

**City of Lake Stevens Mission Statement**



The City of Lake Stevens' mission is not only to preserve the natural beauty that attracted so many of its citizens, but to enhance and harmonize with the environment to accommodate new people who desire to live here. Through shared, active participation among Citizen, Mayor, Council, and City Staff, we commit ourselves to quality living for this and future generations.

Growth in our community is inevitable. The City will pursue an active plan on how, when, and where it shall occur to properly plan for needed services, ensure public safety, and maintain the unique ambience that is Lake Stevens.



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**REGULAR CITY COUNCIL MEETING AGENDA**  
**Lake Stevens School District Educational Service Center (Admin. Bldg.)**  
**12309 22<sup>nd</sup> Street NE, Lake Stevens**  
**Monday, February 14, 2011 - 7:00 p.m.**

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

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

**ROLL CALL:**

**GUEST BUSINESS:**

**CONSENT AGENDA:** \*A. Approve February 2011 vouchers. Barb

**ACTION ITEMS:**

- \*A. Approve minutes of January 24, 2011 regular meeting. Norma
- \*B. Approve minutes of February 7, 2011 special and workshop meetings. Norma
- \*C. Proclamation – February Career and Technical Education Month. Vern
- \*D. Approve first and final reading of Ordinance No. 849, Police vehicle impound amendment. Randy
- \*E. Approve Resolution No. 2011-2, establishing a Sidewalk Capital Projects Fund 309. Barb
- \*F. Approve Resolution No. 2011-3, Southwest annexation sales tax incentive. Barb
- \*G. Approve first and final reading of Ordinance No. 848, amending the card room regulations. Jan
- \*H. Approve Professional Services Agreement with Weinman Consulting LLC to complete Planned Action EIS/Ordinances for Lake Stevens Center and 20<sup>th</sup> Street SE Corridor. Becky

**DISCUSSION ITEMS:**

- \*A. Shoreline Master Program Review. Becky
- \*B. Budget amendment. Barb

**COUNCIL PERSON'S BUSINESS:**

**Lake Stevens City Council Regular Meeting Agenda**

**February 14, 2011**

**MAYOR'S BUSINESS:**

**STAFF REPORTS:**

**INFORMATION  
ITEMS:**

**EXECUTIVE  
SESSION:**

**ADJOURN:**

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\* ITEMS ATTACHED  
\*\* ITEMS PREVIOUSLY DISTRIBUTED  
# ITEMS TO BE DISTRIBUTED

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***THE PUBLIC IS INVITED TO ATTEND***

***Special Needs***

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

**BLANKET VOUCHER APPROVAL  
 2011**

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

Payroll Direct Deposits	<b>903820-903885</b>	<b>\$118,228.66</b>
Payroll Checks	<b>31263-31273</b>	<b>\$11,744.37</b>
Claims	<b>31274-31373</b>	<b>\$160,539.90</b>
Electronic Funds Transfers	<b>293-300</b>	<b>\$155,117.01</b>
Void Checks	<b>31263-31267</b>	<b>\$0.00</b>
Tax Deposit(s)	<b>2/1/2011</b>	<b>\$45,240.32</b>
<b>Total Vouchers Approved:</b>		<b>\$490,870.26</b>

**This 14th day of February 2011:**

\_\_\_\_\_  
 Mayor

\_\_\_\_\_  
 Councilmember

\_\_\_\_\_  
 Finance Director

\_\_\_\_\_  
 Councilmember

\_\_\_\_\_  
 Councilmember

\_\_\_\_\_  
 Councilmember



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**Direct Deposit Register**

21-Jan-2011

Wells Fargo - AP

**Lake Stevens**

**Direct Deposits to Accounts**

21-Jan-2011	<u>Vendor</u>	<u>Source</u>	<u>Amount</u>	<u>Draft#</u>	<u>Bank Name</u>	<u>Transit</u>	<u>Account</u>
9362	Department of Revenue	C	\$110.53	293	Wells Fargo	121000248	4159656917
11866	Dept. of Labor & Industries	C	\$16,535.71	294	Wells Fargo	121000248	4159656917
<b>Total:</b>			\$16,646.24		<b>Count:</b>	2.00	

***Direct Deposit Summary***

<u>Type</u>	<u>Count</u>	<u>Total</u>
C	2	\$16,646.24

**Pre-Note Transactions**

**Direct Deposit Register**

02-Feb-2011

Wells Fargo - AP

**Lake Stevens**

**Direct Deposits to Accounts**

02-Feb-2011	<u>Vendor</u>	<u>Source</u>	<u>Amount</u>	<u>Draft#</u>	<u>Bank Name</u>	<u>Transit</u>	<u>Account</u>
12112	AFLAC	C	\$1,777.60	295	Wells Fargo	121000248	4159656917
101	Assoc. Of Washington Cities	C	\$83,547.64	296	Wells Fargo	121000248	4159656917
9407	Department of Retirement (Pers	C	\$46,639.30	297	Wells Fargo	121000248	4159656917
9408	NATIONWIDE RETIREMENT SOL	C	\$770.47	298	Wells Fargo	121000248	4159656917
1418	Standard Insurance Company	C	\$5,333.30	299	Wells Fargo	121000248	4159656917
9405	Wash State Support Registry	C	\$402.46	300	Wells Fargo	121000248	4159656917
<b>Total:</b>			\$138,470.77		<b>Count:</b>	6.00	

***Direct Deposit Summary***

<i>Type</i>	<i>Count</i>	<i>Total</i>
C	6	\$138,470.77

**Pre-Note Transactions**

## Detail Check Register

28-Jan-11

Lake Stevens

Check No	Check Date	VendorNo	Vendor	Check Amount	
<b>31274</b>	<b>28-Jan-11</b>	<b>12404</b>	<b>CDW GOVERNMENT INC</b>		<b>\$1,779.69</b>
VKQ5789		A/G Panda Bus Exchange		\$1,779.69	\$0.00
001003518103100		IT Dept-Office Supplies		\$1,779.69	
<b>31275</b>	<b>28-Jan-11</b>	<b>13813</b>	<b>Comcast</b>		<b>\$5,940.27</b>
Job#57304		Fiber build Peg channel		\$5,940.27	\$0.00
001013519906404		Gen Gov't - Cable Capital		\$5,940.27	
<b>Total Of Checks:</b>					<b>\$7,719.96</b>

# Detail Check Register

03-Feb-11

Lake Stevens

Check No	Check Date	VendorNo	Vendor	Check Amount		
<b>31276</b>	<b>03-Feb-11</b>	<b>13517</b>	<b>Dept of Health</b>			<b>\$70.00</b>
WDM1 009765	Cert fee			\$35.00	\$0.00	\$35.00
410016542404901	Storm Water - Staff Developmen			\$35.00		
WDS 008136	Cert fee			\$35.00	\$0.00	\$35.00
410016542404901	Storm Water - Staff Developmen			\$35.00		
<b>Total Of Checks:</b>						<b>\$70.00</b>

# Detail Check Register

10-Feb-11

Lake Stevens

Check No	Check Date	VendorNo	Vendor	Check Amount		
<b>31277</b>	<b>14-Feb-11</b>	<b>13328</b>	<b>ACES</b>			<b>\$329.00</b>
8102			DOSH mtg	\$329.00	\$0.00	\$329.00
			001003517620000 Admin. Safety program	\$77.64		
			101016517620000 safety program	\$146.08		
			410016517620000 safety program	\$105.28		
<b>31278</b>	<b>14-Feb-11</b>	<b>13707</b>	<b>Andrew Thor</b>			<b>\$750.00</b>
2011			2011 clothing allowance	\$750.00	\$0.00	\$750.00
			001008521002600 Law Enforcment Clothing	\$750.00		
<b>31279</b>	<b>14-Feb-11</b>	<b>12070</b>	<b>Aramark Uniform Services</b>			<b>\$192.20</b>
655-5302389			Uniform cleaning	\$38.44	\$0.00	\$38.44
			001010576803100 Parks - Operating Costs	\$5.38		
			101016542002600 Street Fund - Clothing	\$19.99		
			410016542402600 Storm Water-Clothing	\$13.07		
655-5314803			Uniform cleaning	\$38.44	\$0.00	\$38.44
			001010576803100 Parks - Operating Costs	\$5.38		
			101016542002600 Street Fund - Clothing	\$19.99		
			410016542402600 Storm Water-Clothing	\$13.07		
655-5327091			Uniform cleaning	\$38.44	\$0.00	\$38.44
			001010576803100 Parks - Operating Costs	\$5.38		
			101016542002600 Street Fund - Clothing	\$19.99		
			410016542402600 Storm Water-Clothing	\$13.07		
655-5340251			Uniform cleaning	\$38.44	\$0.00	\$38.44
			001010576803100 Parks - Operating Costs	\$5.38		
			101016542002600 Street Fund - Clothing	\$19.99		
			410016542402600 Storm Water-Clothing	\$13.07		
6555352542			Uniform cleaning	\$38.44	\$0.00	\$38.44
			001010576803100 Parks - Operating Costs	\$5.38		
			101016542002600 Street Fund - Clothing	\$19.99		
			410016542402600 Storm Water-Clothing	\$13.07		
<b>31280</b>	<b>14-Feb-11</b>	<b>13816</b>	<b>Architectural Bldg Specialties</b>			<b>\$804.83</b>
3398			OPL Locker	\$804.83	\$0.00	\$804.83
			001008521003104 Law Enforcement-Operating Cost	\$804.83		
<b>31281</b>	<b>14-Feb-11</b>	<b>12187</b>	<b>AUCKLAND ENTERPRISES</b>			<b>\$375.00</b>
516			Dangerous tree removal	\$375.00	\$0.00	\$375.00
			410016542404101 Storm Water - Professional Ser	\$375.00		
<b>31282</b>	<b>14-Feb-11</b>	<b>13670</b>	<b>Black Rock Cable, Inc</b>			<b>\$735.00</b>
18181			Fiber Optic 02/11 pmt	\$735.00	\$0.00	\$735.00

# Detail Check Register

10-Feb-11

Lake Stevens

Check No	Check Date	VendorNo	Vendor	Check Amount	
001013519906401			General Government - Capital E	\$588.00	
101016595616100			Street Fund Capital	\$73.50	
410016595406400			Capital Projects	\$73.50	
<b>31283</b>	<b>14-Feb-11</b>	<b>11952</b>	<b>Carquest Auto Parts Store</b>		<b>\$91.66</b>
2421-150188			Supplies	\$6.58	\$0.00
101016542004800			Street Fund - Repair & Mainten	\$6.58	
2421152962			Supplies	\$75.94	\$0.00
101016542004800			Street Fund - Repair & Mainten	\$75.94	
2421-152992			Supplies	\$4.33	\$0.00
101016542004800			Street Fund - Repair & Mainten	\$4.33	
2421-153271			Supplies	\$4.81	\$0.00
410016542404800			Storm Water - Repairs & Maint.	\$4.81	
<b>31284</b>	<b>14-Feb-11</b>	<b>12608</b>	<b>CHAD CHRISTENSEN</b>		<b>\$750.00</b>
2011			2011 clothing allowance	\$750.00	\$0.00
001008521002600			Law Enforcment Clothing	\$750.00	
<b>31285</b>	<b>14-Feb-11</b>	<b>258</b>	<b>Champion Bolt &amp; Supply Inc</b>		<b>\$169.63</b>
531717			Gloves	\$119.89	\$0.00
101016542003102			Street Fund Operating Costs	\$59.95	
410016542403102			Storm Water - Operating Costs	\$59.94	
531866			Safety Glasses	\$49.74	\$0.00
101016542003102			Street Fund Operating Costs	\$49.74	
<b>31286</b>	<b>14-Feb-11</b>	<b>13776</b>	<b>Chris L Griffen</b>		<b>\$225.00</b>
C8548L			Public Defender Svcs	\$225.00	\$0.00
001013512800000			Court Appointed Attorney Fees	\$225.00	
<b>31287</b>	<b>14-Feb-11</b>	<b>12954</b>	<b>CIRCLE-N-LAUNDRY</b>		<b>\$608.16</b>
110			Uniform cleaning	\$608.16	\$0.00
001008521002600			Law Enforcment Clothing	\$608.16	
<b>31288</b>	<b>14-Feb-11</b>	<b>274</b>	<b>City of Everett</b>		<b>\$4,920.00</b>
111000287			Animal shelter services 12/10	\$4,920.00	\$0.00
001008539004100			Code Enforcement - Professiona	\$4,920.00	
<b>31289</b>	<b>14-Feb-11</b>	<b>276</b>	<b>City Of Lake Stevens</b>		<b>\$32.05</b>
877			Retainage - janitorial	\$32.05	\$0.00

# Detail Check Register

10-Feb-11

Lake Stevens

Check No	Check Date	VendorNo	Vendor	Check Amount	
001007558004100			Planning - Professional Servic	\$1.15	
001007559004100			Building Department - Professi	\$1.15	
001008521004100			Law Enforcement - Professional	\$17.10	
001013519904100			General Government - Professio	\$5.75	
001013555504100			Community Center - Cleaning	\$4.60	
101016542004100			Street Fund - Professional Ser	\$1.15	
410016542404101			Storm Water - Professional Ser	\$1.15	
<b>31290</b>	<b>14-Feb-11</b>	<b>12004</b>	<b>CITY OF MARYSVILLE</b>		<b>\$10,803.18</b>
11-001			Court Citations January 2011	\$10,803.18	\$0.00 \$10,803.18
001013512500001			Municipal Court Fees	\$10,803.18	
<b>31291</b>	<b>14-Feb-11</b>	<b>284</b>	<b>City Of Snohomish</b>		<b>\$24.95</b>
133			Channel 21 January 2011	\$24.95	\$0.00 \$24.95
001013519904200			General Government - Communica	\$24.95	
<b>31292</b>	<b>14-Feb-11</b>	<b>290</b>	<b>Co-Op Supply</b>		<b>\$39.05</b>
176971			Straw bale	\$39.05	\$0.00 \$39.05
410016542404800			Storm Water - Repairs & Maint.	\$39.05	
<b>31293</b>	<b>14-Feb-11</b>	<b>13030</b>	<b>COMCAST</b>		<b>\$98.95</b>
01/04/11			Communications	\$98.95	\$0.00 \$98.95
001003513104200			Administration-Communications	\$1.98	
001003514104200			City Clerks-Communications	\$1.98	
001003516104200			Human Resources-Communications	\$5.94	
001003518104200			IT Dept-Communications	\$3.96	
001004514234200			Finance - Communications	\$3.96	
001007558004200			Planning - Communication	\$15.83	
001008521004200			Law Enforcement - Communicatio	\$57.39	
001010576804200			Parks - Communication	\$2.64	
101016542004200			Street Fund - Communications	\$2.64	
410016542404200			Storm Water - Communications	\$2.63	
<b>31294</b>	<b>14-Feb-11</b>	<b>13030</b>	<b>COMCAST</b>		<b>\$64.90</b>
01/16/11			Communications	\$64.90	\$0.00 \$64.90
001008521004200			Law Enforcement - Communicatio	\$64.90	
<b>31295</b>	<b>14-Feb-11</b>	<b>13030</b>	<b>COMCAST</b>		<b>\$64.90</b>
01/21/11			SWX-Communications	\$64.90	\$0.00 \$64.90
001008521004200			Law Enforcement - Communicatio	\$64.90	
<b>31296</b>	<b>14-Feb-11</b>	<b>91</b>	<b>Corporate Office Supply</b>		<b>\$1,442.50</b>
113063i			Supplies	\$600.18	\$0.00 \$600.18

# Detail Check Register

10-Feb-11

Lake Stevens

Check No	Check Date	VendorNo	Vendor	Check Amount	
001008521003100			Law Enforcement - Office Suppl	\$600.18	
113117i			Paper	\$210.85	\$0.00
001008521003100			Law Enforcement - Office Suppl	\$210.85	
113177i			file/pens/cord mgr	\$61.85	\$0.00
001008521003100			Law Enforcement - Office Suppl	\$61.85	
113646i			Supplies	\$161.28	\$0.00
001003514103100			City Clerks-Office Supplies	\$104.18	
001004514233100			Finance - Office Supplies	\$51.47	
001013519903100			General Government - Operating	\$5.63	
113691			Supplies	(\$12.59)	\$0.00
001013519903100			General Government - Operating	(\$12.59)	
113758i			Labeler	\$323.03	\$0.00
001008521003100			Law Enforcement - Office Suppl	\$323.03	
113806i			Supplies	\$43.43	\$0.00
001008521003100			Law Enforcement - Office Suppl	\$43.43	
114123i			Binders, Tapes	\$54.47	\$0.00
001007558003100			Planning - Office Supplies	\$54.47	
<b>31297</b>	<b>14-Feb-11</b>	<b>91</b>	<b>Corporate Office Supply</b>		<b>\$72.80</b>
113111			Certificate holders	\$28.64	\$0.00
001008521003100			Law Enforcement - Office Suppl	\$28.64	
113158i			Page markers	\$7.15	\$0.00
001008521003100			Law Enforcement - Office Suppl	\$7.15	
28028			Supplies	\$37.01	\$0.00
101016543504802			Facilities R&M (City Shop)	\$37.01	
<b>31298</b>	<b>14-Feb-11</b>	<b>12275</b>	<b>CRAIG VALVICK</b>		<b>\$750.00</b>
2011			2011 clothing allowance	\$750.00	\$0.00
001008521002600			Law Enforcment Clothing	\$750.00	
<b>31299</b>	<b>14-Feb-11</b>	<b>9386</b>	<b>Crystal and Sierra Springs</b>		<b>\$137.46</b>
5249844020111			Bottled Water	\$137.46	\$0.00

