



PLANNING COMMISSION AGENDA

Regular Meeting Date: 05.04.2016

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/

*Items attached

**Items previously
distributed

Items to be
distributed

- A. CALL TO ORDER: 7:00pm**
Pledge of Allegiance
- B. ROLL CALL**
- C. GUEST BUSINESS**
- D. ACTION ITEMS**
 - 1. Approval of April 6, 2016 Meeting Minutes**
- E. DISCUSSION ITEMS**
 - 1. Briefing on Floodplain Regulations**
- F. FUTURE AGENDA ITEMS**
 - 1. Alliance for Affordable Housing briefing 05.18.2016**
 - 2. Impact fee deferrals**
- 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,

PLANNING COMMISSION REGULAR MEETING MINUTES

Community Center
1808 Main Street, Lake Stevens
Wednesday, April 6, 2016

CALL TO ORDER: 7:08 pm by Commissioner Hoult

MEMBERS PRESENT: Janice Huxford, Linda Hoult, Gary Petershagen, Vicki Oslund and Tracey Trout

MEMBERS ABSENT: Chair Tom Matlack, Vice Chair Jennifer Davis

STAFF PRESENT: Interim Planning Director Russ Wright and Clerk Jill Meis

OTHERS PRESENT: Sally Jo Sebring, Jim Wilson, Jeff Greenhaw, Jack Micezi, Don Hartleben, Tom Wartinger, Mark Somers, and Sam Beers and Council Member Rauchel McDaniel

Excused Absence: Commissioner Huxford made a motion to excuse Commissioners Davis and Matlack, Commissioner Oslund 2nd. Motion carried 5-0-0-2. Commissioner Huxford made a motion to excuse Commissioner Trout from the meeting on March 2, 2016, Commissioner Oslund 2nd. Motion carried 5-0-0-2.

Guest business: None.

Action Items:

1. *Approve March 2, 2016 Meeting Minutes.* Commissioner Petershagen made a motion to approve March 2, 2016 minutes, Commissioner Huxford 2nd. Motion carried 5-0-0-2.

Public Hearing: 2016 Marijuana Code Amendment

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

Staff Presentation –Interim Planning Director Wright presented the proposed changes in Marijuana Code Amendment pursuant to changes in Washington State regulations and the need to capture some guidance moving forward. The summary of the changes are co-locations, cap on retail stores, sales of medical marijuana, square footage allotment for production and processing, and change the permitting process to require an administrative conditional use permit. Staff finds the code amendment to be in harmony with the comprehensive plan, local and state legislation.

Commissioner's questions for staff – Commissioners asked if the code amendment could be gone through step by step. Commissioner Huxford wanted to point out she disagrees with the restriction on the square footage cap requirement. Commissioners asked questions regarding the state changes and also what other cities are continuing. Interim Planning Director Wright also explained the difference in ban and moratoria and reminded the planning commission the moratoria cannot continue indefinitely. There were questions in regards to medical vs. recreational marijuana differences in how they reach the market.

Proponent's comments – Jim Wilson spoke in favor of the marijuana code amendment, he

would like to keep the square footage allotment at 100,000 or remove the cap entirely. Mr. Wilson owns Pacific Northwest Growers and doesn't want a disparity between land owners that have an increased property value due to the fact they got in before the cap was in place vs. a lower property value because they weren't able to get in before the cap.

Jeff Greenhaw spoke in favor of the increased cap to square footage. He stated the Hartford Industrial area has improved in crime, aesthetics, vacancies and caliber of business. He also is not in support of co-location of processing companies.

Jack Micezi is proposing a new processing company and he is adversely affected by the square footage cap. He is trying to open a business at this time.

Don Hartleben would like to open a retail location in Lake Stevens and gave numbers in support of tax dollars coming into the city and would like to stop the monopoly that is currently happening in Lake Stevens. He would like the second store allowed.

Tom Wartinger spoke in favor of having a second retail store to help eliminate the illegal sales of marijuana.

Mark Somers spoke in favor of forwarding the recommendation to council with a second retail store allotment because of the accessibility of medical marijuana, he feels the members of the community that are sick and need the product will not be able to get it. He feels the market should decide as well; citing if there is not a demand then the second location will not make it.

Sam Beers spoke in favor of the economic impact of having an open market of having two locations. "An increase in competition benefits us all."

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 Petershagen made motion to close public portion of the hearing, Commissioner Huxford 2nd. Motion carried 5-0-0-2.

Commissioner Huxford asked for clarification on the square footage allotment calculation used for determining the impact to the overall canopy. Commissioner Trout would like to find out if the existing retail store is planning to begin selling medical marijuana. Commissioner Hoult would like to know how many employees the average marijuana facility employs and Commissioner Petershagen would like to know the type of employment the industry provides.

Reopen public hearing- Commissioner Petershagen made a motion to reopen public comment portion, Commissioner Huxford 2nd. Motion carried 5-0-0-2.

The commission discussed medical vs. recreational sales and production with members of the growing community. The commission also asked how many jobs approximately have been and will be created by the industry. Jeff Greenhaw stated he will employ 30 people with an approximate hourly wage of \$22.00 plus. Mark Somers stated that there are differences in euphoria depending on what types of marijuana are propagated. Don Hartleben wanted to stress the positive economic impact of employment and tax revenue by opening a second retail outlet.

Close public comments portion of hearing by motion- Commissioner Huxford made a

motion to close the public portion of the hearing, Commissioner Trout 2nd. Motion carried 5-0-0-2.

