • Olympia, Washington 98504-2525 • (360) 725-4000
www.commerce.wa.gov

March 1, 2016

Russ Wright
Lead Senior Planner
City of Lake Stevens
Post Office Box 257
Lake Stevens, Washington 98258

Dear Mr. Wright:

Thank you for sending the Washington State Department of Commerce (Commerce) the following materials as required under RCW 36.70A.106. Please keep this letter as documentation that you have met this procedural requirement.

City of Lake Stevens - Proposed amendment to consider changes to the city's marijuana land use regulations including, Modify definitions as needed; Repeal prohibition on Collective Gardens due to changes in state law by authorizing sale of medical marijuana / cannabis at licensed retail locations with endorsements; Remove local co-location prohibition; Add local cap on number of allowed retail locations; and Consider reducing the square footage cap for producers in the city based on rapid market saturation in the industrial areas. These materials were received on February 29, 2016 and processed with the material ID # 22128. Expedited Review is requested under RCW

If this submitted material is an adopted amendment, then please keep this letter as documentation that you have met the procedural requirement under RCW 36.70A.106.

If you have submitted this material as a draft amendment requesting expedited review, then we have forwarded a copy of this notice to other state agencies for expedited review and comment. If one or more state agencies indicate that they will be commenting, then Commerce may deny expedited review and the standard 60-day review period will end on April 29, 2016. Commerce will notify you by e-mail regarding of approval or denial of your expedited review request. If approved for expedited review, then final adoption may occur no earlier than March 14, 2016. Please remember to submit the final adopted amendment to Commerce within ten (10) days of adoption.

If you have any questions, please contact Growth Management Services at reviewteam@commerce.wa.gov, or call Dave Andersen (509) 434-4491.

Sincerely,

Review Team
Growth Management Services

Russell Wright

From: COM GMU Review Team <reviewteam@commerce.wa.gov>
Sent: Tuesday, March 15, 2016 12:01 PM
To: Russell Wright
Cc: Andersen, Dave (COM)
Subject: 22128, City of Lake Stevens, Expedited Review Granted, DevRegs

Dear Mr. Wright:

The City of Lake Stevens has been granted expedited review for the: Proposed amendment to consider changes to the city's marijuana land use regulations including, Modify definitions as needed, Repeal prohibition on Collective Gardens due to changes in state law by authorizing sale of medical marijuana / cannabis at licensed retail locations with endorsements, Remove local co-location prohibition, Add local cap on number of allowed retail locations, and Consider reducing the square footage cap for producers in the city based on rapid market saturation in the industrial areas. This proposal was submitted for the required state agency review under RCW 36.70A.106.

As of receipt of this email, the City of Lake Stevens has met the Growth Management Act notice to state agency requirements in RCW 36.70A.106 for this submittal. For the purpose of documentation, please keep this email as confirmation.

If you have any questions, please contact reviewteam@commerce.wa.gov

Thank you.

Review Team, Growth Management Services
Department of Commerce
P.O. Box 42525
Olympia WA 98504-2525



Staff Report City of Lake Stevens Planning Commission

Planning Commission Briefing
Date: **April 6, 2016**

SUBJECTS: Administrative Authority

CONTACT PERSON/DEPARTMENT: Russ Wright Interim *Planning & Community Development Director*

SUMMARY: Administrative Authority

ACTION REQUESTED OF PLANNING COMMISSION: Review and make recommendations on proposed regulations.

The City Council and Mayor have discussed an interest in providing Directors greater discretion in decision making for minor alterations to zoning code standards especially to sites and/or situations with unique characteristics or challenges or when the change provides an equivalent or superior standard. This authority would be an addition to the Lake Stevens Municipal Code to be codified in Chapter 14.16C. The code does currently allow some limited discretionary authority in parking standards and signs. The Public Works Director has discretion to allow alterations to the Engineering Design and Development Standards (EDDS) through a waiver process.

Staff has reviewed codes from other jurisdictions that provide similar administrative authorities. Most of these cities follow an administrative variance process that allows limited modifications to development regulations, but not to uses, typically defined by a percentage. Other options may include a deviation process or outright administrative authority to allow *de minimis* alterations to development regulations. The deviation process would be similar to the authority currently identified for modifications to the city's EDDS. The final option allowing *de minimis* alterations would permit the administrator to modify regulations if the change is deemed inconsequential to the outcome of the request in relation to the entire project.

The Planning Commission reviewed alternatives on February 3, 2016. The Planning Commission wanted to make sure new authorities were defined and that timelines for additional processing were clear. Chapter 14.16A LSMC already provides processing times for all applications types (see above). The Planning Commission recommended that staff develop a tiered review process combining the options to accommodate scenarios that required different levels of authority.