# Detail Check Register

10-Feb-11

Lake Stevens

Check No	Check Date	VendorNo	Vendor	Check Amount	
001007559003101			Building Department - Operatin	\$34.37	
001013519904900			General Government - Miscellan	\$34.37	
101016542003102			Street Fund Operating Costs	\$34.37	
410016542403102			Storm Water - Operating Costs	\$34.35	
<b>31300</b>	<b>14-Feb-11</b>	<b>13804</b>	<b>Crystal Simpson</b>		<b>\$750.00</b>
2011			2011 clothing allowance	\$750.00	\$0.00
001008521002600			Law Enforcment Clothing	\$750.00	
<b>31301</b>	<b>14-Feb-11</b>	<b>359</b>	<b>Cuz Concrete Products, Inc.</b>		<b>\$117.37</b>
194788			Water meter box concrete	\$117.37	\$0.00
001010576804800			Parks - Repair & Maintenance	\$58.69	
101016543504802			Facilities R&M (City Shop)	\$58.68	
<b>31302</b>	<b>14-Feb-11</b>	<b>13411</b>	<b>Daniel Planalp</b>		<b>\$750.00</b>
2011			2011 clothing allowance	\$750.00	\$0.00
001008521002600			Law Enforcment Clothing	\$750.00	
<b>31303</b>	<b>14-Feb-11</b>	<b>13754</b>	<b>David Carter</b>		<b>\$750.00</b>
2011			2011 clothing allowance	\$750.00	\$0.00
001008521002600			Law Enforcment Clothing	\$750.00	
<b>31304</b>	<b>14-Feb-11</b>	<b>13182</b>	<b>Dean Thomas</b>		<b>\$750.00</b>
2011			2011 clothing allowance	\$750.00	\$0.00
001008521002600			Law Enforcment Clothing	\$750.00	
<b>31305</b>	<b>14-Feb-11</b>	<b>12369</b>	<b>DELL MARKETING L.P.</b>		<b>\$114.84</b>
XF71DTKD4			Hard Drive Repairs/Patrol Vehicle M	\$114.84	\$0.00
001008521004800			Law Enforcement - Repair & Mai	\$114.84	
<b>31306</b>	<b>14-Feb-11</b>	<b>13027</b>	<b>DEPARTMENT OF LICENSING</b>		<b>\$280.00</b>
misc permits			Weapons permits	\$280.00	\$0.00
633008586000000			Gun Permit - State Remittance	\$280.00	
<b>31307</b>	<b>14-Feb-11</b>	<b>13815</b>	<b>Donald Blakely</b>		<b>\$750.00</b>
2011			2011 clothing allowance	\$750.00	\$0.00
001008521002600			Law Enforcment Clothing	\$750.00	
<b>31308</b>	<b>14-Feb-11</b>	<b>473</b>	<b>Electronic Business Machines</b>		<b>\$670.99</b>
061717			copier maint	\$197.42	\$0.00
001008521004800			Law Enforcement - Repair & Mai	\$197.42	
062029			Copier maint	\$116.89	\$0.00

# Detail Check Register

10-Feb-11

Lake Stevens

Check No	Check Date	VendorNo	Vendor	Check Amount	
001013519904800			General Government - Repair/Ma	\$116.89	
062125			Copier maint	\$111.24	\$0.00 \$111.24
001007558004800			Planning - Repairs & Maint.	\$55.62	
101016542004800			Street Fund - Repair & Mainten	\$55.62	
36911A			Toner	\$162.90	\$0.00 \$162.90
001008521003100			Law Enforcement - Office Suppl	\$162.90	
36930A			Staple Cartridge	\$82.54	\$0.00 \$82.54
001008521003100			Law Enforcement - Office Suppl	\$82.54	
<b>31309</b>	<b>14-Feb-11</b>	<b>13379</b>	<b>Everett Safe &amp; Lock</b>		<b>\$22.28</b>
23004			Lock and keys	\$22.28	\$0.00 \$22.28
101016543504802			Facilities R&M (City Shop)	\$22.28	
<b>31310</b>	<b>14-Feb-11</b>	<b>12711</b>	<b>EVERGREEN SECURITY SYSTEMS</b>		<b>\$348.00</b>
15970			Monitoring 3/2011-2/2012	\$348.00	\$0.00 \$348.00
001008521914000			Law Enforcement -Alarm-Evid Rm	\$348.00	
<b>31311</b>	<b>14-Feb-11</b>	<b>13468</b>	<b>Feldman &amp; Lee</b>		<b>\$5,250.00</b>
01/31/11			Public Defender services	\$5,250.00	\$0.00 \$5,250.00
001013512800000			Court Appointed Attorney Fees	\$5,250.00	
<b>31312</b>	<b>14-Feb-11</b>	<b>549</b>	<b>Foster Press</b>		<b>\$143.13</b>
27115			NCIC doc	\$143.13	\$0.00 \$143.13
001008521003100			Law Enforcement - Office Suppl	\$143.13	
<b>31313</b>	<b>14-Feb-11</b>	<b>13709</b>	<b>Franklin Nelson</b>		<b>\$750.00</b>
2011			2011 clothing allowance	\$750.00	\$0.00 \$750.00
001008521002600			Law Enforcment Clothing	\$750.00	
<b>31314</b>	<b>14-Feb-11</b>	<b>13764</b>	<b>Frontier</b>		<b>\$121.34</b>
01/11			Communications	\$65.10	\$0.00 \$65.10
001013519904200			General Government - Communica	\$21.70	
101016542004200			Street Fund - Communications	\$21.70	
410016542404200			Storm Water - Communications	\$21.70	
01/19/11			Communications	\$56.24	\$0.00 \$56.24
001008521004200			Law Enforcement - Communicatio	\$56.24	
<b>31315</b>	<b>14-Feb-11</b>	<b>13785</b>	<b>Group Health Coop</b>		<b>\$65.00</b>
40002523			Occ Health DOT Physical	\$65.00	\$0.00 \$65.00

# Detail Check Register

10-Feb-11

Lake Stevens

Check No	Check Date	VendorNo	Vendor	Check Amount	
101016542004100			Street Fund - Professional Ser	\$32.50	
410016542404101			Storm Water - Professional Ser	\$32.50	
<b>31316</b>	<b>14-Feb-11</b>	<b>13455</b>	<b>Harbor Freight Tools</b>		<b>\$58.91</b>
02-00444406			Supplies	\$58.91	\$0.00
101016543504802			Facilities R&M (City Shop)	\$58.91	
<b>31317</b>	<b>14-Feb-11</b>	<b>11809</b>	<b>Harold Britton</b>		<b>\$750.00</b>
2011			2011 clothing allowance	\$750.00	\$0.00
001008521002600			Law Enforcment Clothing	\$750.00	
<b>31318</b>	<b>14-Feb-11</b>	<b>13509</b>	<b>Industrial Supply, Inc</b>		<b>\$112.98</b>
473796			Supplies	\$112.98	\$0.00
101016542003102			Street Fund Operating Costs	\$112.98	
<b>31319</b>	<b>14-Feb-11</b>	<b>13232</b>	<b>Integra Telecom, Inc</b>		<b>\$862.45</b>
7823494			Communications	\$862.45	\$0.00
001003513104200			Administration-Communications	\$6.64	
001003514104200			City Clerks-Communications	\$7.75	
001003516104200			Human Resources-Communications	\$7.19	
001003518104200			IT Dept-Communications	\$18.81	
001004514234200			Finance - Communications	\$14.94	
001007558004200			Planning - Communication	\$55.23	
001007559004200			Building Department - Communci	\$36.87	
001008521004200			Law Enforcement - Communicatio	\$141.78	
001010575304200			Historical - Communications	\$36.87	
001013519904200			General Government - Communica	\$256.63	
001013555504200			Commnity Center-Communication	\$36.87	
101016542004200			Street Fund - Communications	\$120.26	
410016542404200			Storm Water - Communications	\$122.61	
<b>31320</b>	<b>14-Feb-11</b>	<b>13177</b>	<b>James Barnes</b>		<b>\$750.00</b>
2011			2011 clothing allowance	\$750.00	\$0.00
001008521002600			Law Enforcment Clothing	\$750.00	
<b>31321</b>	<b>14-Feb-11</b>	<b>13412</b>	<b>James Wellington</b>		<b>\$750.00</b>
2011			2011 clothing allowance	\$750.00	\$0.00
001008521002600			Law Enforcment Clothing	\$750.00	
<b>31322</b>	<b>14-Feb-11</b>	<b>13327</b>	<b>Jennifer Anderson</b>		<b>\$360.00</b>
020111			Dep Care Reimb	\$360.00	\$0.00
001000281000000			Payroll Liabilities	\$360.00	

# Detail Check Register

10-Feb-11

Lake Stevens

Check No	Check Date	VendorNo	Vendor	Check Amount		
<b>31323</b>	<b>14-Feb-11</b>	<b>13386</b>	<b>Jerad Wachtveitl</b>	<b>\$750.00</b>		
2011			2011 clothing allowance	\$750.00	\$0.00	\$750.00
001008521002600			Law Enforcment Clothing	\$750.00		
<b>31324</b>	<b>14-Feb-11</b>	<b>13264</b>	<b>Joshua Holmes</b>	<b>\$750.00</b>		
2011			2011 clothing allowance	\$750.00	\$0.00	\$750.00
001008521002600			Law Enforcment Clothing	\$750.00		
<b>31325</b>	<b>14-Feb-11</b>	<b>13724</b>	<b>Kerry Bernhard</b>	<b>\$750.00</b>		
2011			2011 clothing allowance	\$750.00	\$0.00	\$750.00
001008521002600			Law Enforcment Clothing	\$750.00		
<b>31326</b>	<b>14-Feb-11</b>	<b>852</b>	<b>Lake Stevens Journal</b>	<b>\$99.10</b>		
74199			Advertising - employment	\$79.00	\$0.00	\$79.00
001007558004400			Planning - Advertising	\$79.00		
74273			Advertising - legal	\$20.10	\$0.00	\$20.10
001013514304400			General Government - Advertisin	\$20.10		
<b>31327</b>	<b>14-Feb-11</b>	<b>12751</b>	<b>LAKE STEVENS POLICE GUILD</b>	<b>\$880.00</b>		
02/01/11			Union dues	\$880.00	\$0.00	\$880.00
001000281000000			Payroll Liabilities	\$880.00		
<b>31328</b>	<b>14-Feb-11</b>	<b>12618</b>	<b>LAKESIDE INDUSTRIES</b>	<b>\$814.50</b>		
3235461MB			Asphalt	\$814.50	\$0.00	\$814.50
101016542004800			Street Fund - Repair & Mainten	\$814.50		
<b>31329</b>	<b>14-Feb-11</b>	<b>12841</b>	<b>Law Offices of Weed, Graafstra</b>	<b>\$5,780.00</b>		
84			Professional Services	\$5,780.00	\$0.00	\$5,780.00
001005515204100			Legal - Professional Service	\$3,468.00		
101016542004100			Street Fund - Professional Ser	\$1,734.00		
410016542404101			Storm Water - Professional Ser	\$578.00		
<b>31330</b>	<b>14-Feb-11</b>	<b>13147</b>	<b>LEIRA</b>	<b>\$155.00</b>		
2011			2011 Membership	\$155.00	\$0.00	\$155.00
001008521004900			Law Enforcement - Miscellaneou	\$155.00		
<b>31331</b>	<b>14-Feb-11</b>	<b>13802</b>	<b>Leland Consulting Group Inc</b>	<b>\$1,638.75</b>		
5066.2.2			Professional services	\$1,638.75	\$0.00	\$1,638.75
001007558004100			Planning - Professional Servic	\$1,638.75		
<b>31332</b>	<b>14-Feb-11</b>	<b>12603</b>	<b>LES SCHWAB TIRE CENTER</b>	<b>\$17.10</b>		

# Detail Check Register

10-Feb-11

Lake Stevens

Check No	Check Date	VendorNo	Vendor	Check Amount		
317378			Flat Repair	\$17.10	\$0.00	\$17.10
101016542004800			Street Fund - Repair & Mainten	\$17.10		
<b>31333</b>	<b>14-Feb-11</b>	<b>13404</b>	<b>LexisNexis</b>			<b>\$54.30</b>
1420700-20110131			Investigational searches	\$54.30	\$0.00	\$54.30
001008521004100			Law Enforcement - Professional	\$54.30		
<b>31334</b>	<b>14-Feb-11</b>	<b>13755</b>	<b>LMN Architects</b>			<b>\$448.05</b>
50780			Professional services	\$448.05	\$0.00	\$448.05
001007558804111			Planning-Economic Development	\$448.05		
<b>31335</b>	<b>14-Feb-11</b>	<b>12215</b>	<b>LOWES COMPANIES</b>			<b>\$86.39</b>
11237			Supplies	\$86.39	\$0.00	\$86.39
101016543504802			Facilities R&M (City Shop)	\$86.39		
<b>31336</b>	<b>14-Feb-11</b>	<b>13774</b>	<b>Maltby Container &amp; Recycling</b>			<b>\$193.50</b>
18597			Dump Fee - clean wood	\$193.50	\$0.00	\$193.50
101016542004800			Street Fund - Repair & Mainten	\$193.50		
<b>31337</b>	<b>14-Feb-11</b>	<b>13548</b>	<b>Matthew Bender &amp; Co., Inc</b>			<b>\$85.48</b>
14047802			WA Criminal & Traffic law updates	\$85.48	\$0.00	\$85.48
001008521003104			Law Enforcement-Operating Cost	\$85.48		
<b>31338</b>	<b>14-Feb-11</b>	<b>13814</b>	<b>Matthew McCourt</b>			<b>\$750.00</b>
2011			2011 clothing allowance	\$750.00	\$0.00	\$750.00
001008521002600			Law Enforcment Clothing	\$750.00		
<b>31339</b>	<b>14-Feb-11</b>	<b>1101</b>	<b>ORION SAFETY PRODUCTS</b>			<b>\$692.00</b>
206975			Road flares	\$692.00	\$0.00	\$692.00
001008521003104			Law Enforcement-Operating Cost	\$692.00		
<b>31340</b>	<b>14-Feb-11</b>	<b>12834</b>	<b>PATRICK STEVENSON</b>			<b>\$750.00</b>
2011			2011 clothing allowance	\$750.00	\$0.00	\$750.00
001008521002600			Law Enforcment Clothing	\$750.00		
<b>31341</b>	<b>14-Feb-11</b>	<b>1053</b>	<b>Patricks Printing</b>			<b>\$393.04</b>
40387			1500 Window Security Envelopes	\$145.05	\$0.00	\$145.05
001004514233100			Finance - Office Supplies	\$145.05		
40583			Annual Report Copies	\$247.99	\$0.00	\$247.99
001007558004902			Planning - Printing and Bindin	\$247.99		