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

Commission Action by Motion – The commission decided to move forward item by item of the code amendment

- 1.) On the subject of co-location, Commissioner Huxford made a motion to forward the recommendation as written, Commissioner Petershagen 2nd. Motion carried 5-0-0-2.
- 2.) On the subject of modifying the definitions, Commissioner Petershagen made a motion to forward the recommendation as written, Commissioner Trout 2nd. Motion carried 5-0-0-2.
- 3.) On the subject of authorizing the sale of medical marijuana/cannabis at licensed retail locations with endorsements, Commissioner Trout made a motion to forward the recommendation as written, Commissioner Oslund 2nd. Motion carried 5-0-0-2.
- 4.) On the subject of establishing a local cap on number of allowed retail locations, Commissioner Petershagen made a motion to forward the recommendation as 1 retail location with a possible revisiting in 2 years, Commissioner Oslund 2nd. Motion carried 5-0-0-2.
- 5.) On the subject of revising the square footage cap for producers in the industrial area based on rapid market saturation, Commissioner Trout made a motion to forward the recommendation to establish the cap at 100,000 square footage, Commissioner Huxford 2nd. Motion carried 5-0-0-2.
- 6.) On the subject of changing the permitting process from outright permitted to requiring an administrative conditional use permit for production/processors, Commissioner Huxford made a motion to forward the recommendation as written, Commissioner Petershagen 2nd. Motion carried 5-0-0-2.

Discussion Items: Interim Planning Director Wright presented the administrative authority code amendment background and demonstrated the earlier input the commission gave in the structure of the provision being a tiered approach. Commissioners discussed the code amendment and gave a recommendation on percentage of change allowed with all tiers of the administrative authority.

Commissioner Reports: Commissioner Huxford gave an update on the Aquafest royalty pageant. Commissioner Trout voiced concern over the swim docks that are floating beyond the fixed dock line. Commissioner Oslund wanted to remind everyone that it is spring break and there is more foot traffic around the city. Commissioner Petershagen thanked staff for all the hard work. Commissioner Hoult thanked staff for their hard work as well.

Planning Director Report: Interim Planning Director Wright gave an update for the downtown subarea planning and citizen advisory committee. He also provided an update for the Grade Road embankment project. The visitor center is estimated to be open in a month. He gave a brief overview of the Citizen Connect module, the online permitting software. Interim Planning Director Wright also mentioned that the clerk Jill Meis has been promoted and may not continue attending the regular planning commission meetings in the clerk role.

Adjourn: Motion by Commissioner Petershagen to adjourn, Commissioner Huxford 2nd.
Motion carried 5-0-0-2. Meeting adjourned at 9:10 p.m.

Tom Matlack, Chair

Jill Meis, Clerk, Planning &
Community Development

DRAFT



Staff Report City of Lake Stevens Planning Commission

Planning Commission Briefing

Date: **May 4, 2016**

Subject: Amendments to the City of Lake Stevens Floodplain Regulations

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

SUMMARY:

A scope and schedule for proposed amendments to the City of Lake Stevens Floodplain regulations as recommended by an audit in 2015.

ACTION REQUESTED OF PLANNING COMMISSION:

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

BACKGROUND / DISCUSSION:

In 2015 a Community Assistance Visit (CAV) was conducted by the Department of Ecology (DOE) with City staff and representatives from the Federal Emergency Management Agency (FEMA) and National Marine Fisheries Service (NMFS). DOE summarized their findings from the 2015 visit into the CAV Report. Their findings highlighted two main areas where the City's municipal code and/or review of floodplain permits contained deficiencies. The City is determined to resolve the deficiencies and close the CAV Report by way of 1) Submitting documentation to DOE to address questions related to two land use cases as discussed in the report (documentation has been submitted and is pending review by DOE) and 2) Processing code amendments to the Lake Stevens Municipal Code (LSMC) as recommended by DOE in the report.

The purpose of this briefing is to discuss a draft work plan and schedule and receive feedback on the initial scope and schedule for amendments to the city's floodplain regulations. The following summarize the changes to code requested in the report:

- Cite the date on the current Flood Insurance Study in 14.64.005;
- Include a provision for permit review;
- Include a provision for recording and maintaining flood proofing certifications of nonresidential structures;
- Include provisions for the notification and maintenance of alteration of watercourses;
- Ensure that base flood elevation data is generated for proposed developments of 50 lots or 5 acres, whichever is less, under 14.64.050;

- Include a provision for the review of building permits; and
- Add definitions to LSMC 14.08.

Staff is proposing a four 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.

Attachments:

1. Draft Code Amendments to LSMC 14.08 - redline strike-through version
2. Draft Code Amendments to LSMC 14.64 - redline strike-through version
3. City of Lake Stevens Floodplain Regulations Code Revision Work Program

Chapter 14.08

BASIC DEFINITIONS AND INTERPRETATIONS

Sections:

[14.08.010](#) Definitions of Basic Terms

14.08.010 Definitions of Basic Terms.

Appeal (Definition related to flood permits only). A request for a review of the interpretation of any provision of this ordinance or a request for a variance.