Each option would have a different permit path, but all would require specific criteria to implement at the project level for the applicant and decision maker. Any proposed modifications could be reviewed concurrently with the underlying application to ensure consistency with other regulations, but the modification decision would need to proceed or be concurrent with the overall project approval.

1. The Administrative Variance could allow between a 20 to 25 percent modification to standards and be a Type II decision requiring public notice with a written decision. Based on the city's current fee schedule for similar application types the fee would be \$1000.
 - The city would issue a determination of completeness within 28 days.
 - A notice of application (NOA) for Type II decisions would be issued within 14 days of application.
 - After the NOA is issued, there is a 14-day comment period to receive public feedback.
 - By statute a final decision must be issued within 120 days
2. The Administrative Deviations could allow between a 10 to 15 percent modification to standards and be a Type I decision with a written decision. Based on the city's current fee schedule for similar application types the fee would be \$150 for the first two hours and \$75 for each additional hour of staff time.
 - Type I decisions are typically issued within two to four weeks of application and reviewed concurrently with underlying request
3. The *de minimis* alteration could be part of the administrative review of the underlying application. No additional time or fees would be included.

Staff is requesting the Planning Commission's input on the draft regulations, specifically a recommendation for percentile thresholds for deviations and administrative variances. After Planning Commission reviews the options staff will finalize the regulations and begin environmental and agency review of the amendment. Staff hopes to bring the amendments back for a public hearing in May with the Planning Commission.

ATTACHED:

1. Draft Regulations

14.08 Definitions

De minimis. Lacking significance, importance or so minor as to merit disregard

14.16A Administration and Procedures

Table 14.16A-I: Classification of Permits and Decisions

Note: Administrative Deviation and Administrative Variance will be added to the classification table

14.16C.120 Administrative Authority.

- (a) **Minor alterations.** The director or designee may authorize *de minimis* alterations to development regulations, if the change is deemed inconsequential to the outcome of the request in relation to the entire project. Any applicant requesting consideration of a *de minimis* alteration shall demonstrate, at a minimum, how the request complies with the following criteria:
- (1) The alteration promotes creativity in site layout and design that employs special design features not otherwise possible under conventional development regulations;
 - (2) The alteration will not visually alter the character of the site or neighborhood; and
 - (3) The alteration will not be detrimental to surrounding properties in the immediate vicinity.
- (b) **Administrative Deviation.** The director or designee may authorize administrative deviations of development regulations up to 10 – 15 percent of a quantifiable development standard when situations arise where alternatives to the standards may better accommodate existing conditions, address unique circumstances or allow for more cost-effective solutions without adversely affecting safety, aesthetics or alter the character of the neighborhood. Applications for administrative deviations shall follow the procedures for a Type I review pursuant to Chapter 14.16B – Part I. Any applicant requesting consideration of a deviation shall demonstrate, at a minimum, how the request complies with the following criteria:
- (1) The deviation will achieve the intended result of the standards with a comparable or superior design and quality of improvement;
 - (2) The deviation will not adversely affect public safety or the environment;
 - (3) The deviation will not adversely affect the aesthetic appearance of the subject lot; and
 - (4) The alteration will not be detrimental to surrounding properties in the immediate vicinity.
- (c) **Administrative Variance.** The director or designee may authorize administrative variances of development regulations up to 20 - 25 percent of a quantifiable development standard where practical difficulty renders compliance with the provisions of the land use code an unnecessary hardship, where the hardship is a result of the physical characteristics of the subject property and where the purpose of that code and of the Comprehensive Plan can be fulfilled. Applications for an administrative variance shall follow the procedures for a Type II review pursuant to Chapter 14.16B – Part II following public notice. Any applicant requesting consideration of an administrative variance shall demonstrate, at a minimum, how the request complies with the following criteria:
- (1) The requested use is permitted in the zone in which the property is located;

- (2) The variance is necessary because of special circumstances relating to the size, shape, topography, location or surroundings of the subject property that do not apply generally to other properties in the vicinity or same zoning district.
 - (3) The intent of the standard from which an administrative variance is requested is reasonably maintained;
 - (4) The granting of an administrative variance will not constitute a grant of special privilege or pose significant hazards or otherwise be detrimental to the surrounding properties;
 - (5) The administrative variance does not detract from the desired character and nature of the vicinity in which it is proposed; and
 - (6) The hardship is not the result of the applicant's or recent prior owner's own actions.
- (d) **Limitation on authority.** The director or designee will consider all applicable provisions of the zoning code when reviewing any of the modifications described in Sections (a) through (c) including non-conforming codes. The director or designee may not grant an alteration, deviation or variance to:
- (1) Allowed uses in the applicable zoning district;
 - (2) Procedural or administrative provisions;
 - (3) Increases in the residential density for the applicable zoning district;
 - (4) Alterations to critical areas pursuant to Chapter 14.88, except for required buffer widths and building setbacks; and
 - (5) Any standard that is inconsistent with the Comprehensive Plan.