# Detail Check Register

10-Feb-11

Lake Stevens

Check No	Check Date	VendorNo	Vendor	Check Amount	
<b>31342</b>	<b>14-Feb-11</b>	<b>1140</b>	<b>PLATT ELECTRIC SUPPLY</b>		<b>\$59.60</b>
9047329		Conduit		\$59.60	\$0.00
001010576804800		Parks - Repair & Maintenance		\$59.60	
<b>31343</b>	<b>14-Feb-11</b>	<b>13304</b>	<b>Purchase Power</b>		<b>\$1,000.00</b>
01/11		Postage		\$1,000.00	\$0.00
001007558004200		Planning - Communication		\$43.37	
001008521004200		Law Enforcement - Communicatio		\$464.41	
001013519904200		General Government - Communica		\$484.46	
101016542004200		Street Fund - Communications		\$3.88	
410016542404200		Storm Water - Communications		\$3.88	
<b>31344</b>	<b>14-Feb-11</b>	<b>13398</b>	<b>Right! Systems, Inc</b>		<b>\$12,013.44</b>
104863		Email Archive Server		\$12,013.44	\$0.00
510013519606400		Purchase Computer Equipment		\$12,013.44	
<b>31345</b>	<b>14-Feb-11</b>	<b>13706</b>	<b>Robert Guertin</b>		<b>\$750.00</b>
2011		2011 clothing allowance		\$750.00	\$0.00
001008521002600		Law Enforcment Clothing		\$750.00	
<b>31346</b>	<b>14-Feb-11</b>	<b>13088</b>	<b>Robert Miner</b>		<b>\$750.00</b>
2011		2011 clothing allowance		\$750.00	\$0.00
001008521002600		Law Enforcment Clothing		\$750.00	
<b>31347</b>	<b>14-Feb-11</b>	<b>12911</b>	<b>ROBERT SUMMERS</b>		<b>\$750.00</b>
2011		2011 clothing allowance		\$750.00	\$0.00
001008521002600		Law Enforcment Clothing		\$750.00	
<b>31348</b>	<b>14-Feb-11</b>	<b>11849</b>	<b>Ron Brooks</b>		<b>\$750.00</b>
2011		2011 clothing allowance		\$750.00	\$0.00
001008521002600		Law Enforcment Clothing		\$750.00	
<b>31349</b>	<b>14-Feb-11</b>	<b>12069</b>	<b>Seattle Pump</b>		<b>\$3,039.96</b>
61460		Vactor Repair supplies		\$260.88	\$0.00
410016542404800		Storm Water - Repairs & Maint.		\$260.88	
61463		vactor nozzle (d.o.e. capacity grand		\$2,779.08	\$0.00
410016542404800		Storm Water - Repairs & Maint.		\$2,779.08	
<b>31350</b>	<b>14-Feb-11</b>	<b>13363</b>	<b>Six Robblees Inc.</b>		<b>\$312.46</b>
14-227286		Strobe and Lamps		\$166.85	\$0.00

# Detail Check Register

10-Feb-11

Lake Stevens

Check No	Check Date	VendorNo	Vendor	Check Amount	
101016542004800			Street Fund - Repair & Mainten	\$166.85	
14-227286-1			Supplies	\$12.25	\$0.00
101016542004800			Street Fund - Repair & Mainten	\$12.25	
5-588552			Snow chains	\$66.25	\$0.00
101016542003102			Street Fund Operating Costs	\$66.25	
5-588555			Plow markers	\$67.11	\$0.00
101016542003102			Street Fund Operating Costs	\$67.11	
<b>31351</b>	<b>14-Feb-11</b>	<b>12346</b>	<b>SNOHOMISH COUNTY AUDITOR</b>	<b>\$38,838.50</b>	
2010			2010 Voter Reg Maint	\$38,838.50	\$0.00
001001511805101			Gen.Govent-Voter Registration	\$38,838.50	
<b>31352</b>	<b>14-Feb-11</b>	<b>1379</b>	<b>Snohomish County Human Service</b>	<b>\$1,630.73</b>	
Q4.2010			Q4.2010 Liquor Excise Tax	\$1,630.73	\$0.00
001013567005100			General Government - Alcoholis	\$1,630.73	
<b>31353</b>	<b>14-Feb-11</b>	<b>1382</b>	<b>Snohomish County Public Works</b>	<b>\$1,494.73</b>	
I000266494			Street repair	\$1,494.73	\$0.00
101016542004800			Street Fund - Repair & Mainten	\$1,494.73	
<b>31354</b>	<b>14-Feb-11</b>	<b>12961</b>	<b>SNOHOMISH COUNTY PUD</b>	<b>\$2,097.22</b>	
103683937			Utilities - electric	\$206.60	\$0.00
001008521004700			Law Enforcement - Utilities	\$206.60	
120295077			Utilities - Electirc	\$124.80	\$0.00
001010575304901			Historical Museum	\$62.40	
001010575304905			Grimm House Expenses	\$62.40	
126927287			Utilities - electric	\$204.12	\$0.00
101016542630000			Street Fund - Street Lighting	\$204.12	
130245272			Utilities - electric	\$301.97	\$0.00
410016542404700			Storm Water-Aerat. Utilities	\$301.97	
143441749			Utilities - electric	\$728.27	\$0.00
001010576804700			Parks - Utilities	\$728.27	
146762437			Utilities - electric	\$211.69	\$0.00

# Detail Check Register

10-Feb-11

Lake Stevens

Check No	Check Date	VendorNo	Vendor	Check Amount	
101016542630000			Street Fund - Street Lighting	\$211.69	
153408115			Utilities - electric	\$142.42	\$0.00 \$142.42
101016542630000			Street Fund - Street Lighting	\$142.42	
153408116			Utilities - electric	\$177.35	\$0.00 \$177.35
101016542630000			Street Fund - Street Lighting	\$177.35	
<b>31355</b>	<b>14-Feb-11</b>	<b>12961</b>	<b>SNOHOMISH COUNTY PUD</b>		<b>\$244.05</b>
103681089			Utilities - electric	\$31.75	\$0.00 \$31.75
001010576804700			Parks - Utilities	\$31.75	
116966880			Utilities - electric	\$48.78	\$0.00 \$48.78
001010576804700			Parks - Utilities	\$16.26	
101016542004700			Street Fund - Utilities	\$16.26	
410016542404701			Storm Water Utilities	\$16.26	
130248988			Utilities - electric	\$67.00	\$0.00 \$67.00
410016542404700			Storm Water-Aerat. Utilities	\$67.00	
153407476			Utilities - electric	\$96.52	\$0.00 \$96.52
101016542630000			Street Fund - Street Lighting	\$96.52	
<b>31356</b>	<b>14-Feb-11</b>	<b>1356</b>	<b>SNOPAC</b>		<b>\$16,082.57</b>
4669			Disptach services	\$16,082.57	\$0.00 \$16,082.57
001008528005100			Law Enforcement - Snopac Dispa	\$16,082.57	
<b>31357</b>	<b>14-Feb-11</b>	<b>13522</b>	<b>Steve Warbis</b>		<b>\$750.00</b>
2011			2011 clothing allowance	\$750.00	\$0.00 \$750.00
001008521002600			Law Enforcment Clothing	\$750.00	
<b>31358</b>	<b>14-Feb-11</b>	<b>13708</b>	<b>Steven Hyde</b>		<b>\$750.00</b>
2011			2011 clothing allowance	\$750.00	\$0.00 \$750.00
001008521002600			Law Enforcment Clothing	\$750.00	
<b>31359</b>	<b>14-Feb-11</b>	<b>11787</b>	<b>Teamsters Local No. 763</b>		<b>\$559.00</b>
02/01/11			Union dues	\$559.00	\$0.00 \$559.00
001000281000000			Payroll Liabilities	\$559.00	
<b>31360</b>	<b>14-Feb-11</b>	<b>1491</b>	<b>The Everett Herald</b>		<b>\$342.75</b>
1724123			Advertising - Legal	\$93.80	\$0.00 \$93.80

# Detail Check Register

10-Feb-11

Lake Stevens

Check No	Check Date	VendorNo	Vendor	Check Amount	
101016542004400			Street Fund - Advertising	\$93.80	
1726164-01			Advertising - employment	\$248.95	\$0.00
001007558004400			Planning - Advertising	\$248.95	
<b>31361</b>	<b>14-Feb-11</b>	<b>11788</b>	<b>United Way of Snohomish Co.</b>	<b>\$317.68</b>	
02/11			Employee Contributions	\$317.68	\$0.00
001000281000000			Payroll Liabilities	\$317.68	
<b>31362</b>	<b>14-Feb-11</b>	<b>13045</b>	<b>UPS</b>	<b>\$51.21</b>	
74Y42031			Evidence shipping	\$33.99	\$0.00
001008521004200			Law Enforcement - Communicatio	\$33.99	
74Y42041			Evidense shipping	\$17.22	\$0.00
001008521004200			Law Enforcement - Communicatio	\$17.22	
<b>31363</b>	<b>14-Feb-11</b>	<b>13714</b>	<b>US HealthWorks Medical Group</b>	<b>\$69.00</b>	
0342908-WA			Lab services	\$69.00	\$0.00
001008521004100			Law Enforcement - Professional	\$69.00	
<b>31364</b>	<b>14-Feb-11</b>	<b>12158</b>	<b>VERIZON NORTHWEST</b>	<b>\$1,707.53</b>	
01/23			Communications - wireless	\$1,707.53	\$0.00
001003511104200			Executive - Communication	\$57.53	
001003513104200			Administration-Communications	\$57.53	
001003514104200			City Clerks-Communications	\$36.70	
001003516104200			Human Resources-Communications	\$57.53	
001003518104200			IT Dept-Communications	\$57.53	
001007558004200			Planning - Communication	\$115.06	
001008521004200			Law Enforcement - Communicatio	\$698.07	
001010576804200			Parks - Communication	\$209.19	
101016542004200			Street Fund - Communications	\$209.19	
410016542404200			Storm Water - Communications	\$209.20	
<b>31365</b>	<b>14-Feb-11</b>	<b>1579</b>	<b>VILLAGE ACE HARDWARE</b>	<b>\$359.78</b>	
27446			Supplies	\$42.33	\$0.00
101016543504802			Facilities R&M (City Shop)	\$42.33	
27682			Supplies	\$36.13	\$0.00
101016542004800			Street Fund - Repair & Mainten	\$36.13	
27770			Supplies	\$33.93	\$0.00

# Detail Check Register

10-Feb-11

Lake Stevens

Check No	Check Date	VendorNo	Vendor	Check Amount		
101016543504802			Facilities R&M (City Shop)	\$33.93		
27861			Supplies	\$33.63	\$0.00	\$33.63
001010575304901			Historical Museum	\$16.82		
101016542003102			Street Fund Operating Costs	\$16.81		
27908			Supplies	\$43.40	\$0.00	\$43.40
101016542004800			Street Fund - Repair & Mainten	\$43.40		
27933			supplies	\$75.51	\$0.00	\$75.51
101016543504802			Facilities R&M (City Shop)	\$37.76		
410016542404800			Storm Water - Repairs & Maint.	\$37.75		
27958			Supplies	\$49.89	\$0.00	\$49.89
101016543504802			Facilities R&M (City Shop)	\$49.89		
28033			Supplies	\$44.96	\$0.00	\$44.96
001010576804800			Parks - Repair & Maintenance	\$44.96		
<b>31366</b>	<b>14-Feb-11</b>	<b>1579</b>	<b>VILLAGE ACE HARDWARE</b>			<b>\$142.31</b>
27725			Supplies	\$2.03	\$0.00	\$2.03
101016542004800			Street Fund - Repair & Mainten	\$2.03		
27735			Supplies	\$8.67	\$0.00	\$8.67
101016542004800			Street Fund - Repair & Mainten	\$8.67		
27853			vehicle cleaning supplies	\$18.98	\$0.00	\$18.98
001008521004800			Law Enforcement - Repair & Mai	\$18.98		
27864			Fluorescent bulbs	\$29.32	\$0.00	\$29.32
001008521004800			Law Enforcement - Repair & Mai	\$29.32		
27865			supplies	\$8.69	\$0.00	\$8.69
101016542004800			Street Fund - Repair & Mainten	\$8.69		
27995			Supplies	\$26.03	\$0.00	\$26.03
101016543504802			Facilities R&M (City Shop)	\$26.03		
28037			Supplies	\$32.32	\$0.00	\$32.32
001010576803101			Parks-Eagle Ridge Pk Exp	\$32.32		
28055			Supplies	\$16.27	\$0.00	\$16.27

# Detail Check Register

10-Feb-11

Lake Stevens

Check No	Check Date	VendorNo	Vendor	Check Amount	
001008521004800			Law Enforcement - Repair & Mai	\$16.27	
<b>31367</b>	<b>14-Feb-11</b>	<b>1579</b>	<b>VILLAGE ACE HARDWARE</b>		<b>\$2.69</b>
27584			Supplies	\$1.61	\$0.00
101016543504802			Facilities R&M (City Shop)	\$1.61	
27957			Supplies	\$0.48	\$0.00
001008521004800			Law Enforcement - Repair & Mai	\$0.48	
28036			Supplies	\$0.60	\$0.00
101016543504802			Facilities R&M (City Shop)	\$0.60	
<b>31368</b>	<b>14-Feb-11</b>	<b>12194</b>	<b>WA Dept of Ecology</b>		<b>\$3,346.46</b>
2011-WAR045523/2			Stormwater permit	\$3,346.46	\$0.00
410016542403130			Storm Water- DOE Annual Permit	\$3,346.46	
<b>31369</b>	<b>14-Feb-11</b>	<b>13357</b>	<b>WA Recreation &amp; Park Assn</b>		<b>\$510.00</b>
11-121			Training NPSI Bredstrand	\$510.00	\$0.00
001010576804901			Parks-Staff Development	\$510.00	
<b>31370</b>	<b>14-Feb-11</b>	<b>1604</b>	<b>WASHINGTON AUDIOLOGY SERVICES</b>		<b>\$2,263.30</b>
34980			Employee exams	\$1,138.60	\$0.00
001008521004100			Law Enforcement - Professional	\$853.95	
101016542004100			Street Fund - Professional Ser	\$142.33	
410016542404101			Storm Water - Professional Ser	\$142.32	
34983			Employee exams	\$1,124.70	\$0.00
001007559004100			Building Department - Professi	\$62.48	
001008521004100			Law Enforcement - Professional	\$874.75	
101016542004100			Street Fund - Professional Ser	\$93.74	
410016542404101			Storm Water - Professional Ser	\$93.73	
<b>31371</b>	<b>14-Feb-11</b>	<b>13190</b>	<b>Wayne Aukerman</b>		<b>\$750.00</b>
2011			2011 clothing allowance	\$750.00	\$0.00
001008521002600			Law Enforcment Clothing	\$750.00	
<b>31372</b>	<b>14-Feb-11</b>	<b>13808</b>	<b>Yoshihiro Monzaki</b>		<b>\$3.00</b>
013111			Travel	\$3.00	\$0.00
101016542004300			Street Fund - Travel & Mtgs	\$3.00	
<b>31373</b>	<b>14-Feb-11</b>	<b>12845</b>	<b>ZACHOR &amp; THOMAS, INC. P.S.</b>		<b>\$7,166.25</b>
531			Prosecutor services	\$7,166.25	\$0.00

## Detail Check Register

10-Feb-11

Lake Stevens

Check No	Check Date	VendorNo	Vendor	Check Amount
001013515210000			Prosecutor fees	\$7,166.25
<b>Total Of Checks:</b>				<b>\$152,749.94</b>

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

Monday, January 24, 2011  
Lake Stevens School District Educational Service Center (Admin. Bldg.)  
12309 22<sup>nd</sup> Street N.E. Lake Stevens

CALL TO ORDER: 7:00 p.m. by Mayor Vern Little

COUNCILMEMBERS PRESENT: Mark Somers, Kathy Holder (arrived at 8:16 p.m.), Kim Daughtry, Marcus Tageant, Neal Dooley and John Spencer

COUNCILMEMBERS ABSENT: Suzanne Quigley

STAFF MEMBERS PRESENT: Planning Director Becky Ableman, City Attorney Cheryl Beyer, Public Works Director/City Engineer Mick Monken, Finance Director/Treasurer Barb Lowe, Human Resource Director Steve Edin, Principal Planner Karen Watkins, and City Clerk/Admin. Asst. Norma Scott

OTHERS: Gene Williams

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**Excused absence.** Councilmember Dooley moved to excuse Councilmembers Holder and Quigley; seconded by Councilmember Tageant; motion carried unanimously. (5-0-0-2)

**Guest Business.** None

**Consent Agenda.** Councilmember Daughtry moved to approve the consent agenda (A. approve January 2011 vouchers Claims 61217-31262 in the amount of \$38,106.56 and Electronic Funds Transfers 290-292 for \$4,751.43 for total vouchers approved of \$42,857.99), seconded by Councilmember Tageant; motion carried unanimously. (5-0-0-2)

**Public Hearing inconsideration of first reading of Ordinance No. 843, private landscape usage of public right-of-way.** City Clerk Scott read the public hearing procedure. Public Works Director Monken reported this ordinance allows for improvements in the unimproved portion of the City right-of-way. Mr. Monken explained the following: various types of landscaping that are acceptable, when a permit is needed, process for a variance with possible mitigations, which are administrative, and cost of enforcement. This ordinance does not cover State right-of-way. Planning Commission held a public hearing with comments from two people. Planning Commission gave a unanimous recommendation to Council.