Start of Construction (Definition related to flood permits only). Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Substantial Improvement (Definition related to flood permits only). Means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:

1. Before the improvement or repair is started; or
2. If the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

The term can exclude:

1. Any project for improvement of a structure to correct pre-cited existing violations of state or local health, sanitary, or safety code specifications which have previously identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or

2. Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

~~Any repair, reconstruction, rehabilitation, addition, replacement, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures that have incurred “substantial damage,” regardless of the actual repair work performed. The term does not include any project for improvement of a structure to correct existing violations of State or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions in relationship to Chapter 14.64, Part I, and Chapter 14.88, Part V.~~

Chapter 14.64

SPECIAL FLOOD HAZARD AREAS, DRAINAGE, AND EROSION

Sections:

Part I. Special Flood Hazard Areas and Regulatory Floodplain

[14.64.005](#) Basis for Establishing Special Flood Hazard Areas

[14.64.020](#) Administrative Procedures

[14.64.050](#) Special Provisions for Subdivisions

14.64.005 Basis for Establishing Special Flood Hazard Areas.

The City hereby adopts by reference the special flood hazard areas identified by the Federal Emergency Management Agency (FEMA) in its most current scientific Flood Insurance Study for Snohomish County, Washington, and incorporated areas dated November 8, 1999, and any revisions thereto, with the current accompanying Flood Insurance Rate Map (FIRM), and any revisions thereto, and declare the same to be a part of the Lake Stevens Municipal Code. The Flood Insurance Study is on file in the Planning and Community Development Department. (Ord. 860, Sec. 4 (Exh. 2), 2011)

14.64.020 Administrative Procedures.

(a) The City shall require a floodplain development permit before construction and/or development begins within the regulatory floodplain.

(b) The City shall review all development permits to determine that all necessary permits have been obtained from those Federal, State, or local governmental agencies from which prior approval is required.

(c) For all new or substantially improved floodproofed nonresidential structures where base flood elevation data is provided through the FIS, FIRM, or as required in LSMC 14.64.015(d):

- i. Obtain and record the elevation (in relation to mean sea level) to which the structure was floodproofed.
- ii. Maintain the floodproofing certifications required in LSMC 14.64.045(c).

(d) Where elevation data is not available either through the Flood Insurance Study, FIRM, or from another authoritative source (Section 4.3-2), applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks,

photographs of past flooding, etc., where available. Failure to elevate at least two feet above the highest adjacent grade in these zones may result in higher insurance rates.

(be) Applicants shall submit a floodplain development permit, on forms furnished by the City, and shall submit one or more site plans, drawn to scale, including, but not limited to, the following:

- (1) The nature, location, dimensions, and elevations of the property in question;
- (2) Names and location of all lakes, water bodies, waterways and drainage facilities within 300 feet of the site;
- (3) The elevations of the 10-, 50-, 100-, and 500-year floods, where the data are available;
- (4) The boundaries of the regulatory floodplain, special flood hazard area, floodway, riparian habitat zone, and channel migration area, as appropriate;
- (5) The proposed drainage system including, but not limited to, storm sewers, overland flow paths, detention facilities and roads;
- (6) Existing and proposed structures, fill, pavement and other impervious surfaces, and sites for storage of materials;
- (7) Critical areas per Chapter [14.88](#); and
- (8) Existing native vegetation and proposed revegetation.

(fe) The applicant must record a notice on title that the property contains land within the regulatory floodplain including special flood hazard areas and protected areas, as applicable, before the City issues the floodplain development permit.

(g) The City shall notify adjacent communities and the Department of Ecology prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.

(h) The City shall require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished. (Ord. 860, Sec. 4 (Exh. 2), 2011)

14.64.050 Special Provisions for Subdivisions.

- (a) This section applies to all subdivision proposals including but not limited to subdivisions, short subdivisions, planned developments, and binding site plans per Chapter [14.18](#).
- (b) All proposals shall be consistent with the need to minimize flood damage.

(c) All proposals shall have utilities and facilities, such as sewer, gas, electrical, and water systems, located and constructed to minimize or eliminate flood damage.

(d) All proposals shall provide adequate drainage to reduce exposure to flood damage.

(e) Wherever possible, all proposals shall provide at least one access road connected to land outside the regulatory floodplain with the surface of the road at or above the flood protection elevation.

(f) Where base flood elevation data has not been provided or is not available from another authorized source, it shall be generated for subdivision proposals and other proposed developments which contain at least 50 lots or 5 acres (whichever is less).

(g) The final recorded plat, short plat, or binding site plan shall include a note that a portion of the property contains land within the regulatory floodplain including special flood hazard areas and protected areas, as applicable. (Ord. 860, Sec. 4 (Exh. 2), 2011)

City of Lake Stevens Floodplain Regulations (LSMC Title 14) Code Revision Work Program

ACTIVITY	Floodplain Ordinance Draft Regulations				
	APRIL	MAY	JUNE	JULY	AUGUST
Draft Code Amendments	4/1/2016 – 5/1/2016				
Draft Ordinances			6/1/2016-7/1/2016		
Attorney Review				7/1/2016-7/15/2016	
Prepare & Issue SEPA (comment/appeal)			6/1/2016		
Commerce Review			6/1/2016 – 8/1/2016 (Ask for expedited)		
Publish Notice Planning Commission Public Hearing			Notice Twice – 1 st notice 10 Days Before Hearing		
Planning Commission Review (B-briefing; PH-public hearing)		5/4/2016 (B)		7/6/2016 (PH)	
Publish Notice City Council Public Hearing				Notice 10 Days Before Hearing	Notice 10 Days Before Hearing
City Council Briefings & Workshops (B-briefing; PH-public hearing)		5/24/2016 (B)			
City Council Public Hearing, 1 st Reading				7/19/2016 (PH) 1 st Reading	
City Council Public Hearing, 2nd & Final Reading					8/2/2016 (PH) 2 nd Reading
Effective date					Code Revisions Effective -5 Days After Publication

Purpose: Consideration of proposed amendments to the floodplain regulations for inclusion in the Lake Stevens Municipal Code.

Note: This is a required code amendment per an audit from DOE/FEMA in 2015.



Staff Report City of Lake Stevens Planning Commission

Planning Commission Briefing
Date: **May 4, 2016**

SUBJECTS: Impact Fee Deferrals

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

SUMMARY: Amendments to the city's impact fee regulations to enact recent state legislation allowing the deferral of impact fees for the construction of single-family construction.

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

BACKGROUND/HISTORY:

The Washington State Legislature Engrossed Senate Bill 5923 last year providing for a limited deferral of impact fees for single-family constructions (**Exhibit 1**). ES 5923 will become effective September 1, 2016. This bill requires counties, cities, and towns collecting impact fees to adopt a deferral system for new single-family detached and attached residential construction.

The purpose of this briefing is to introduce an initial project scope to be integrated into Chapters 14.100, .112 and .120 of the Lake Stevens Municipal Code or as a standalone chapter. The following list summarize proposed code changes from ES 5923.

- The bill gives municipalities the following three options for setting up a deferral system:
 - A. Deferring collection of the impact fee payment until final inspection;
 - B. Deferring collection of the impact fee payment until certificate of occupancy or equivalent certification; or
 - C. Deferring collection of the impact fee payment until the time of closing of the first sale of the property occurring after the issuance of the applicable building permit.

Staff is recommending Option B – Deferring impact fee until certificate of occupancy.

- Other bill provisions and requirements include:
 - A. Deferral is 18 months from issuance of the building permit;
 - B. The amount of impact fees that may be deferred is determined by the fees in effect at the time the applicant applies for a deferral;
 - C. Deferral of impact fees can be limited to the first 20 single-family residential building permits, annually, per applicant;
 - D. An applicant seeking a deferral must grant and record a lien against the property in favor of the municipality in the amount of the deferred impact fee;
 - E. Municipalities may collect reasonable administrative fees from applicants seeking a deferral;

- F. "Applicant" is defined to include "an entity that controls the applicant, is controlled by the applicant, or is under common control with the applicant;"
- G. Limited grandfathering is authorized for an existing deferral system (in effect on or before April 1, 2015), even if it does not fully match the new state requirements, as long as all impact fees are deferred; and
- H. Municipalities and school districts are authorized to institute foreclosure proceedings if impact fees are not paid.

The project will be approximately a four month process to review the code and draft revisions for the Planning Commission and the City Council to consider. Other tasks 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.

ATTACHED:

1. Draft Schedule

CERTIFICATION OF ENROLLMENT

ENGROSSED SENATE BILL 5923

64th Legislature
2015 Regular Session

Passed by the Senate April 16, 2015
Yeas 28 Nays 18

President of the Senate

Passed by the House April 14, 2015
Yeas 82 Nays 15

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Pablo G. Campos, Deputy Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SENATE BILL 5923** as passed by Senate and the House of Representatives on the dates hereon set forth.

Deputy Secretary

FILED

**Secretary of State
State of Washington**

ENGROSSED SENATE BILL 5923

AS AMENDED BY THE HOUSE

Passed Legislature - 2015 Regular Session

State of Washington **64th Legislature** **2015 Regular Session****By** Senators Brown, Llias, Roach, Dandel, Hobbs, Warnick, and Chase

Read first time 02/11/15. Referred to Committee on Trade & Economic Development.

1 AN ACT Relating to promoting economic recovery in the
2 construction industry; amending RCW 82.02.050 and 36.70A.070; adding
3 a new section to chapter 44.28 RCW; adding a new section to chapter
4 43.31 RCW; and providing an effective date.

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

6 **Sec. 1.** RCW 82.02.050 and 1994 c 257 s 24 are each amended to
7 read as follows:

8 (1) It is the intent of the legislature:

9 (a) To ensure that adequate facilities are available to serve new
10 growth and development;

11 (b) To promote orderly growth and development by establishing
12 standards by which counties, cities, and towns may require, by
13 ordinance, that new growth and development pay a proportionate share
14 of the cost of new facilities needed to serve new growth and
15 development; and

16 (c) To ensure that impact fees are imposed through established
17 procedures and criteria so that specific developments do not pay
18 arbitrary fees or duplicative fees for the same impact.

19 (2) Counties, cities, and towns that are required or choose to
20 plan under RCW 36.70A.040 are authorized to impose impact fees on
21 development activity as part of the financing for public facilities,

1 provided that the financing for system improvements to serve new
2 development must provide for a balance between impact fees and other
3 sources of public funds and cannot rely solely on impact fees.

4 (3)(a)(i) Counties, cities, and towns collecting impact fees
5 must, by September 1, 2016, adopt and maintain a system for the
6 deferred collection of impact fees for single-family detached and
7 attached residential construction. The deferral system must include a
8 process by which an applicant for a building permit for a single-
9 family detached or attached residence may request a deferral of the
10 full impact fee payment. The deferral system offered by a county,
11 city, or town under this subsection (3) must include one or more of
12 the following options:

13 (A) Deferring collection of the impact fee payment until final
14 inspection;

15 (B) Deferring collection of the impact fee payment until
16 certificate of occupancy or equivalent certification; or

17 (C) Deferring collection of the impact fee payment until the time
18 of closing of the first sale of the property occurring after the
19 issuance of the applicable building permit.

20 (ii) Counties, cities, and towns utilizing the deferral process
21 required by this subsection (3)(a) may withhold certification of
22 final inspection, certificate of occupancy, or equivalent
23 certification until the impact fees have been paid in full.

24 (iii) The amount of impact fees that may be deferred under this
25 subsection (3) must be determined by the fees in effect at the time
26 the applicant applies for a deferral.

27 (iv) Unless an agreement to the contrary is reached between the
28 buyer and seller, the payment of impact fees due at closing of a sale
29 must be made from the seller's proceeds. In the absence of an
30 agreement to the contrary, the seller bears strict liability for the
31 payment of the impact fees.