**Public comment.** None

**MOTION:** Councilmember Dooley moved to close the public comment portion of the hearing, seconded by Councilmember Somers; motion carried unanimously. (5-0-0-2)

**MOTION:** Councilmember Dooley moved to close the hearing, seconded by Councilmember Tageant; motion carried unanimously. (5-0-0-2)

**MOTION:** Councilmember Dooley moved for first and final reading of Ordinance No. 843, private landscape usage on public right-of-way, seconded by Councilmember Daughtry; motion carried unanimously. (5-0-0-2)

**Approve minutes of January 10, 2011 regular meeting.** Councilmember Somers moved to approve minutes of January 10, 2011, seconded by Councilmember Tageant; motion carried with Councilmember Dooley abstaining. (4-0-1-2)

**Approve minutes of January 18, 2011 special and workshop meetings.** Councilmember Somers moved to approve January 18 special and workshop meeting minutes, seconded by Councilmember Dooley; motion carried with Councilmember Tageant abstaining. (4-0-1-2)

**Approve Supplemental No. 1 to LMN Architects contract for subarea planning.** Planning Director Ableman reported we need to add an additional \$15,000 to the budget for the framework for the subarea planning. A Request For Qualifications was advertised for the Planned Action EIS.

**MOTION:** Councilmember Spencer moved to enter into Supplemental agreement with LMN for Supplement #1 for \$15,000, seconded by Councilmember Daughtry; motion carried unanimously. (5-0-0-2)

**Shoreline Master Program review.** Principal Planner Watkins reviewed the following: summary of issues of concern by the public, Shoreline Master Program, Chapter 1 – Introduction, Chapter 2 – Environment Designations, and Chapter 3 – General Provisions. The following is the Shoreline Master Program meeting schedule: Council - February 7 Shoreline Modifications, Planning Commission public hearings March 1 and 16, Council briefing March 14, and Council public hearings on April 11 and 25 and May 9.

**Lake Stevens sedimentation quality study.** Public Works Director/Engineer Monken reported that the aerator targets the phosphorus but the study estimates that the aeration alone does not appear to be a sustainable management strategy without implementation of an in-lake sediment treatment alternative. The following three proposed options in the study all include using alum treatment: treat top 14" (36 cm) – highest cost, treat water column only – lowest cost but shortest life, and treat top 4 cm (1.5") of sediments and precipitation from water column is twice as expensive as the water column treatment. Mr. Monken reviewed the cost for each option, which contains many unknowns. They will be proposing a work plan in 2012 which will give them time to make sound decisions.

Councilmember Holder arrived at 8:16 p.m.

Public Works Directors Monken noted in 2011 they will be working on the milfoil plan.

Gene Williams, Snohomish County representative, discussed the chemical interaction of phosphorus, iron and oxygen.

Councilmember Spencer suggested limiting the use of phosphorus lawn fertilizer around the lake. Gene Williams noted that dish and laundry soap also has some phosphorus.

Lake Stevens City Council Regular Meeting Minutes

January 24, 2011

**Council Person's Business:** Councilmembers reported on the following: Tageant – would like to revisit allowing card playing in establishments that make no money from the card game other than selling food. Mayor Little responded the gambling ordinance will be reviewed.

**Executive Session.** Mayor Little called for an executive session on potential litigation for 15 minutes with no action to follow at 8:43 p.m. After a two minute break the executive session began at 8:45 p.m. and convened into regular session at 9:00 p.m.

**Mayor's Business:** Mayor Little announced he will be in Olympia on Thursday with the Highway 9 Coalition.

**Channel 21 equipment agreement.** City Clerk Scott noted on January 10 Council approved an interlocal to purchase Channel 21 equipment. There was a Scribner's error that listed the Superior Court for Washington as Kitsap County and should be Snohomish County. Also the section that listed where notices are sent was incomplete and was completed. For the record there were no objections heard from Council in making these changes to the agreement.

**Adjourn.** Councilmember Daughtry moved to adjourn at 9:02 p.m., seconded by Councilmember Somers; motion carried unanimously. (6-0-0-1)

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Vern Little, Mayor

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

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

Monday, February 7, 2011  
Lake Stevens School District Educational Service Center (Admin. Bldg.)  
12309 22<sup>nd</sup> Street N.E. Lake Stevens

CALL TO ORDER: 7:00 p.m. by Mayor Vern Little

COUNCILMEMBERS PRESENT: Mark Somers, Kim Daughtry, Marcus Tageant, Suzanne Quigley, Kathy Holder (arrived at 8:00 p.m.), Neal Dooley and John Spencer

COUNCILMEMBERS ABSENT:

STAFF MEMBERS PRESENT: Planning Director Becky Ableman, City Administrator Jan Berg, City Attorney Cheryl Beyer, Public Works Director/City Engineer Mick Monken, Finance Director/Treasurer Barb Lowe, Human Resource Director Steve Edin, Finance Director Barb Lowe, Police Chief Randy Celori, and City Clerk/Admin. Asst. Norma Scott

OTHERS:

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**Special Meeting**

**Excused absence.** Councilmember Quigley moved to excuse Councilmember Holder, seconded by Councilmember Tageant; motion carried unanimously. (6-0-0-1)

**Approve Resolution No. 2011-1 declaration of emergency for the immediate repair of Lake Stevens outfall west bank and Main Street, south of 20<sup>th</sup> Street NE.** Public Works Director Monken reported the following: became aware of the bank failure last week due to the heavy rain events, did not affect the road, undermining public sidewalk and compromising the roadway prism, expect repair to be completed this week, will request funding from the State but the County may not qualify, and reviewed the minor changes to the resolution.

**MOTION:** Councilmember Quigley moved to declare a state of emergency for the immediate repair of Lake Stevens outfall west bank and Main Street, south of 20<sup>th</sup> Street NE, seconded by Councilmember Tageant.

City Attorney Beyer requested Resolution No. 2011-1 be included in the motion. The motion maker and second concurred. Motion carried unanimously. (6-0-0-1)

**Adjourn.** Councilmember Daughtry moved to adjourn at 7:05 p.m., seconded by Councilmember Dooley; motion carried unanimously. (6-0-0-1)

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**Workshop**

Council President Quigley called the workshop to order at 7:06 p.m.

Lake Stevens City Council Special and Workshop Meeting Minutes February 7, 2011

Council discussed the following: solid waste collection and Shoreline Master Plan.

Councilmember Holder arrived at 8:00 p.m.

**Executive Session.** Mayor Little called for an executive session on potential litigation for ten minutes with no action to follow. The executive session began at 8:42 p.m. and ended at 8:52 p.m.

**Adjourn.** 8:52 p.m.

\_\_\_\_\_  
Suzanne Quigley, Council President

\_\_\_\_\_  
Vern Little, Mayor

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

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## PROCLAMATION

### ***FEBRUARY CAREER AND TECHNICAL EDUCATION MONTH***

- WHEREAS,** February 2011 has been designated Career and Technical Education Month by the Association for Career and Technical Education; and
- WHEREAS,** profound economic and technological changes in our society are rapidly reflected in the structure and nature of work, thereby placing new and additional responsibilities on our educational system; and
- WHEREAS,** career and technical education provides Americans with a school-to-careers connection and is the backbone of a strong, well-educated workforce, which fosters productivity in business and industry and contributes to America's leadership in the international marketplace; and
- WHEREAS** career and technical education gives high school students experience in practical, meaningful applications of basic skills such as reading, writing and mathematics, thus improving the quality of their education, motivating potential dropouts and giving all students leadership opportunities in their fields and in their communities; and
- WHEREAS,** career and technical education offers individuals lifelong opportunities to learn new skills, which provide them with career choices and potential satisfaction; and
- WHEREAS,** the ever-increasing cooperative efforts of career and technical educators business, and industry stimulate the growth and vitality of our local economy and that of the entire nation by preparing graduates for career fields forecast to experience the largest and fastest growth in the next decade;

**NOW, THEREFORE I, VERN LITTLE, MAYOR OF THE CITY OF LAKE STEVENS** do hereby proclaim February 2011 as

### **“CAREER AND TECHNICAL EDUCATION MONTH”**

in the City of Lake Stevens, and urge all citizens to become familiar with the services and benefits offered by the career and technical education programs in Lake Stevens and to support and participate in these programs to enhance their individual work skills and productivity.

Signed this 14th day of February, 2011

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Vern Little, Mayor



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LAKE STEVENS CITY COUNCIL  
**STAFF REPORT**

**Council Agenda Date:** 2/14/11

**Subject:** Amendment to Lake Stevens Municipal Code Relating to Vehicle Impoundment

**Contact Person/Department:** Randy W. Celori, Chief of Police      **Budget Impact:** No

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**RECOMMENDATION(S)/ACTION REQUESTED OF COUNCIL:** Approve Ordinance No 829, of the City of Lake Stevens, Washington, amending portions of Ordinance 623 Codified as Lake Stevens Municipal Code (LSMC) Chapter 7.40 relating to vehicle impoundment and providing for severability.

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**SUMMARY/BACKGROUND:** This amendment eliminates the need for an administrative hearings officer and designates Marysville Municipal court with jurisdiction concerning vehicle impound and hearings. In addition, this amendment adopts by reference RCW 46.55 which is related to towing and impoundment of vehicles.

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**APPLICABLE CITY POLICIES:** Title 7 Lake Stevens Municipal Code

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**BUDGET IMPACT:** None

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**ATTACHMENTS:**

- ▶ Exhibit A: Ordinance No. 849
- ▶ Exhibit B: Draft Ordinance Revision
- ▶ Exhibit C: RCW 46.55

CITY OF LAKE STEVENS  
Lake Stevens, Washington

ORDINANCE NO. 849

AN ORDINANCE OF THE CITY OF LAKE STEVENS, WASHINGTON AMENDING PORTIONS OF ORDINANCE 623 CODIFIED AS LAKE STEVENS MUNICIPAL CODE (LSMC) CHAPTER 7.40 RELATING TO VEHICLE IMPOUNDMENT AND PROVIDING FOR SEVERABILITY.

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

Section 1. LSMC Chapter 7.40 entitled "Vehicle Impoundment" is amended to read as follows:

**Chapter 7.40  
VEHICLE IMPOUNDMENT**

Sections:

7.40.010: Adoption of State Statutes by Reference/Maryville Municipal Court as jurisdiction for impound matters and hearings.

**7.04.010 Adoption of State Statutes by Reference/Marysville Municipal Court has jurisdiction of impound matters and hearings.**

1. Per LSMC 7.28.010 the City of Lake Stevens has adopted the Model Traffic Ordinance (MTO) Chapter 308-330. Vehicle impounds will be made pursuant to the MTO incorporated in LSM 7.28.010; in addition, the City also hereby specifically incorporates and adopts by reference RCW 46.55 "Towing and Impoundment" including all future amendments, additions or deletions by reference.
2. Marysville Municipal Court has jurisdiction for impound matters and hearings.

Section 2. Severability.

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

Section 3. Effective Date and Publication.

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

PASSED by the City Council of the City of Lake Stevens this \_\_\_ day of \_\_\_\_\_,  
2011.

\_\_\_\_\_  
Vern Little, Mayor

ATTEST/AUTHENTICATION:

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

APPROVED AS TO FORM:

\_\_\_\_\_  
Grant K. Weed, City Attorney

First Reading:  
Published:  
Effective Date:

EN A

CITY OF LAKE STEVENS  
Lake Stevens, Washington

2/4/11 CLB Draft  
Rev 3

ORDINANCE NO. \_\_\_\_\_  
AN ORDINANCE OF THE CITY OF LAKE STEVENS, WASHINGTON AMENDING  
PORTIONS OF ORDINANCE 623 CODIFIED AS LAKE STEVENS MUNICIPAL CODE  
(LMC)CHAPTER 7.4 RELATING TO VEHICLE IMPOUNDMENT AND PROVIDING  
FOR SEVERABILITY.

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

Section 1. LCM Chapter 7.40 entitled "Vehicle Impoundment" is amended to read as  
follows:

**Chapter 7.40**  
**VEHICLE IMPOUNDMENT**

Sections:

- 7.40.010 Adoption of State Statutes by Reference/ Maryville Municipal Court has jurisdiction for impound matters and hearings.  
Period of Impoundment
- ~~7.40.020~~ ~~Redemption of Impounded Vehicles~~
- ~~7.40.030~~ ~~Post Impoundment Hearing Procedure~~
- ~~7.40.040~~ ~~Administrative Storage Fee~~

**7.04.010 Adoption of State Statutes by Reference/Marysville Municipal Court has jurisdiction of impound matters and hearings.**

1. Per LMC 7.28.010 the City of Lake Stevens has adopted the Model Traffic Ordinance (MTO) Chapter 308-330. Vehicle impounds will be made pursuant to the MTO incorporated in LSM 7.28.010; in addition, the City also hereby specifically incorporates and adopts by reference RCW 46.55 "Towing and Impoundment" including all future amendments, additions or deletions by reference.

2. Marysville Municipal Court has jurisdiction for impound matters and hearings.

**7.40.010 Period of Impoundment.**

Whenever the driver of a vehicle is arrested for a violation of RCW 46.20.005, 46.20.015, 46.20.342, 46.20.420, 46.61.502, or 46.61.504, the vehicle is subject to impoundment at the direction of a police officer.

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EX B

A.—Whenever the driver of a vehicle is arrested or cited for a violation of RCW ~~46.20.005, 46.20.015, 46.20.342(1), 46.61.502, or 46.61.504~~, then the vehicle may be released as soon as all the requirements of ~~LSMC 7.40.020(A)~~ are satisfied; provided however that a person arrested or cited for violations of RCW ~~46.61.502 or 46.61.504~~ may not redeem that vehicle in person for a period of sixteen (16) hours after the vehicle is impounded.

B.—If a vehicle is impounded because the driver is arrested for a violation of RCW ~~46.20.342(1)(c)~~ and the Washington Department of Licensing's records show that the driver has been convicted one (1) time of a violation of RCW ~~46.20.342~~ or similar local ordinance within the past five (5) years, the vehicle shall be impounded for fifteen (15) days.

C.—If a vehicle is impounded because the driver is arrested for a violation of RCW ~~46.20.342(1)(c)~~ and the Washington Department of Licensing's records show that the driver has been convicted two (2) or more times of a violation of RCW ~~46.20.342~~ or similar local ordinance within the past five (5) years, the vehicle shall be impounded for thirty (30) days.

D.—If a vehicle is impounded because the driver is arrested for a violation of RCW ~~46.20.342 (1) (a) or (b)~~ and the Washington Department of Licensing's records show that the driver has not been convicted of a violation of RCW ~~46.20.342 (1) (a) or (b)~~ or similar local ordinance within the past five (5) years, the vehicle shall be impounded for thirty (30) days.

E.—If a vehicle is impounded because the driver is arrested for a violation of RCW ~~46.20.342(1)(a) or (b)~~ and the Washington Department of Licensing's records show that the driver has been convicted one (1) time of a violation of RCW ~~46.20.342(1)(a) or (b)~~ or similar local ordinance once within the past five (5) years, the vehicle shall be impounded for sixty (60) days. If a vehicle is impounded because the driver is arrested for a violation of RCW ~~46.20.342(1)(a) or (b)~~ and the Washington Department of Licensing's records show that the driver has been convicted of a violation of RCW ~~46.20.342 (1) (a) or (b)~~ or similar local ordinance two (2) or more times within the past five (5) years, the vehicle shall be impounded for ninety (90) days.

#### **7.40.020 Redemption of Impounded Vehicles.**

Vehicles impounded by the City shall be redeemed only under the following circumstances:

A.—Only the registered owner, a person authorized by the registered owner, or one who has purchased the vehicle from the registered owner, who produces ownership or authorization and signs a receipt therefor, may redeem an impounded vehicle. A person redeeming a vehicle impounded pursuant to ~~LSMC 7.40.010~~ must, prior to redemption, establish that he or she has a valid driver's license. A vehicle impounded pursuant to ~~LSMC 7.40.010~~ can be released only pursuant to a written order from the police department or a court.

B.—Any person so redeeming a vehicle impounded by the City shall pay the towing contractor for costs of impoundment (towing) and any administrative fee prior to redeeming such vehicle. Such towing contractor shall accept payment as provided in RCW ~~46.55.120 (1) (b)~~, as now or hereafter amended. If the vehicle

was impounded pursuant to ~~LSMC 7.40.010~~ and was being operated by the registered owner when it was impounded, it may not be released to any person until all penalties, fines, or forfeitures owed by the registered owner have been satisfied.

C. ~~The Chief of Police is authorized to release a vehicle impounded pursuant to LSMC 7.40.010 prior to the expiration of any period of impoundment upon petition of the spouse of the driver, or the person registered as the domestic partner of the driver, based on economic or personal hardship to such spouse or domestic partner resulting from the unavailability of the vehicle and after consideration of the threat to public safety that may result from the release of the vehicle, including, but not limited to, the driver's criminal history, driving record, license status and access to the vehicle. If such release is authorized, the person redeeming the vehicle still must satisfy the requirements of Parts A and B of this Section.~~

D. ~~Any person seeking to redeem a vehicle impounded as a result of a parking or traffic citation has a right to a hearing before an administrative hearings officer to contest the validity of an impoundment or the amount of towing and storage charges if such request for hearing is in writing, in a form approved by the Chief of Police and signed by such person, and received by the Chief of Police within ten (10) days (including Saturdays, Sundays and holidays). Such hearing shall be provided as follows:~~

1. ~~If all of the requirements to redeem the vehicle, including expiration of any period of impoundment under RCW 46.20.342 have been satisfied, then the impounded vehicle shall be released immediately and a hearing shall be held within ninety (90) days of the written request for hearing.~~

2. ~~If all of the requirements to redeem the vehicle, including expiration of any period of impoundment under RCW 46.20.342, have not been satisfied, then the impounded vehicle shall not be released until after the hearing which shall be held within two (2) business days (excluding Saturdays, Sundays, and holidays) of the written request for hearing.~~

3. ~~If a person fails to file a timely request for hearing, the right to a hearing is waived, the impoundment and the associated costs of impoundment are deemed to be proper, and the City shall not be liable for towing and storage charges arising from the impoundment.~~

4. ~~In accordance with RCW 46.55.240(1)(d), a decision made by an administrative hearings officer may be appealed to Municipal Court for final judgment. The hearing on the appeal under this subsection shall be de novo. A person appealing such a decision must file a request for an appeal in Municipal Court within fifteen (15) days after the decision of the administrative hearings officer and must pay a filing fee in the same amount required for the filing of a suit in district court. If a person fails to file a request for an appeal within the time specified by this section or does not pay the filing fee, the right to an appeal is waived and the administrative hearings officer's decision is final.~~

#### **7.40.030 Post-Impoundment Hearing Procedure.**

ENB

Hearings requested pursuant to ~~LSMC 7.40.020~~ shall be held by an administrative hearings officer who shall determine whether the impoundment was proper and whether the associated towing, storage, and administrative fees were proper.

A. ~~At the hearing, an abstract of the driver's driving record is admissible without further evidentiary foundation and is prima facie evidence of the status of the driver's license, permit or privilege to drive and that the driver was convicted of each offense shown on the abstract. In addition, a certified vehicle registration of the impounded vehicle is admissible without further evidentiary foundation and is prima facie evidence of the identity of the registered owner of the vehicle.~~

B. ~~If the impoundment is found to be proper, the administrative hearings officer shall enter an order so stating. In the event that the costs of impoundment (towing, storage, and administrative fees) have not been paid or any other applicable requirements of ~~LSMC 7.40.020~~ Parts A and B have not been satisfied or any period of impoundment has not expired, the administrative hearings officer's order shall also provide that the impounded vehicle shall be released only after payment to the City of any fines imposed on any underlying traffic violations are satisfied. In the event that the administrative hearings officer grants time payments, the City shall be responsible for paying the costs of impoundment to the towing company. The administrative hearings officer shall grant time payments only in cases of extreme financial need, and where there is an effective guarantee of payment.~~

C. ~~If the impoundment is found to be improper, the administrative hearings officer shall enter an order so stating and order the immediate release of the vehicle. If the costs of impoundment have already been paid, the administrative hearings officer shall enter judgment against the City and in favor of the person who has paid the costs of impoundment in the amount of the costs of the impoundment.~~

D. ~~In the event that the administrative hearings officer finds that the impound was proper, but that the towing, storage, or administrative fees charged for the impoundment were improper, the administrative hearings officer shall determine the correct fees to be charged. If the costs of impoundment have been paid, the administrative hearings officer shall enter a judgment against the City and in favor of the person who has paid the costs of impoundment for the amount of the overpayment.~~

E. ~~No determination of facts made at a hearing under this section shall have any collateral effect on a subsequent criminal prosecution and shall not preclude litigation of those same facts in a subsequent criminal prosecution.~~

F. ~~An appeal of the administrative hearings officer's decision in Municipal Court shall be conducted according to, and is subject to, the procedures of this Section. If the court finds that the impoundment or towing, storage or administrative fees are improper, any judgment entered against the City shall include the amount of the filing fee.~~

**~~7.40.040 Administrative Storage Fee.~~**

~~A storage fee as set by resolution shall be levied upon each vehicle redeemed under the specifications of LSMC 7.40.020 and shall be collected by the tow company and remitted to the City within 45 days. The fee shall be remitted to the Lake Stevens City Clerk. The fee shall be for the purpose of offsetting, to the extent practicable, the cost to the City of implementing, enforcing, and administering the provisions of this Chapter and shall be deposited in an appropriate account. (Ord. 623, Sec. 10, 2001)~~

Section 2. Severability.

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

Section 3. Effective Date and Publication.

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

PASSED by the City Council of the City of Lake Stevens this \_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
Vern Little, Mayor

ATTEST/AUTHENTICATION:

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

APPROVED AS TO FORM:

\_\_\_\_\_  
Grant K. Weed, City Attorney

First Reading:  
Published:  
Effective Date:

EX B

Chapter 46.55 RCW  
Towing and impoundment

RCW Sections

46.55.010 Definitions.

TOW TRUCK OPERATORS -- REGISTRATION REQUIREMENTS

46.55.020 Registration required -- Penalty.

46.55.025 Registration or insurance required -- Penalty.

46.55.030 Application -- Contents, bond, insurance, fee, certificate.

46.55.035 Prohibited acts -- Penalty.

46.55.037 Compensation for private impounds.

46.55.040 Permit required -- Inspections of equipment and facilities.

46.55.050 Classification of trucks -- Marking requirements -- Time and place of inspection -- Penalty.

46.55.060 Business location -- Requirements.

46.55.063 Fees, schedules, contracts, invoices.

IMPOUNDING UNAUTHORIZED VEHICLES

46.55.070 Posting requirements -- Exception.

46.55.075 Law enforcement impound -- Required form, procedures.

46.55.080 Law enforcement impound, private impound -- Master log -- Certain associations restricted.

46.55.085 Law enforcement impound -- Unauthorized vehicle in right-of-way.

46.55.090 Storage, return requirements -- Personal property -- Combination endorsement for tow truck drivers -- Viewing impounded vehicle.

46.55.100 Impound notice -- Abandoned vehicle report -- Owner information, liability -- Disposition report.

46.55.105 Responsibility of registered owner.

46.55.110 Notice to legal and registered owners.

46.55.113 Removal by police officer.

46.55.115 State patrol -- Appointment of towing operators -- Lien for costs -- Appeal.

46.55.117 Impounds under RCW 64.44.050.

REDEMPTION RIGHTS AND HEARING PROCEDURES

46.55.120 Redemption of vehicles -- Sale of unredeemed property -- Improper impoundment.

46.55.130 Notice requirements -- Public auction -- Accumulation of storage charges.

46.55.140 Operator's lien, deficiency claim, liability.

RECORDS, INSPECTIONS, AND ENFORCEMENT

46.55.150 Vehicle transaction file.

46.55.160 Availability of records, equipment, and facilities for audit and inspection.

46.55.170 Complaints, where forwarded.

46.55.180 Presiding officer at licensing hearing.

46.55.190 Rules.

46.55.200 Penalties for certain acts or omissions.

46.55.210 Cease and desist order.

46.55.220 Refusal to issue license, grounds for.

EXC

JUNK VEHICLE DISPOSITION

46.55.230 Junk vehicles -- Removal, disposal, sale -- Penalties -- Cleanup restitution payment.

LOCAL REGULATION

46.55.240 Local ordinances -- Requirements.

VEHICLE IMMOBILIZATION

46.55.300 Vehicle immobilization.

MISCELLANEOUS

46.55.900 Severability -- 1985 c 377.

46.55.901 Headings not part of law -- 1985 c 377.

46.55.902 Effective date -- 1985 c 377.

46.55.910 Chapter not applicable to certain activities of department of transportation.

Notes:

Removal of unattended vehicle from highway: RCW 46.61.590.

Riding in towed vehicles: RCW 46.61.625.

Safety chains for towing: RCW 46.37.495.

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**46.55.010**  
**Definitions.**

The definitions set forth in this section apply throughout this chapter:

(1) "Abandoned vehicle" means a vehicle that a registered tow truck operator has impounded and held in the operator's possession for one hundred twenty consecutive hours.

(2) "Immobilize" means the use of a locking wheel boot that, when attached to the wheel of a vehicle, prevents the vehicle from moving without damage to the tire to which the locking wheel boot is attached.

(3) "Abandoned vehicle report" means the document prescribed by the state that the towing operator forwards to the department after a vehicle has become abandoned.

(4) "Impound" means to take and hold a vehicle in legal custody. There are two types of impounds -- public and private.

(a) "Public impound" means that the vehicle has been impounded at the direction of a law enforcement officer or by a public official having jurisdiction over the public property upon which the vehicle was located.

(b) "Private impound" means that the vehicle has been impounded at the direction of a person having control or possession of the private property upon which the vehicle was located.

(5) "Junk vehicle" means a vehicle certified under RCW

46.55.230 as meeting at least three of the following requirements:

(a) Is three years old or older;

(b) Is extensively damaged, such damage including but not limited to any of the following: A broken window or windshield, or missing wheels, tires, motor, or transmission;

(c) Is apparently inoperable;

(d) Has an approximate fair market value equal only to the approximate value of the scrap in it.

(6) "Master log" means the document or an electronic facsimile prescribed by the department and the Washington state patrol in which an operator records transactions involving impounded vehicles.

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(7) "Registered tow truck operator" or "operator" means any person who engages in the impounding, transporting, or storage of unauthorized vehicles or the disposal of abandoned vehicles.

(8) "Residential property" means property that has no more than four living units located on it.

(9) "Suspended license impound" means an impound ordered under RCW 46.55.113 because the operator was arrested for a violation of RCW 46.20.342 or 46.20.345.

(10) "Tow truck" means a motor vehicle that is equipped for and used in the business of towing vehicles with equipment as approved by the state patrol.

(11) "Tow truck number" means the number issued by the department to tow trucks used by a registered tow truck operator in the state of Washington.

(12) "Tow truck permit" means the permit issued annually by the department that has the classification of service the tow truck may provide stamped upon it.

(13) "Tow truck service" means the transporting upon the public streets and highways of this state of vehicles, together with personal effects and cargo, by a tow truck of a registered operator.

(14) "Unauthorized vehicle" means a vehicle that is subject to impoundment after being left unattended in one of the following public or private locations for the indicated period of time:

Subject to removal after:

- (a) Public locations:
  - (i) Constituting an accident or a traffic hazard as defined in RCW 46.55.113 . . . . . Immediately
  - (ii) On a highway and tagged as described in RCW 46.55.085 . . . . . 24 hours
  - (iii) In a publicly owned or controlled parking facility, properly posted under RCW 46.55.070 . . . . . Immediately
- (b) Private locations:
  - (i) On residential property . . . . . Immediately
  - (ii) On private, nonresidential property, properly posted under RCW 46.55.070 . . . . . Immediately
  - (iii) On private, nonresidential property, not posted . . . . . 24 hours

[2005 c 88 § 2; 1999 c 398 § 2; 1998 c 203 § 8; 1994 c 176 § 1; 1991 c 292 § 1; 1989 c 111 § 1. Prior: 1987 c 330 § 739; 1987 c 311 § 1; 1985 c 377 § 1.]

Notes:

**Finding -- 1998 c 203:** See note following RCW 46.55.105.

**Construction -- Application of rules -- Severability -- 1987 c 330:** See notes following RCW 28B.12.050.

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**46.55.020**

**Registration required — Penalty.**

(1) A person shall not engage in or offer to engage in the activities of a registered tow truck operator without a current registration certificate from the department of licensing authorizing him or her to engage in such activities.

(2) Any person engaging in or offering to engage in the activities of a registered tow truck operator without the registration certificate required by this chapter is guilty of a gross misdemeanor.

(3) A registered operator who engages in a business practice that is prohibited under this chapter may be issued a notice of traffic infraction under chapter

46.63 RCW and is also subject to the civil penalties that may be imposed by the department under this chapter.

(4) A person found to have committed an offense that is a traffic infraction under this chapter is subject to a monetary penalty of at least two hundred fifty dollars.

(5) All traffic infractions issued under this chapter shall be under the jurisdiction of the district court in whose jurisdiction they were issued.

[2003 c 53 § 243; 1989 c 111 § 2; 1985 c 377 § 2.]

**Notes:**

**Intent -- Effective date -- 2003 c 53:** See notes following RCW 2.48.180.

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**46.55.025**

**Registration or insurance required — Penalty.**

A vehicle engaging in the business of recovery of disabled vehicles for monetary compensation, from or on a public road or highway must either be operated by a registered tow truck operator, or someone who at a minimum has insurance in a like manner and amount as prescribed in RCW

46.55.030(3), and have had their tow trucks inspected in a like manner as prescribed by RCW 46.55.040(1). The department shall adopt rules to enforce this section. Failure to comply with this section is a class 1 civil infraction punishable under RCW 7.80.120.

[1995 c 360 § 2.]

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**46.55.030**

**Application — Contents, bond, insurance, fee, certificate.**

(1) Application for licensing as a registered tow truck operator shall be made on forms furnished by the department, shall be accompanied by an inspection certification from the Washington state patrol, shall be signed by the applicant or an agent, and shall include the following information:

- (a) The name and address of the person, firm, partnership, association, or corporation under whose name the business is to be conducted;
- (b) The names and addresses of all persons having an interest in the business, or if the owner is a corporation, the names and addresses of the officers of the corporation;
- (c) The names and addresses of all employees who serve as tow truck drivers;
- (d) Proof of minimum insurance required by subsection (3) of this section;
- (e) The vehicle license and vehicle identification numbers of all tow trucks of which the applicant is the registered owner;
- (f) Any other information the department may require; and

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- (g) A certificate of approval from the Washington state patrol certifying that:
  - (i) The applicant has an established place of business and that mail is received at the address shown on the application;
  - (ii) The address of any storage locations where vehicles may be stored is correctly stated on the application;
  - (iii) The place of business has an office area that is accessible to the public without entering the storage area; and
  - (iv) The place of business has adequate and secure storage facilities, as defined in this chapter and the rules of the department, where vehicles and their contents can be properly stored and protected.

(2) Before issuing a registration certificate to an applicant the department shall require the applicant to file with the department a surety bond in the amount of five thousand dollars running to the state and executed by a surety company authorized to do business in this state. The bond shall be approved as to form by the attorney general and conditioned that the operator shall conduct his or her business in conformity with the provisions of this chapter pertaining to abandoned or unauthorized vehicles, and to compensate any person, company, or the state for failure to comply with this chapter or the rules adopted hereunder, or for fraud, negligence, or misrepresentation in the handling of these vehicles. Any person injured by the tow truck operator's failure to fully perform duties imposed by this chapter and the rules adopted hereunder, or an ordinance or resolution adopted by a city, town, or county is entitled to recover actual damages, including reasonable attorney's fees against the surety and the tow truck operator. Successive recoveries against the bond shall be permitted, but the aggregate liability of the surety to all persons shall not exceed the amount of the bond. As a condition of authority to do business, the operator shall keep the bond in full force and effect. Failure to maintain the penalty value of the bond or cancellation of the bond by the surety automatically cancels the operator's registration.

(3) Before the department may issue a registration certificate to an applicant, the applicant shall provide proof of minimum insurance requirements of:

- (a) One hundred thousand dollars for liability for bodily injury or property damage per occurrence; and
- (b) Fifty thousand dollars of legal liability per occurrence, to protect against vehicle damage, including but not limited to fire and theft, from the time a vehicle comes into the custody of an operator until it is redeemed or sold.

Cancellation of or failure to maintain the insurance required by (a) and (b) of this subsection automatically cancels the operator's registration.

(4) The fee for each original registration and annual renewal is one hundred dollars per company, plus fifty dollars per truck. The department shall forward the registration fee to the state treasurer for deposit in the motor vehicle fund.

(5) The applicant must submit an inspection certificate from the state patrol before the department may issue or renew an operator's registration certificate or tow truck permits.

(6) Upon approval of the application, the department shall issue a registration certificate to the registered operator to be displayed prominently at the operator's place of business.

[2010 c 8 § 9061; 1989 c 111 § 3; 1987 c 311 § 2; 1985 c 377 § 3.]