32 (b) The term of an impact fee deferral under this subsection (3)
33 may not exceed eighteen months from the date of building permit
34 issuance.

35 (c) Except as may otherwise be authorized in accordance with (f)
36 of this subsection (3), an applicant seeking a deferral under this
37 subsection (3) must grant and record a deferred impact fee lien
38 against the property in favor of the county, city, or town in the
39 amount of the deferred impact fee. The deferred impact fee lien,

1 which must include the legal description, tax account number, and
2 address of the property, must also be:

3 (i) In a form approved by the county, city, or town;

4 (ii) Signed by all owners of the property, with all signatures
5 acknowledged as required for a deed, and recorded in the county where
6 the property is located;

7 (iii) Binding on all successors in title after the recordation;
8 and

9 (iv) Junior and subordinate to one mortgage for the purpose of
10 construction upon the same real property granted by the person who
11 applied for the deferral of impact fees.

12 (d)(i) If impact fees are not paid in accordance with a deferral
13 authorized by this subsection (3), and in accordance with the term
14 provisions established in (b) of this subsection (3), the county,
15 city, or town may institute foreclosure proceedings in accordance
16 with chapter 61.12 RCW.

17 (ii) If the county, city, or town does not institute foreclosure
18 proceedings for unpaid school impact fees within forty-five days
19 after receiving notice from a school district requesting that it do
20 so, the district may institute foreclosure proceedings with respect
21 to the unpaid impact fees.

22 (e)(i) Upon receipt of final payment of all deferred impact fees
23 for a property, the county, city, or town must execute a release of
24 deferred impact fee lien for the property. The property owner at the
25 time of the release, at his or her expense, is responsible for
26 recording the lien release.

27 (ii) The extinguishment of a deferred impact fee lien by the
28 foreclosure of a lien having priority does not affect the obligation
29 to pay the impact fees as a condition of final inspection,
30 certificate of occupancy, or equivalent certification, or at the time
31 of closing of the first sale.

32 (f) A county, city, or town with an impact fee deferral process
33 on or before April 1, 2015, is exempt from the requirements of this
34 subsection (3) if the deferral process delays all impact fees and
35 remains in effect after September 1, 2016.

36 (g)(i) Each applicant for a single-family residential
37 construction permit, in accordance with his or her contractor
38 registration number or other unique identification number, is
39 entitled to annually receive deferrals under this subsection (3) for
40 the first twenty single-family residential construction building

1 permits per county, city, or town. A county, city, or town, however,
 2 may elect, by ordinance, to defer more than twenty single-family
 3 residential construction building permits for an applicant. If the
 4 county, city, or town collects impact fees on behalf of one or more
 5 school districts for which the collection of impact fees could be
 6 delayed, the county, city, or town must consult with the district or
 7 districts about the additional deferrals. A county, city, or town
 8 considering additional deferrals must give substantial weight to
 9 recommendations of each applicable school district regarding the
 10 number of additional deferrals. If the county, city, or town
 11 disagrees with the recommendations of one or more school districts,
 12 the county, city, or town must provide the district or districts with
 13 a written rationale for its decision.

14 (ii) For purposes of this subsection (3)(g), an "applicant"
 15 includes an entity that controls the applicant, is controlled by the
 16 applicant, or is under common control with the applicant.

17 (h) Counties, cities, and towns may collect reasonable
 18 administrative fees to implement this subsection (3) from permit
 19 applicants who are seeking to delay the payment of impact fees under
 20 this subsection (3).

21 (i) In accordance with sections 3 and 4 of this act, counties,
 22 cities, and towns must cooperate with and provide requested data,
 23 materials, and assistance to the department of commerce and the joint
 24 legislative audit and review committee.

25 (4) The impact fees:

26 (a) Shall only be imposed for system improvements that are
 27 reasonably related to the new development;

28 (b) Shall not exceed a proportionate share of the costs of system
 29 improvements that are reasonably related to the new development; and

30 (c) Shall be used for system improvements that will reasonably
 31 benefit the new development.

32 ((+4))(5)(a) Impact fees may be collected and spent only for the
 33 public facilities defined in RCW 82.02.090 which are addressed by a
 34 capital facilities plan element of a comprehensive land use plan
 35 adopted pursuant to the provisions of RCW 36.70A.070 or the
 36 provisions for comprehensive plan adoption contained in chapter
 37 36.70, 35.63, or 35A.63 RCW. After the date a county, city, or town
 38 is required to adopt its development regulations under chapter 36.70A
 39 RCW, continued authorization to collect and expend impact fees
 40 ((shall be))is contingent on the county, city, or town adopting or

1 revising a comprehensive plan in compliance with RCW 36.70A.070, and
2 on the capital facilities plan identifying:

3 ~~((a))~~(i) Deficiencies in public facilities serving existing
4 development and the means by which existing deficiencies will be
5 eliminated within a reasonable period of time;

6 ~~((b))~~(ii) Additional demands placed on existing public
7 facilities by new development; and

8 ~~((c))~~(iii) Additional public facility improvements required to
9 serve new development.

10 (b) If the capital facilities plan of the county, city, or town
11 is complete other than for the inclusion of those elements which are
12 the responsibility of a special district, the county, city, or town
13 may impose impact fees to address those public facility needs for
14 which the county, city, or town is responsible.