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**46.55.035**  
**Prohibited acts — Penalty.**

- (1) No registered tow truck operator may:
  - (a) Except as authorized under RCW

46.55.037, ask for or receive any compensation, gratuity, reward, or promise thereof from a person having control or possession of private property or from an agent of the person authorized to sign an impound authorization, for or on account of the impounding of a vehicle;

- (b) Be beneficially interested in a contract, agreement, or understanding that may be made by or between a person having control or possession of private property and an agent of the person authorized to sign an impound authorization;
- (c) Have a financial, equitable, or ownership interest in a firm, partnership, association, or corporation whose functions include acting as an agent or a representative of a property owner for the purpose of signing impound authorizations;
- (d)(i) Enter into any contract or agreement or offer any program that provides an incentive to a person authorized to order a

private impound under RCW 46.55.080 that is related to the authorization of an impound or a number of impounds.

(ii) The incentives prohibited by this section may be either monetary or nonmonetary things of value, such as gifts or prizes which are contingent on, or as a reward for the authorization of impounds.

(iii) Gifts of de minimus value that are given in the ordinary course of business and are not tied to any specific decision to authorize an impound or impounds are not prohibited. Permitted gifts would include promotional items such as pens, calendars, cups, and other items labeled with the registered tow truck operator's business information, holiday gifts such as cookies or candy, flowers for occasions such as illness or death, or the cost of a single meal for one person when discussing business.

(iv) The provision of the actual physical signs required by this chapter to be posted on private property and the labor and materials for placing them is not a violation of this section.

(2) This section does not prohibit the registered tow truck operator from collecting the costs of towing, storage, or other services rendered during the course of towing, removing, impounding, or storing of an impounded vehicle as provided by RCW 46.55.120.

(3) A violation of this section is a gross misdemeanor.

[2010 c 56 § 1; 1992 c 18 § 1; 1989 c 111 § 4.]

**Notes:**

Riding in towed vehicles: RCW 46.61.625.

Safety chains for towing: RCW 46.37.495.

**46.55.037**

**Compensation for private impounds.**

A registered tow truck operator may receive compensation from a private property owner or agent for a private impound of an unauthorized vehicle that has an approximate fair market value equal only to the approximate value of the scrap in it. The private property owner or an agent must authorize the impound under RCW

46.55.080. The registered tow truck operator shall process the vehicle in accordance with this chapter and shall deduct any compensation received from the private property owner or agent from the amount of the lien on the vehicle in accordance with this chapter.

[1992 c 18 § 2.]

**46.55.040**

**Permit required — Inspections of equipment and facilities.**

(1) A registered operator shall apply for and keep current a tow truck permit for each tow truck of which the operator is the registered owner. Application for a tow truck permit shall be accompanied by a report from the Washington state patrol covering a physical inspection of each tow truck capable of being used by the applicant.

(2) Upon receipt of the fee provided in RCW

46.55.030(4) and a satisfactory inspection report from the state patrol, the department shall issue each tow truck an annual tow truck permit or decal. The class of the tow truck, determined according to RCW 46.55.050, shall be stamped on the permit or decal. The permit or decal shall be displayed on the passenger side of the truck's front windshield.

(3) A tow truck number from the department shall be affixed in a permanent manner to each tow truck.

(4) The Washington state patrol shall conduct annual inspections of tow truck operators' equipment and facilities during the operators' normal business hours. Unscheduled inspections may be conducted without notice at the operator's place of business by an inspector to determine the fitness of a tow truck or facilities. At the time of the inspection, the operator shall provide a paper copy of the master log referred to in RCW 46.55.080.

(5) If at the time of the annual or subsequent inspections the equipment does not meet the requirements of this chapter,

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and the deficiency is a safety related deficiency, or the equipment is necessary to the truck's performance, the inspector shall cause the registered tow truck operator to remove that equipment from service as a tow truck until such time as the equipment has been satisfactorily repaired. A red tag shall be placed on the windshield of a tow truck taken out of service, and the tow truck shall not provide tow truck service until the Washington state patrol recertifies the truck and removes the tag.

[1989 c 111 § 5; 1985 c 377 § 4.]

#### 46.55.050

#### **Classification of trucks — Marking requirements — Time and place of inspection — Penalty.**

(1) Tow trucks shall be classified by towing capabilities, and shall meet or exceed all equipment standards set by the state patrol for the type of tow trucks to be used by an operator.

(2) All tow trucks shall display the firm's name, city of address, and telephone number. This information shall be painted on or permanently affixed to both sides of the vehicle in accordance with rules adopted by the department.

(3) Before a tow truck is put into tow truck service, or when the reinspection of a tow truck is necessary, the district commander of the state patrol shall designate a location and time for the inspection to be conducted. When practicable, the inspection or reinspection shall be made within three business days following the request by the operator.

(4) Failure to comply with any requirement of this section or rules adopted under it is a traffic infraction.

[1987 c 330 § 740; 1985 c 377 § 5.]

#### **Notes:**

**Construction -- Application of rules -- Severability -- 1987 c 330:** See notes following RCW 28B.12.050.

#### 46.55.060

#### **Business location — Requirements.**

(1) The address that the tow truck operator lists on his or her application shall be the business location of the firm where its files are kept. Each separate business location requires a separate registration under this chapter. The application shall also list all locations of secure areas for vehicle storage and redemption.

(2) Before an additional lot may be used for vehicle storage, it must be inspected and approved by the state patrol. The lot must also be inspected and approved on an annual basis for continued use.

(3) Each business location must have a sign displaying the firm's name that is readable from the street.

(4) At the business locations listed where vehicles may be redeemed, the registered operator shall post in a conspicuous and accessible location:

(a) All pertinent licenses and permits to operate as a registered tow truck operator;

(b) The current towing and storage charges itemized on a form approved by the department;

(c) The vehicle redemption procedure and rights;

(d) Information supplied by the department as to where complaints regarding either equipment or service are to be directed;

(e) Information concerning the acceptance of commercially reasonable tender as defined in \*RCW

46.55.120(1)(b).

(5) The department shall adopt rules concerning fencing and security requirements of storage areas, which may provide for modifications or exemptions where needed to achieve compliance with local zoning laws.

(6) On any day when the registered tow truck operator holds the towing services open for business, the business office shall remain open with personnel present who are able to release impounded vehicles in accordance with this chapter and the rules adopted under it. The normal business hours of a towing service shall be from 8:00 a.m. to 5:00 p.m. on weekdays, excluding Saturdays, Sundays, and holidays.

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(7) A registered tow truck operator shall maintain personnel who can be contacted twenty-four hours a day to release impounded vehicles within a reasonable time.

(8) A registered operator shall provide access to a telephone for any person redeeming a vehicle, at the time of redemption.

[1989 c 111 § 6; 1987 c 311 § 3; 1985 c 377 § 6.]

**Notes:**

**\*Reviser's note:** RCW 46.55.120 was amended by 1999 c 398 § 7, changing subsection (1)(b) to subsection (1)(e).

**46.55.063  
Fees, schedules, contracts, invoices.**

(1) An operator shall file a fee schedule with the department. All filed fees must be adequate to cover the costs of service provided. No fees may exceed those filed with the department. At least ten days before the effective date of any change in an operator's fee schedule, the registered tow truck operator shall file the revised fee schedule with the department.

(2) Towing contracts with private property owners shall be in written form and state the hours of authorization to impound, the persons empowered to authorize the impounds, and the present charge of a private impound for the classes of tow trucks to be used in the impound, and must be retained in the files of the registered tow truck operator for three years.

(3) A fee that is charged for tow truck service must be calculated on an hourly basis, and after the first hour must be charged to the nearest quarter hour.

(4) Fees that are charged for the storage of a vehicle, or for other items of personal property registered or titled with the department, must be calculated on a twenty-four hour basis and must be charged to the nearest half day from the time the vehicle arrived at the secure storage area. However, items of personal property registered or titled with the department that are wholly contained within an impounded vehicle are not subject to additional storage fees; they are, however, subject to satisfying the underlying lien for towing and storage of the vehicle in which they are contained.

(5) All billing invoices that are provided to the redeemer of the vehicle, or other items of personal property registered or titled with the department, must be itemized so that the individual fees are clearly discernable.

[1995 c 360 § 3; 1989 c 111 § 7.]

**46.55.070  
Posting requirements — Exception.**

(1) No person may impound, tow, or otherwise disturb any unauthorized vehicle standing on nonresidential private property or in a public parking facility for less than twenty-four hours unless a sign is posted near each entrance and on the property in a clearly conspicuous and visible location to all who park on such property that clearly indicates:

- (a) The times a vehicle may be impounded as an unauthorized vehicle; and
- (b) The name, telephone number, and address of the towing firm where the vehicle may be redeemed.

(2) The requirements of subsection (1) of this section do not apply to residential property. Any person having charge of such property may have an unauthorized vehicle impounded immediately upon giving written authorization.

(3) The department shall adopt rules relating to the size of the sign required by subsection (1) of this section, its lettering, placement, and the number required.

(4) This section applies to all new signs erected after July 1, 1986. All other signs must meet these requirements by July 1, 1989.

[1987 c 311 § 4; 1985 c 377 § 7.]

**Notes:**

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Vehicle immobilization unlawful: RCW 46.55.300.

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**46.55.075**

**Law enforcement impound — Required form, procedures.**

(1) The Washington state patrol shall provide by rule for a uniform impound authorization and inventory form. All law enforcement agencies must use this form for all vehicle impounds after June 30, 2001.

(2) By January 1, 2003, the Washington state patrol shall develop uniform impound procedures, which must include but are not limited to defining an impound and a visual inspection. Local law enforcement agencies shall adopt the procedures by July 1, 2003.

[2002 c 279 § 5; 1999 c 398 § 3.]

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**46.55.080**

**Law enforcement impound, private impound — Master log — Certain associations restricted.**

(1) If a vehicle is in violation of the time restrictions of \*RCW

46.55.010(13), it may be impounded by a registered tow truck operator at the direction of a law enforcement officer or other public official with jurisdiction if the vehicle is on public property, or at the direction of the property owner or an agent if it is on private property. A law enforcement officer may also direct the impoundment of a vehicle pursuant to a writ or court order.

(2) The person requesting a private impound or a law enforcement officer or public official requesting a public impound shall provide a signed authorization for the impound at the time and place of the impound to the registered tow truck operator before the operator may proceed with the impound. A registered tow truck operator, employee, or his or her agent may not serve as an agent of a property owner for the purposes of signing an impound authorization or, independent of the property owner, identify a vehicle for impound.

(3) In the case of a private impound, the impound authorization shall include the following statement: "A person authorizing this impound, if the impound is found in violation of chapter 46.55 RCW, may be held liable for the costs incurred by the vehicle owner."

(4) A registered tow truck operator shall record and keep in the operator's files the date and time that a vehicle is put in the operator's custody and released. The operator shall make an entry into a master log regarding transactions relating to impounded vehicles. The operator shall make this master log available, upon request, to representatives of the department or the state patrol.

(5) A person who engages in or offers to engage in the activities of a registered tow truck operator may not be associated in any way with a person or business whose main activity is authorizing the impounding of vehicles.

[1999 c 398 § 4; 1989 c 111 § 8; 1987 c 311 § 5; 1985 c 377 § 8.]

**Notes:**

**\*Reviser's note:** RCW 46.55.010 was amended by 2005 c 88 § 2, changing subsection (13) to subsection (14).

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**46.55.085**

**Law enforcement impound — Unauthorized vehicle in right-of-way.**

(1) A law enforcement officer discovering an unauthorized vehicle left within a highway right-of-way shall attach to the vehicle a readily visible notification sticker. The sticker shall contain the following information:

(a) The date and time the sticker was attached;

(b) The identity of the officer;

(c) A statement that if the vehicle is not removed within twenty-four hours from the time the sticker is attached, the vehicle may be taken into custody and stored at the owner's expense;

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(d) A statement that if the vehicle is not redeemed as provided in RCW

46.55.120, the registered owner will have committed the traffic infraction of littering -- abandoned vehicle; and

(e) The address and telephone number where additional information may be obtained.

(2) If the vehicle has current Washington registration plates, the officer shall check the records to learn the identity of the last owner of record. The officer or his or her department shall make a reasonable effort to contact the owner by telephone in order to give the owner the information on the notification sticker.

(3) If the vehicle is not removed within twenty-four hours from the time the notification sticker is attached, the law enforcement officer may take custody of the vehicle and provide for the vehicle's removal to a place of safety. A vehicle that does not pose a safety hazard may remain on the roadside for more than twenty-four hours if the owner or operator is unable to remove it from the place where it is located and so notifies law enforcement officials and requests assistance.

(4) For the purposes of this section a place of safety includes the business location of a registered tow truck operator.

[2010 c 8 § 9062; 2002 c 279 § 6; 1993 c 121 § 1; 1987 c 311 § 6. Formerly RCW 46.52.170 and 46.52.180.]

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**46.55.090**

**Storage, return requirements — Personal property — Combination endorsement for tow truck drivers — Viewing impounded vehicle.**

(1) All vehicles impounded shall be taken to the nearest storage location that has been inspected and is listed on the application filed with the department.

(2) All vehicles shall be handled and returned in substantially the same condition as they existed before being towed.

(3) All personal belongings and contents in the vehicle, with the exception of those items of personal property that are registered or titled with the department, shall be kept intact, and shall be returned to the vehicle's owner or agent during normal business hours upon request and presentation of a driver's license or other sufficient identification. Personal belongings, with the exception of those items of personal property that are registered or titled with the department, shall not be sold at auction to fulfill a lien against the vehicle.

(4) All personal belongings, with the exception of those items of personal property that are registered or titled with the department, not claimed before the auction shall be turned over to the local law enforcement agency to which the initial notification of impoundment was given. Such personal belongings shall be disposed of pursuant to chapter 63.32 or 63.40 RCW.

(5) Tow truck drivers shall have a Washington state driver's license endorsed for the appropriate classification under chapter 46.25 RCW or the equivalent issued by another state.

(6) Any person who shows proof of ownership or written authorization from the impounded vehicle's registered or legal owner or the vehicle's insurer may view the vehicle without charge during normal business hours.

[1995 c 360 § 4; 1989 c 178 § 25; 1987 c 311 § 7; 1985 c 377 § 9.]

**Notes:**

**Severability -- Effective dates -- 1989 c 178:** See RCW 46.25.900 and 46.25.901.

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**46.55.100**

**Impound notice — Abandoned vehicle report — Owner information, liability — Disposition report.**

(1) At the time of impoundment the registered tow truck operator providing the towing service shall give immediate notification, by telephone or radio, to a law enforcement agency having jurisdiction who shall maintain a log of such reports. A law enforcement agency, or a private communication center acting on behalf of a law enforcement agency, shall within six to twelve hours of the impoundment, provide to a requesting operator the name and address of the legal and registered owners of the vehicle, and the registered owner of any personal property registered or titled with the department that is attached to or contained in or on the impounded vehicle, the vehicle identification number, and any other necessary, pertinent information.

The initial notice of impoundment shall be followed by a written or electronic facsimile notice within twenty-four hours. In the case of a vehicle from another state, time requirements of this subsection do not apply until the requesting law enforcement agency in this state receives the information.

(2) The operator shall immediately send an abandoned vehicle report to the department for any vehicle, and for any items of personal property registered or titled with the department, that are in the operator's possession after the one hundred twenty hour abandonment period. Such report need not be sent when the impoundment is pursuant to a writ, court order, or police hold that is not a suspended license impound. The owner notification and abandonment process shall be initiated by the registered tow truck operator immediately following notification by a court or law enforcement officer that the writ, court order, or police hold that is not a suspended license impound is no longer in effect.

(3) Following the submittal of an abandoned vehicle report, the department shall provide the registered tow truck operator with owner information within seventy-two hours.

(4) Within fourteen days of the sale of an abandoned vehicle at public auction, the towing operator shall send a copy of the abandoned vehicle report showing the disposition of the abandoned vehicle and any other items of personal property registered or titled with the department to the department. The vehicle buyer information sent to the department on the abandoned vehicle report relieves the previous owner of the vehicle from any civil or criminal liability for the operation of the vehicle from the date of sale thereafter and transfers full liability for the vehicle to the buyer. By January 1, 2003, the department shall create a system enabling tow truck operators the option of sending the portion of the abandoned vehicle report that contains the vehicle's buyer information to the department electronically.

(5) If the operator sends an abandoned vehicle report to the department and the department finds no owner information, an operator may proceed with an inspection of the vehicle and any other items of personal property registered or titled with the department to determine whether owner identification is within the vehicle.

(6) If the operator finds no owner identification, the operator shall immediately notify the appropriate law enforcement agency, which shall search the vehicle and any other items of personal property registered or titled with the department for the vehicle identification number or other appropriate identification numbers and check the necessary records to determine the vehicle's or other property's owners.

[2002 c 279 § 9; 1999 c 398 § 5; 1998 c 203 § 9; 1995 c 360 § 5; 1991 c 20 § 1; 1989 c 111 § 9; 1987 c 311 § 8; 1985 c 377 § 10.]

**Notes:**

**Finding -- 1998 c 203:** See note following RCW 46.55.105.

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**46.55.105**

**Responsibility of registered owner. (Effective until July 1, 2011.)**

(1) The abandonment of any vehicle creates a prima facie presumption that the last registered owner of record is responsible for the abandonment and is liable for costs incurred in removing, storing, and disposing of the abandoned vehicle, less amounts realized at auction.

(2) If an unauthorized vehicle is found abandoned under subsection (1) of this section and removed at the direction of law enforcement, the last registered owner of record is guilty of the traffic infraction of "littering -- abandoned vehicle," unless the vehicle is redeemed as provided in RCW

46.55.120. In addition to any other monetary penalty payable under chapter 46.63 RCW, the court shall not consider all monetary penalties as having been paid until the court is satisfied that the person found to have committed the infraction has made restitution in the amount of the deficiency remaining after disposal of the vehicle under RCW 46.55.140.

(3) A vehicle theft report filed with a law enforcement agency relieves the last registered owner of liability under subsection (2) of this section for failure to redeem the vehicle. However, the last registered owner remains liable for the costs incurred in removing, storing, and disposing of the abandoned vehicle under subsection (1) of this section. Nothing in this section limits in any way the registered owner's rights in a civil action or as restitution in a criminal action against a person responsible for the theft of the vehicle.

(4) Properly filing a report of sale or transfer regarding the vehicle involved in accordance with RCW 46.12.101(1) relieves the last registered owner of liability under subsections (1) and (2) of this section. If the date of sale as indicated on the report of sale is on or before the date of impoundment, the buyer identified on the latest properly filed report of sale with the department is assumed liable for the costs incurred in removing, storing, and disposing of the abandoned vehicle, less amounts realized at auction. If the date of sale is after the date of impoundment, the previous registered owner is assumed to be liable for such costs. A licensed vehicle dealer is not liable under subsections (1) and (2) of this section if the dealer, as transferee or assignee of the last registered owner of the vehicle involved, has complied with the requirements of RCW 46.70.122 upon

selling or otherwise disposing of the vehicle, or if the dealer has timely filed a transitional ownership record or report of sale under RCW 46.12.103. In that case the person to whom the licensed vehicle dealer has sold or transferred the vehicle is assumed liable for the costs incurred in removing, storing, and disposing of the abandoned vehicle, less amounts realized at auction.

(5) For the purposes of reporting notices of traffic infraction to the department under RCW 46.20.270 and 46.52.101, and for purposes of reporting notices of failure to appear, respond, or comply regarding a notice of traffic infraction to the department under RCW 46.63.070(6), a traffic infraction under subsection (2) of this section is not considered to be a standing, stopping, or parking violation.

(6) A notice of infraction for a violation of this section may be filed with a court of limited jurisdiction organized under Title 3, 35, or 35A RCW, or with a violations bureau subject to the court's jurisdiction.

[2002 c 279 § 10; 1999 c 86 § 5; 1998 c 203 § 2; 1995 c 219 § 4; 1993 c 314 § 1.]

**Notes:**

**Finding -- 1998 c 203:** "The legislature finds that the license to drive a motor vehicle on the public highways is suspended or revoked in order to protect public safety following a driver's failure to comply with the laws of this state. Over six hundred persons are killed in traffic accidents in Washington annually, and more than eighty-four thousand persons are injured. It is estimated that of the three million four hundred thousand drivers' licenses issued to citizens of Washington, more than two hundred sixty thousand are suspended or revoked at any given time. Suspended drivers are more likely to be involved in causing traffic accidents, including fatal accidents, than properly licensed drivers, and pose a serious threat to the lives and property of Washington residents. Statistics show that suspended drivers are three times more likely to kill or seriously injure others in the commission of traffic felony offenses than are validly licensed drivers. In addition to not having a driver's license, most such drivers also lack required liability insurance, increasing the financial burden upon other citizens through uninsured losses and higher insurance costs for validly licensed drivers. Because of the threat posed by suspended drivers, all registered owners of motor vehicles in Washington have a duty to not allow their vehicles to be driven by a suspended driver.

Despite the existence of criminal penalties for driving with a suspended or revoked license, an estimated seventy-five percent of these drivers continue to drive anyway. Existing sanctions are not sufficient to deter or prevent persons with a suspended or revoked license from driving. It is common for suspended drivers to resume driving immediately after being stopped, cited, and released by a police officer and to continue to drive while a criminal prosecution for suspended driving is pending. More than half of all suspended drivers charged with the crime of driving while suspended or revoked fail to appear for court hearings. Vehicle impoundment will provide an immediate consequence which will increase deterrence and reduce unlawful driving by preventing a suspended driver access to that vehicle. Vehicle impoundment will also provide an appropriate measure of accountability for registered owners who permit suspended drivers to drive their vehicles. Impoundment of vehicles driven by suspended drivers has been shown to reduce future driving while suspended or revoked offenses for up to two years afterwards, and the recidivism rate for drivers whose cars were not impounded was one hundred percent higher than for drivers whose cars were impounded. In order to adequately protect public safety and to enforce the state's driver licensing laws, it is necessary to authorize the impoundment of any vehicle when it is found to be operated by a driver with a suspended or revoked license in violation of RCW 46.20.342 and 46.20.420. The impoundment of a vehicle operated in violation of RCW 46.20.342 or 46.20.420 is intended to be a civil in rem action against the vehicle in order to remove it from the public highways and reduce the risk posed to traffic safety by a vehicle accessible to a driver who is reasonably believed to have violated these laws." [1998 c 203 § 1.]

Suspension of driver's license for failure to respond to notice of traffic infraction: RCW 46.20.289.

**46.55.105**

Responsibility of registered owner. (Effective July 1, 2011.)

(1) The abandonment of any vehicle creates a prima facie presumption that the last registered owner of record is responsible for the abandonment and is liable for costs incurred in removing, storing, and disposing of the abandoned vehicle, less amounts realized at auction.

(2) If an unauthorized vehicle is found abandoned under subsection (1) of this section and removed at the direction of law enforcement, the last registered owner of record is guilty of the traffic infraction of "littering -- abandoned vehicle," unless the vehicle is redeemed as provided in RCW 46.55.120. In addition to any other monetary penalty payable under chapter 46.63

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RCW, the court shall not consider all monetary penalties as having been paid until the court is satisfied that the person found to have committed the infraction has made restitution in the amount of the deficiency remaining after disposal of the vehicle under RCW 46.55.140.

(3) A vehicle theft report filed with a law enforcement agency relieves the last registered owner of liability under subsection (2) of this section for failure to redeem the vehicle. However, the last registered owner remains liable for the costs incurred in removing, storing, and disposing of the abandoned vehicle under subsection (1) of this section. Nothing in this section limits in any way the registered owner's rights in a civil action or as restitution in a criminal action against a person responsible for the theft of the vehicle.

(4) Properly filing a report of sale or transfer regarding the vehicle involved in accordance with RCW 46.12.650 (1) through (3) relieves the last registered owner of liability under subsections (1) and (2) of this section. If the date of sale as indicated on the report of sale is on or before the date of impoundment, the buyer identified on the latest properly filed report of sale with the department is assumed liable for the costs incurred in removing, storing, and disposing of the abandoned vehicle, less amounts realized at auction. If the date of sale is after the date of impoundment, the previous registered owner is assumed to be liable for such costs. A licensed vehicle dealer is not liable under subsections (1) and (2) of this section if the dealer, as transferee or assignee of the last registered owner of the vehicle involved, has complied with the requirements of RCW 46.70.122 upon selling or otherwise disposing of the vehicle, or if the dealer has timely filed a transitional ownership record or report of sale under RCW 46.12.660. In that case the person to whom the licensed vehicle dealer has sold or transferred the vehicle is assumed liable for the costs incurred in removing, storing, and disposing of the abandoned vehicle, less amounts realized at auction.

(5) For the purposes of reporting notices of traffic infraction to the department under RCW 46.20.270 and 46.52.101, and for purposes of reporting notices of failure to appear, respond, or comply regarding a notice of traffic infraction to the department under RCW 46.63.070(6), a traffic infraction under subsection (2) of this section is not considered to be a standing, stopping, or parking violation.

(6) A notice of infraction for a violation of this section may be filed with a court of limited jurisdiction organized under Title 3, 35, or 35A RCW, or with a violations bureau subject to the court's jurisdiction.

[2010 c 161 § 1119; 2002 c 279 § 10; 1999 c 86 § 5; 1998 c 203 § 2; 1995 c 219 § 4; 1993 c 314 § 1.]

**Notes:**

**Effective date -- Intent -- Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session -- 2010 c 161:** See notes following RCW 46.04.013.

**Finding -- 1998 c 203:** "The legislature finds that the license to drive a motor vehicle on the public highways is suspended or revoked in order to protect public safety following a driver's failure to comply with the laws of this state. Over six hundred persons are killed in traffic accidents in Washington annually, and more than eighty-four thousand persons are injured. It is estimated that of the three million four hundred thousand drivers' licenses issued to citizens of Washington, more than two hundred sixty thousand are suspended or revoked at any given time. Suspended drivers are more likely to be involved in causing traffic accidents, including fatal accidents, than properly licensed drivers, and pose a serious threat to the lives and property of Washington residents. Statistics show that suspended drivers are three times more likely to kill or seriously injure others in the commission of traffic felony offenses than are validly licensed drivers. In addition to not having a driver's license, most such drivers also lack required liability insurance, increasing the financial burden upon other citizens through uninsured losses and higher insurance costs for validly licensed drivers. Because of the threat posed by suspended drivers, all registered owners of motor vehicles in Washington have a duty to not allow their vehicles to be driven by a suspended driver.

Despite the existence of criminal penalties for driving with a suspended or revoked license, an estimated seventy-five percent of these drivers continue to drive anyway. Existing sanctions are not sufficient to deter or prevent persons with a suspended or revoked license from driving. It is common for suspended drivers to resume driving immediately after being stopped, cited, and released by a police officer and to continue to drive while a criminal prosecution for suspended driving is pending. More than half of all suspended drivers charged with the crime of driving while suspended or revoked fail to appear for court hearings. Vehicle impoundment will provide an immediate consequence which will increase deterrence and reduce unlawful driving by preventing a suspended driver access to that vehicle. Vehicle impoundment will also provide an appropriate measure of accountability for registered owners who permit suspended drivers to drive their vehicles. Impoundment of vehicles driven by suspended drivers has been shown to reduce future driving while suspended or revoked offenses for up to two years afterwards, and the recidivism rate for drivers whose cars were not impounded was one hundred percent higher than for drivers whose cars were impounded. In order to adequately protect public safety and to enforce the state's driver licensing laws, it is necessary to authorize the impoundment of any vehicle when it is found to be operated by a driver with a suspended or revoked license in violation of RCW

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46.20.342 and 46.20.420. The impoundment of a vehicle operated in violation of RCW 46.20.342 or 46.20.420 is intended to be a civil in rem action against the vehicle in order to remove it from the public highways and reduce the risk posed to traffic safety by a vehicle accessible to a driver who is reasonably believed to have violated these laws." [1998 c 203 § 1.]

Suspension of driver's license for failure to respond to notice of traffic infraction: RCW 46.20.289.

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### 46.55.110

#### Notice to legal and registered owners.

(1) When an unauthorized vehicle is impounded, the impounding towing operator shall notify the legal and registered owners of the impoundment of the unauthorized vehicle and the owners of any other items of personal property registered or titled with the department. The notification shall be sent by first-class mail within twenty-four hours after the impoundment to the last known registered and legal owners of the vehicle, and the owners of any other items of personal property registered or titled with the department, as provided by the law enforcement agency, and shall inform the owners of the identity of the person or agency authorizing the impound. The notification shall include the name of the impounding tow firm, its address, and telephone number. The notice shall also include the location, time of the impound, and by whose authority the vehicle was impounded. The notice shall also include the written notice of the right of redemption and opportunity for a hearing to contest the validity of the impoundment pursuant to RCW

46.55.120.

(2) In addition, if a suspended license impound has been ordered, the notice must state the length of the impound, the requirement of the posting of a security deposit to ensure payment of the costs of removal, towing, and storage, notification that if the security deposit is not posted the vehicle will immediately be processed and sold at auction as an abandoned vehicle, and the requirements set out in RCW 46.55.120(1)(b) regarding the payment of the costs of removal, towing, and storage as well as providing proof of satisfaction of any penalties, fines, or forfeitures before redemption. The notice must also state that the registered owner is ineligible to purchase the vehicle at the abandoned vehicle auction, if held.

(3) In the case of an abandoned vehicle, or other item of personal property registered or titled with the department, within twenty-four hours after receiving information on the owners from the department through the abandoned vehicle report, the tow truck operator shall send by certified mail, with return receipt requested, a notice of custody and sale to the legal and registered owners and of the penalties for the traffic infraction littering -- abandoned vehicle.

(4) If the date on which a notice required by subsection (3) of this section is to be mailed falls upon a Saturday, Sunday, or a postal holiday, the notice may be mailed on the next day that is neither a Saturday, Sunday, nor a postal holiday.

(5) No notices need be sent to the legal or registered owners of an impounded vehicle or other item of personal property registered or titled with the department, if the vehicle or personal property has been redeemed.

[2002 c 279 § 11; 1999 c 398 § 6; 1998 c 203 § 3; 1995 c 360 § 6; 1989 c 111 § 10; 1987 c 311 § 9; 1985 c 377 § 11.]

#### Notes:

**Finding -- 1998 c 203:** See note following RCW 46.55.105.

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### 46.55.113

#### Removal by police officer. (Effective until July 1, 2011.)

(1) Whenever the driver of a vehicle is arrested for a violation of RCW

46.61.502, 46.61.504, 46.20.342, or 46.20.345, the vehicle is subject to summary impoundment, pursuant to the terms and conditions of an applicable local ordinance or state agency rule at the direction of a law enforcement officer.

(2) In addition, a police officer may take custody of a vehicle, at his or her discretion, and provide for its prompt removal to a place of safety under any of the following circumstances:

(a) Whenever a police officer finds a vehicle standing upon the roadway in violation of any of the provisions of RCW 46.61.560, the officer may provide for the removal of the vehicle or require the driver or other person in charge of the vehicle to move the vehicle to a position off the roadway;

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- (b) Whenever a police officer finds a vehicle unattended upon a highway where the vehicle constitutes an obstruction to traffic or jeopardizes public safety;
- (c) Whenever a police officer finds an unattended vehicle at the scene of an accident or when the driver of a vehicle involved in an accident is physically or mentally incapable of deciding upon steps to be taken to protect his or her property;
- (d) Whenever the driver of a vehicle is arrested and taken into custody by a police officer;
- (e) Whenever a police officer discovers a vehicle that the officer determines to be a stolen vehicle;
- (f) Whenever a vehicle without a special license plate, placard, or decal indicating that the vehicle is being used to transport a person with disabilities under RCW 46.16.381 is parked in a stall or space clearly and conspicuously marked under RCW 46.61.581 which space is provided on private property without charge or on public property;
- (g) Upon determining that a person is operating a motor vehicle without a valid and, if required, a specially endorsed driver's license or with a license that has been expired for ninety days or more;
- (h) When a vehicle is illegally occupying a truck, commercial loading zone, restricted parking zone, bus, loading, hooded-meter, taxi, street construction or maintenance, or other similar zone where, by order of the director of transportation or chiefs of police or fire or their designees, parking is limited to designated classes of vehicles or is prohibited during certain hours, on designated days or at all times, if the zone has been established with signage for at least twenty-four hours and where the vehicle is interfering with the proper and intended use of the zone. Signage must give notice to the public that a vehicle will be removed if illegally parked in the zone;
- (i) When a vehicle with an expired registration of more than forty-five days is parked on a public street.
- (3) When an arrest is made for a violation of RCW 46.20.342, if the vehicle is a commercial vehicle and the driver of the vehicle is not the owner of the vehicle, before the summary impoundment directed under subsection (1) of this section, the police officer shall attempt in a reasonable and timely manner to contact the owner of the vehicle and may release the vehicle to the owner if the owner is reasonably available, as long as the owner was not in the vehicle at the time of the stop and arrest and the owner has not received a prior release under this subsection or RCW 46.55.120(1)(a)(ii).

(4) Nothing in this section may derogate from the powers of police officers under the common law. For the purposes of this section, a place of safety may include the business location of a registered tow truck operator.

[2007 c 242 § 1; 2007 c 86 § 1; 2005 c 390 § 5. Prior: 2003 c 178 § 1; 2003 c 177 § 1; 1998 c 203 § 4; 1997 c 66 § 7; 1996 c 89 § 1; 1994 c 275 § 32; 1987 c 311 § 10. Formerly RCW 46.61.565.]