15 **Sec. 2.** RCW 36.70A.070 and 2010 1st sp.s. c 26 s 6 are each
16 amended to read as follows:

17 The comprehensive plan of a county or city that is required or
18 chooses to plan under RCW 36.70A.040 shall consist of a map or maps,
19 and descriptive text covering objectives, principles, and standards
20 used to develop the comprehensive plan. The plan shall be an
21 internally consistent document and all elements shall be consistent
22 with the future land use map. A comprehensive plan shall be adopted
23 and amended with public participation as provided in RCW 36.70A.140.
24 Each comprehensive plan shall include a plan, scheme, or design for
25 each of the following:

26 (1) A land use element designating the proposed general
27 distribution and general location and extent of the uses of land,
28 where appropriate, for agriculture, timber production, housing,
29 commerce, industry, recreation, open spaces, general aviation
30 airports, public utilities, public facilities, and other land uses.
31 The land use element shall include population densities, building
32 intensities, and estimates of future population growth. The land use
33 element shall provide for protection of the quality and quantity of
34 groundwater used for public water supplies. Wherever possible, the
35 land use element should consider utilizing urban planning approaches
36 that promote physical activity. Where applicable, the land use
37 element shall review drainage, flooding, and storm water run-off in
38 the area and nearby jurisdictions and provide guidance for corrective

1 actions to mitigate or cleanse those discharges that pollute waters
2 of the state, including Puget Sound or waters entering Puget Sound.

3 (2) A housing element ensuring the vitality and character of
4 established residential neighborhoods that: (a) Includes an inventory
5 and analysis of existing and projected housing needs that identifies
6 the number of housing units necessary to manage projected growth; (b)
7 includes a statement of goals, policies, objectives, and mandatory
8 provisions for the preservation, improvement, and development of
9 housing, including single-family residences; (c) identifies
10 sufficient land for housing, including, but not limited to,
11 government-assisted housing, housing for low-income families,
12 manufactured housing, multifamily housing, and group homes and foster
13 care facilities; and (d) makes adequate provisions for existing and
14 projected needs of all economic segments of the community.

15 (3) A capital facilities plan element consisting of: (a) An
16 inventory of existing capital facilities owned by public entities,
17 showing the locations and capacities of the capital facilities; (b) a
18 forecast of the future needs for such capital facilities; (c) the
19 proposed locations and capacities of expanded or new capital
20 facilities; (d) at least a six-year plan that will finance such
21 capital facilities within projected funding capacities and clearly
22 identifies sources of public money for such purposes; and (e) a
23 requirement to reassess the land use element if probable funding
24 falls short of meeting existing needs and to ensure that the land use
25 element, capital facilities plan element, and financing plan within
26 the capital facilities plan element are coordinated and consistent.
27 Park and recreation facilities shall be included in the capital
28 facilities plan element.

29 (4) A utilities element consisting of the general location,
30 proposed location, and capacity of all existing and proposed
31 utilities, including, but not limited to, electrical lines,
32 telecommunication lines, and natural gas lines.

33 (5) Rural element. Counties shall include a rural element
34 including lands that are not designated for urban growth,
35 agriculture, forest, or mineral resources. The following provisions
36 shall apply to the rural element:

37 (a) Growth management act goals and local circumstances. Because
38 circumstances vary from county to county, in establishing patterns of
39 rural densities and uses, a county may consider local circumstances,
40 but shall develop a written record explaining how the rural element

1 harmonizes the planning goals in RCW 36.70A.020 and meets the
2 requirements of this chapter.

3 (b) Rural development. The rural element shall permit rural
4 development, forestry, and agriculture in rural areas. The rural
5 element shall provide for a variety of rural densities, uses,
6 essential public facilities, and rural governmental services needed
7 to serve the permitted densities and uses. To achieve a variety of
8 rural densities and uses, counties may provide for clustering,
9 density transfer, design guidelines, conservation easements, and
10 other innovative techniques that will accommodate appropriate rural
11 densities and uses that are not characterized by urban growth and
12 that are consistent with rural character.

13 (c) Measures governing rural development. The rural element shall
14 include measures that apply to rural development and protect the
15 rural character of the area, as established by the county, by:

16 (i) Containing or otherwise controlling rural development;

17 (ii) Assuring visual compatibility of rural development with the
18 surrounding rural area;

19 (iii) Reducing the inappropriate conversion of undeveloped land
20 into sprawling, low-density development in the rural area;

21 (iv) Protecting critical areas, as provided in RCW 36.70A.060,
22 and surface water and groundwater resources; and

23 (v) Protecting against conflicts with the use of agricultural,
24 forest, and mineral resource lands designated under RCW 36.70A.170.

25 (d) Limited areas of more intensive rural development. Subject to
26 the requirements of this subsection and except as otherwise
27 specifically provided in this subsection (5)(d), the rural element
28 may allow for limited areas of more intensive rural development,
29 including necessary public facilities and public services to serve
30 the limited area as follows:

31 (i) Rural development consisting of the infill, development, or
32 redevelopment of existing commercial, industrial, residential, or
33 mixed-use areas, whether characterized as shoreline development,
34 villages, hamlets, rural activity centers, or crossroads
35 developments.

36 (A) A commercial, industrial, residential, shoreline, or mixed-
37 use area (~~shall be~~) are subject to the requirements of (d)(iv) of
38 this subsection, but (~~shall~~) are not (~~be~~) subject to the
39 requirements of (c)(ii) and (iii) of this subsection.

1 (B) Any development or redevelopment other than an industrial
2 area or an industrial use within a mixed-use area or an industrial
3 area under this subsection (5)(d)(i) must be principally designed to
4 serve the existing and projected rural population.

5 (C) Any development or redevelopment in terms of building size,
6 scale, use, or intensity shall be consistent with the character of
7 the existing areas. Development and redevelopment may include changes
8 in use from vacant land or a previously existing use so long as the
9 new use conforms to the requirements of this subsection (5);

10 (ii) The intensification of development on lots containing, or
11 new development of, small-scale recreational or tourist uses,
12 including commercial facilities to serve those recreational or
13 tourist uses, that rely on a rural location and setting, but that do
14 not include new residential development. A small-scale recreation or
15 tourist use is not required to be principally designed to serve the
16 existing and projected rural population. Public services and public
17 facilities shall be limited to those necessary to serve the
18 recreation or tourist use and shall be provided in a manner that does
19 not permit low-density sprawl;

20 (iii) The intensification of development on lots containing
21 isolated nonresidential uses or new development of isolated cottage
22 industries and isolated small-scale businesses that are not
23 principally designed to serve the existing and projected rural
24 population and nonresidential uses, but do provide job opportunities
25 for rural residents. Rural counties may allow the expansion of small-
26 scale businesses as long as those small-scale businesses conform with
27 the rural character of the area as defined by the local government
28 according to RCW 36.70A.030(15). Rural counties may also allow new
29 small-scale businesses to utilize a site previously occupied by an
30 existing business as long as the new small-scale business conforms to
31 the rural character of the area as defined by the local government
32 according to RCW 36.70A.030(15). Public services and public
33 facilities shall be limited to those necessary to serve the isolated
34 nonresidential use and shall be provided in a manner that does not
35 permit low-density sprawl;

36 (iv) A county shall adopt measures to minimize and contain the
37 existing areas or uses of more intensive rural development, as
38 appropriate, authorized under this subsection. Lands included in such
39 existing areas or uses shall not extend beyond the logical outer
40 boundary of the existing area or use, thereby allowing a new pattern

1 of low-density sprawl. Existing areas are those that are clearly
2 identifiable and contained and where there is a logical boundary
3 delineated predominately by the built environment, but that may also
4 include undeveloped lands if limited as provided in this subsection.
5 The county shall establish the logical outer boundary of an area of
6 more intensive rural development. In establishing the logical outer
7 boundary, the county shall address (A) the need to preserve the
8 character of existing natural neighborhoods and communities, (B)
9 physical boundaries, such as bodies of water, streets and highways,
10 and land forms and contours, (C) the prevention of abnormally
11 irregular boundaries, and (D) the ability to provide public
12 facilities and public services in a manner that does not permit low-
13 density sprawl;

14 (v) For purposes of (d) of this subsection, an existing area or
15 existing use is one that was in existence:

16 (A) On July 1, 1990, in a county that was initially required to
17 plan under all of the provisions of this chapter;

18 (B) On the date the county adopted a resolution under RCW
19 36.70A.040(2), in a county that is planning under all of the
20 provisions of this chapter under RCW 36.70A.040(2); or

21 (C) On the date the office of financial management certifies the
22 county's population as provided in RCW 36.70A.040(5), in a county
23 that is planning under all of the provisions of this chapter pursuant
24 to RCW 36.70A.040(5).

25 (e) Exception. This subsection shall not be interpreted to permit
26 in the rural area a major industrial development or a master planned
27 resort unless otherwise specifically permitted under RCW 36.70A.360
28 and 36.70A.365.

29 (6) A transportation element that implements, and is consistent
30 with, the land use element.

31 (a) The transportation element shall include the following
32 subelements:

33 (i) Land use assumptions used in estimating travel;

34 (ii) Estimated traffic impacts to state-owned transportation
35 facilities resulting from land use assumptions to assist the
36 department of transportation in monitoring the performance of state
37 facilities, to plan improvements for the facilities, and to assess
38 the impact of land- use decisions on state-owned transportation
39 facilities;

40 (iii) Facilities and services needs, including:

1 (A) An inventory of air, water, and ground transportation
2 facilities and services, including transit alignments and general
3 aviation airport facilities, to define existing capital facilities
4 and travel levels as a basis for future planning. This inventory must
5 include state-owned transportation facilities within the city or
6 county's jurisdictional boundaries;

7 (B) Level of service standards for all locally owned arterials
8 and transit routes to serve as a gauge to judge performance of the
9 system. These standards should be regionally coordinated;

10 (C) For state-owned transportation facilities, level of service
11 standards for highways, as prescribed in chapters 47.06 and 47.80
12 RCW, to gauge the performance of the system. The purposes of
13 reflecting level of service standards for state highways in the local
14 comprehensive plan are to monitor the performance of the system, to
15 evaluate improvement strategies, and to facilitate coordination
16 between the county's or city's six-year street, road, or transit
17 program and the office of financial management's ten-year investment
18 program. The concurrency requirements of (b) of this subsection do
19 not apply to transportation facilities and services of statewide
20 significance except for counties consisting of islands whose only
21 connection to the mainland are state highways or ferry routes. In
22 these island counties, state highways and ferry route capacity must
23 be a factor in meeting the concurrency requirements in (b) of this
24 subsection;

25 (D) Specific actions and requirements for bringing into
26 compliance locally owned transportation facilities or services that
27 are below an established level of service standard;

28 (E) Forecasts of traffic for at least ten years based on the
29 adopted land use plan to provide information on the location, timing,
30 and capacity needs of future growth;

31 (F) Identification of state and local system needs to meet
32 current and future demands. Identified needs on state-owned
33 transportation facilities must be consistent with the statewide
34 multimodal transportation plan required under chapter 47.06 RCW;

35 (iv) Finance, including:

36 (A) An analysis of funding capability to judge needs against
37 probable funding resources;

38 (B) A multiyear financing plan based on the needs identified in
39 the comprehensive plan, the appropriate parts of which shall serve as
40 the basis for the six-year street, road, or transit program required

1 by RCW 35.77.010 for cities, RCW 36.81.121 for counties, and RCW
2 35.58.2795 for public transportation systems. The multiyear financing
3 plan should be coordinated with the ten-year investment program
4 developed by the office of financial management as required by RCW
5 47.05.030;

6 (C) If probable funding falls short of meeting identified needs,
7 a discussion of how additional funding will be raised, or how land
8 use assumptions will be reassessed to ensure that level of service
9 standards will be met;

10 (v) Intergovernmental coordination efforts, including an
11 assessment of the impacts of the transportation plan and land use
12 assumptions on the transportation systems of adjacent jurisdictions;

13 (vi) Demand-management strategies;

14 (vii) Pedestrian and bicycle component to include collaborative
15 efforts to identify and designate planned improvements for pedestrian
16 and bicycle facilities and corridors that address and encourage
17 enhanced community access and promote healthy lifestyles.

18 (b) After adoption of the comprehensive plan by jurisdictions
19 required to plan or who choose to plan under RCW 36.70A.040, local
20 jurisdictions must adopt and enforce ordinances which prohibit
21 development approval if the development causes the level of service
22 on a locally owned transportation facility to decline below the
23 standards adopted in the transportation element of the comprehensive
24 plan, unless transportation improvements or strategies to accommodate
25 the impacts of development are made concurrent with the development.
26 These strategies may include increased public transportation service,
27 ride sharing programs, demand management, and other transportation
28 systems management strategies. For the purposes of this subsection
29 (6), "concurrent with the development" means that improvements or
30 strategies are in place at the time of development, or that a
31 financial commitment is in place to complete the improvements or
32 strategies within six years. If the collection of impact fees is
33 delayed under RCW 82.02.050(3), the six-year period required by this
34 subsection (6)(b) must begin after full payment of all impact fees is
35 due to the county or city.

36 (c) The transportation element described in this subsection (6),
37 the six-year plans required by RCW 35.77.010 for cities, RCW
38 36.81.121 for counties, and RCW 35.58.2795 for public transportation
39 systems, and the ten-year investment program required by RCW
40 47.05.030 for the state, must be consistent.

1 (7) An economic development element establishing local goals,
2 policies, objectives, and provisions for economic growth and vitality
3 and a high quality of life. The element shall include: (a) A summary
4 of the local economy such as population, employment, payroll,
5 sectors, businesses, sales, and other information as appropriate; (b)
6 a summary of the strengths and weaknesses of the local economy
7 defined as the commercial and industrial sectors and supporting
8 factors such as land use, transportation, utilities, education,
9 workforce, housing, and natural/cultural resources; and (c) an
10 identification of policies, programs, and projects to foster economic
11 growth and development and to address future needs. A city that has
12 chosen to be a residential community is exempt from the economic
13 development element requirement of this subsection.

14 (8) A park and recreation element that implements, and is
15 consistent with, the capital facilities plan element as it relates to
16 park and recreation facilities. The element shall include: (a)
17 Estimates of park and recreation demand for at least a ten-year
18 period; (b) an evaluation of facilities and service needs; and (c) an
19 evaluation of intergovernmental coordination opportunities to provide
20 regional approaches for meeting park and recreational demand.

21 (9) It is the intent that new or amended elements required after
22 January 1, 2002, be adopted concurrent with the scheduled update
23 provided in RCW 36.70A.130. Requirements to incorporate any such new
24 or amended elements shall be null and void until funds sufficient to
25 cover applicable local government costs are appropriated and
26 distributed by the state at least two years before local government
27 must update comprehensive plans as required in RCW 36.70A.130.

28 NEW SECTION. **Sec. 3.** A new section is added to chapter 44.28
29 RCW to read as follows:

30 (1) The joint legislative audit and review committee must review
31 the impact fee deferral requirements of RCW 82.02.050(3). The review
32 must consist of an examination of issued impact fee deferrals,
33 including: (a) The number of deferrals requested of and issued by
34 counties, cities, and towns; (b) the type of impact fee deferred; (c)
35 the monetary amount of deferrals, by jurisdiction; (d) whether the
36 deferral process was efficiently administered; (e) the number of
37 deferrals that were not fully and timely paid; and (f) the costs to
38 counties, cities, and towns for collecting timely and delinquent
39 fees. The review must also include an evaluation of whether the

1 impact fee deferral process required by RCW 82.02.050(3) was
2 effective in providing a locally administered process for the
3 deferral and full payment of impact fees.

4 (2) The review required by this section must, in accordance with
5 RCW 43.01.036, be submitted to the appropriate committees of the
6 house of representatives and the senate on or before September 1,
7 2021.

8 (3) In complying with this section, and in accordance with
9 section 4 of this act, the joint legislative audit and review
10 committee must make its collected data and associated materials
11 available, upon request, to the department of commerce.

12 (4) This section expires January 1, 2022.

13 NEW SECTION. **Sec. 4.** A new section is added to chapter 43.31
14 RCW to read as follows:

15 (1) Beginning December 1, 2018, and each year thereafter, the
16 department of commerce must prepare an annual report on the impact
17 fee deferral process established in RCW 82.02.050(3). The report must
18 include: (a) The number of deferrals requested of and issued by
19 counties, cities, and towns; (b) the number of deferrals that were
20 not fully and timely paid; and (c) other information as deemed
21 appropriate.

22 (2) The report required by this section must, in accordance with
23 RCW 43.01.036, be submitted to the appropriate committees of the
24 house of representatives and the senate.

25 NEW SECTION. **Sec. 5.** This act takes effect September 1, 2016.

--- END ---