**Notes:**

**Reviser's note:** This section was amended by 2007 c 86 § 1 and by 2007 c 242 § 1, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Finding -- 1998 c 203:** See note following RCW 46.55.105.

**Short title -- Effective date -- 1994 c 275:** See notes following RCW 46.04.015.

**46.55.113**

Removal by police officer. (*Effective July 1, 2011.*)

- (1) Whenever the driver of a vehicle is arrested for a violation of RCW 46.61.502, 46.61.504, 46.20.342, or 46.20.345, the vehicle is subject to summary impoundment, pursuant to the terms and conditions of an applicable local ordinance or state agency rule at the direction of a law enforcement officer.
- (2) In addition, a police officer may take custody of a vehicle, at his or her discretion, and provide for its prompt removal to a place of safety under any of the following circumstances:
- (a) Whenever a police officer finds a vehicle standing upon the roadway in violation of any of the provisions of RCW 46.61.560, the officer may provide for the removal of the vehicle or require the driver or other person in charge of the vehicle to move the vehicle to a position off the roadway;
- (b) Whenever a police officer finds a vehicle unattended upon a highway where the vehicle constitutes an obstruction to traffic or jeopardizes public safety;
- (c) Whenever a police officer finds an unattended vehicle at the scene of an accident or when the driver of a vehicle

involved in an accident is physically or mentally incapable of deciding upon steps to be taken to protect his or her property;

(d) Whenever the driver of a vehicle is arrested and taken into custody by a police officer;

(e) Whenever a police officer discovers a vehicle that the officer determines to be a stolen vehicle;

(f) Whenever a vehicle without a special license plate, placard, or decal indicating that the vehicle is being used to transport a person with disabilities under RCW 46.19.010 is parked in a stall or space clearly and conspicuously marked under RCW 46.61.581 which space is provided on private property without charge or on public property;

(g) Upon determining that a person is operating a motor vehicle without a valid and, if required, a specially endorsed driver's license or with a license that has been expired for ninety days or more;

(h) When a vehicle is illegally occupying a truck, commercial loading zone, restricted parking zone, bus, loading, hooded-meter, taxi, street construction or maintenance, or other similar zone where, by order of the director of transportation or chiefs of police or fire or their designees, parking is limited to designated classes of vehicles or is prohibited during certain hours, on designated days or at all times, if the zone has been established with signage for at least twenty-four hours and where the vehicle is interfering with the proper and intended use of the zone. Signage must give notice to the public that a vehicle will be removed if illegally parked in the zone;

(i) When a vehicle with an expired registration of more than forty-five days is parked on a public street.

(3) When an arrest is made for a violation of RCW 46.20.342, if the vehicle is a commercial vehicle and the driver of the vehicle is not the owner of the vehicle, before the summary impoundment directed under subsection (1) of this section, the police officer shall attempt in a reasonable and timely manner to contact the owner of the vehicle and may release the vehicle to the owner if the owner is reasonably available, as long as the owner was not in the vehicle at the time of the stop and arrest and the owner has not received a prior release under this subsection or RCW 46.55.120(1)(a)(ii).

(4) Nothing in this section may derogate from the powers of police officers under the common law. For the purposes of this section, a place of safety may include the business location of a registered tow truck operator.

[2010 c 161 § 1120. Prior: 2007 c 242 § 1; 2007 c 86 § 1; 2005 c 390 § 5; prior: 2003 c 178 § 1; 2003 c 177 § 1; 1998 c 203 § 4; 1997 c 66 § 7; 1996 c 89 § 1; 1994 c 275 § 32; 1987 c 311 § 10. Formerly RCW 46.61.565.]

**Notes:**

**Effective date -- Intent -- Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session -- 2010 c 161:** See notes following RCW 46.04.013.

**Finding -- 1998 c 203:** See note following RCW 46.55.105.

**Short title -- Effective date -- 1994 c 275:** See notes following RCW 46.04.015.

**Intent -- 1984 c 154:** "The legislature intends to extend special parking privileges to persons with disabilities that substantially impair mobility." [1984 c 154 § 1.]

**Application -- 1984 c 154:** "This act applies to special license plates, cards, or decals issued after June 7, 1984. Nothing in this act invalidates special license plates, cards, or decals issued before June 7, 1984." [1984 c 154 § 9.]

**Severability -- 1984 c 154:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1984 c 154 § 10.]

**46.55.115**

**State patrol — Appointment of towing operators — Lien for costs — Appeal.**

The Washington state patrol, under its authority to remove vehicles from the highway, may remove the vehicles directly, through towing operators appointed by the state patrol and called on a rotational or other basis, through contracts with towing operators, or by a combination of these methods. When removal is to be accomplished through a towing operator on a noncontractual basis, the state patrol may appoint any towing operator for this purpose upon the application of the operator. Each appointment shall be contingent upon the submission of an application to the state patrol and the making of subsequent reports in such form and frequency and compliance with such standards of equipment, performance, pricing, and practices as may be required by rule of the state patrol.

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An appointment may be rescinded by the state patrol upon evidence that the appointed towing operator is not complying with the laws or rules relating to the removal and storage of vehicles from the highway. The state patrol may not rescind an appointment merely because a registered tow truck operator negotiates a different rate for voluntary, owner-requested towing than for involuntary towing under this chapter. The costs of removal and storage of vehicles under this section shall be paid by the owner or driver of the vehicle and shall be a lien upon the vehicle until paid, unless the removal is determined to be invalid.

Rules promulgated under this section shall be binding only upon those towing operators appointed by the state patrol for the purpose of performing towing services at the request of the Washington state patrol. Any person aggrieved by a decision of the state patrol made under this section may appeal the decision under chapter

34.05 RCW.

[1993 c 121 § 2; 1987 c 330 § 744; 1979 ex.s. c 178 § 22; 1977 ex.s. c 167 § 5. Formerly RCW 46.61.567.]

**Notes:**

**Construction -- Application of rules -- Severability -- 1987 c 330:** See notes following RCW 28B.12.050.

**Severability -- 1979 ex.s. c 178:** See note following RCW 46.61.590.

**46.55.117  
Impounds under RCW 64.44.050.**

An impound under RCW

64.44.050 shall not be considered an impound under this chapter. A tow operator who contracts with a law enforcement agency for transporting a vehicle impounded under RCW 64.44.050 shall only remove the vehicle to a secure public facility, and is not required to store or dispose of the vehicle. The vehicle shall remain in the care, custody, and control of the law enforcement agency to be demolished, disposed of, or decontaminated as provided under RCW 64.44.050. The law enforcement agency shall pay for all costs incurred as a result of the towing if the vehicle owner does not pay within thirty days. The law enforcement agency may seek reimbursement from the owner.

[2008 c 201 § 3.]

**46.55.120  
Redemption of vehicles — Sale of unredeemed property — Improper impoundment.**

(1) Vehicles or other items of personal property registered or titled with the department that are impounded by registered tow truck operators pursuant to RCW

46.55.080, 46.55.085, 46.55.113, or 9A.88.140 may be redeemed only under the following circumstances:

(a) Only the legal owner, the registered owner, a person authorized in writing by the registered owner or the vehicle's insurer, a person who is determined and verified by the operator to have the permission of the registered owner of the vehicle or other item of personal property registered or titled with the department, or one who has purchased a vehicle or item of personal property registered or titled with the department from the registered owner who produces proof of ownership or written authorization and signs a receipt therefor, may redeem an impounded vehicle or items of personal property registered or titled with the department. In addition, a vehicle impounded because the operator is in violation of RCW 46.20.342(1)(c) shall not be released until a person eligible to redeem it under this subsection (1)(a) satisfies the requirements of (e) of this subsection, including paying all towing, removal, and storage fees, notwithstanding the fact that the hold was ordered by a government agency. If the department's records show that the operator has been convicted of a violation of RCW 46.20.342 or a similar local ordinance within the past five years, the vehicle may be held for up to thirty days at the written direction of the agency ordering the vehicle impounded. A vehicle impounded because the operator is arrested for a violation of RCW 46.20.342 may be released only pursuant to a written order from the agency that ordered the vehicle impounded or from the court having jurisdiction. An agency shall issue a written order to release pursuant to a provision of an applicable state agency rule or local ordinance authorizing release on the basis of the following:

(i) Economic or personal hardship to the spouse of the operator, taking into consideration public safety factors, including the operator's criminal history and driving record; or

(ii) The owner of the vehicle was not the driver, the owner did not know that the driver's license was suspended or revoked,

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and the owner has not received a prior release under this subsection or RCW 46.55.113(3).

In order to avoid discriminatory application, other than for the reasons for release set forth in (a)(i) and (ii) of this subsection, an agency shall, under a provision of an applicable state agency rule or local ordinance, deny release in all other circumstances without discretion.

If a vehicle is impounded because the operator is in violation of RCW 46.20.342(1) (a) or (b), the vehicle may be held for up to thirty days at the written direction of the agency ordering the vehicle impounded. However, if the department's records show that the operator has been convicted of a violation of RCW 46.20.342(1) (a) or (b) or a similar local ordinance within the past five years, the vehicle may be held at the written direction of the agency ordering the vehicle impounded for up to sixty days, and for up to ninety days if the operator has two or more such prior offenses. If a vehicle is impounded because the operator is arrested for a violation of RCW 46.20.342, the vehicle may not be released until a person eligible to redeem it under this subsection (1)(a) satisfies the requirements of (e) of this subsection, including paying all towing, removal, and storage fees, notwithstanding the fact that the hold was ordered by a government agency.

(b) If the vehicle is directed to be held for a suspended license impound, a person who desires to redeem the vehicle at the end of the period of impound shall within five days of the impound at the request of the tow truck operator pay a security deposit to the tow truck operator of not more than one-half of the applicable impound storage rate for each day of the proposed suspended license impound. The tow truck operator shall credit this amount against the final bill for removal, towing, and storage upon redemption. The tow truck operator may accept other sufficient security in lieu of the security deposit. If the person desiring to redeem the vehicle does not pay the security deposit or provide other security acceptable to the tow truck operator, the tow truck operator may process and sell at auction the vehicle as an abandoned vehicle within the normal time limits set out in RCW 46.55.130(1). The security deposit required by this section may be paid and must be accepted at any time up to twenty-four hours before the beginning of the auction to sell the vehicle as abandoned. The registered owner is not eligible to purchase the vehicle at the auction, and the tow truck operator shall sell the vehicle to the highest bidder who is not the registered owner.

(c) Notwithstanding (b) of this subsection, a rental car business may immediately redeem a rental vehicle it owns by payment of the costs of removal, towing, and storage, whereupon the vehicle will not be held for a suspended license impound.

(d) Notwithstanding (b) of this subsection, a motor vehicle dealer or lender with a perfected security interest in the vehicle may redeem or lawfully repossess a vehicle immediately by payment of the costs of removal, towing, and storage, whereupon the vehicle will not be held for a suspended license impound. A motor vehicle dealer or lender with a perfected security interest in the vehicle may not knowingly and intentionally engage in collusion with a registered owner to repossess and then return or resell a vehicle to the registered owner in an attempt to avoid a suspended license impound. However, this provision does not preclude a vehicle dealer or a lender with a perfected security interest in the vehicle from repossessing the vehicle and then selling, leasing, or otherwise disposing of it in accordance with chapter 62A.9A RCW, including providing redemption rights to the debtor under RCW 62A.9A-623. If the debtor is the registered owner of the vehicle, the debtor's right to redeem the vehicle under chapter 62A.9A RCW is conditioned upon the debtor obtaining and providing proof from the impounding authority or court having jurisdiction that any fines, penalties, and forfeitures owed by the registered owner, as a result of the suspended license impound, have been paid, and proof of the payment must be tendered to the vehicle dealer or lender at the time the debtor tenders all other obligations required to redeem the vehicle. Vehicle dealers or lenders are not liable for damages if they rely in good faith on an order from the impounding agency or a court in releasing a vehicle held under a suspended license impound.

(e) The vehicle or other item of personal property registered or titled with the department shall be released upon the presentation to any person having custody of the vehicle of commercially reasonable tender sufficient to cover the costs of towing, storage, or other services rendered during the course of towing, removing, impounding, or storing any such vehicle, with credit being given for the amount of any security deposit paid under (b) of this subsection. In addition, if a vehicle is impounded because the operator was arrested for a violation of RCW 46.20.342 or 46.20.345 and was being operated by the registered owner when it was impounded under local ordinance or agency rule, it must not be released to any person until the registered owner establishes with the agency that ordered the vehicle impounded or the court having jurisdiction that any penalties, fines, or forfeitures owed by him or her have been satisfied. Registered tow truck operators are not liable for damages if they rely in good faith on an order from the impounding agency or a court in releasing a vehicle held under a suspended license impound. Commercially reasonable tender shall include, without limitation, cash, major bank credit cards issued by financial institutions, or personal checks drawn on Washington state branches of financial institutions if accompanied by two pieces of valid identification, one of which may be required by the operator to have a photograph. If the towing firm cannot determine through the customer's bank or a check verification service that the presented check would be paid by the bank or guaranteed by the service, the towing firm may refuse to accept the check. Any person who stops payment on a personal check or credit card, or does not make restitution within ten days from the date a check becomes insufficient due to lack of funds, to a towing firm that has provided a service pursuant to this section or in any other manner defrauds the towing firm in connection with services rendered pursuant to this section shall be liable for damages in the amount of twice the towing and storage fees, plus costs and reasonable attorney's fees.

(2)(a) The registered tow truck operator shall give to each person who seeks to redeem an impounded vehicle, or item of personal property registered or titled with the department, written notice of the right of redemption and opportunity for a hearing, which notice shall be accompanied by a form to be used for requesting a hearing, the name of the person or agency

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authorizing the impound, and a copy of the towing and storage invoice. The registered tow truck operator shall maintain a record evidenced by the redeeming person's signature that such notification was provided.

(b) Any person seeking to redeem an impounded vehicle under this section has a right to a hearing in the district or municipal court for the jurisdiction in which the vehicle was impounded to contest the validity of the impoundment or the amount of towing and storage charges. The district court has jurisdiction to determine the issues involving all impoundments including those authorized by the state or its agents. The municipal court has jurisdiction to determine the issues involving impoundments authorized by agents of the municipality. Any request for a hearing shall be made in writing on the form provided for that purpose and must be received by the appropriate court within ten days of the date the opportunity was provided for in subsection (2)(a) of this section and more than five days before the date of the auction. At the time of the filing of the hearing request, the petitioner shall pay to the court clerk a filing fee in the same amount required for the filing of a suit in district court. If the hearing request is not received by the court within the ten-day period, the right to a hearing is waived and the registered owner is liable for any towing, storage, or other impoundment charges permitted under this chapter. Upon receipt of a timely hearing request, the court shall proceed to hear and determine the validity of the impoundment.

(3)(a) The court, within five days after the request for a hearing, shall notify the registered tow truck operator, the person requesting the hearing if not the owner, the registered and legal owners of the vehicle or other item of personal property registered or titled with the department, and the person or agency authorizing the impound in writing of the hearing date and time.

(b) At the hearing, the person or persons requesting the hearing may produce any relevant evidence to show that the impoundment, towing, or storage fees charged were not proper. The court may consider a written report made under oath by the officer who authorized the impoundment in lieu of the officer's personal appearance at the hearing.

(c) At the conclusion of the hearing, the court shall determine whether the impoundment was proper, whether the towing or storage fees charged were in compliance with the posted rates, and who is responsible for payment of the fees. The court may not adjust fees or charges that are in compliance with the posted or contracted rates.

(d) If the impoundment is found proper, the impoundment, towing, and storage fees as permitted under this chapter together with court costs shall be assessed against the person or persons requesting the hearing, unless the operator did not have a signed and valid impoundment authorization from a private property owner or an authorized agent.

(e) If the impoundment is determined to be in violation of this chapter, then the registered and legal owners of the vehicle or other item of personal property registered or titled with the department shall bear no impoundment, towing, or storage fees, and any security shall be returned or discharged as appropriate, and the person or agency who authorized the impoundment shall be liable for any towing, storage, or other impoundment fees permitted under this chapter. The court shall enter judgment in favor of the registered tow truck operator against the person or agency authorizing the impound for the impoundment, towing, and storage fees paid. In addition, the court shall enter judgment in favor of the registered and legal owners of the vehicle, or other item of personal property registered or titled with the department, for the amount of the filing fee required by law for the impound hearing petition as well as reasonable damages for loss of the use of the vehicle during the time the same was impounded against the person or agency authorizing the impound. However, if an impoundment arising from an alleged violation of RCW 46.20.342 or 46.20.345 is determined to be in violation of this chapter, then the law enforcement officer directing the impoundment and the government employing the officer are not liable for damages if the officer relied in good faith and without gross negligence on the records of the department in ascertaining that the operator of the vehicle had a suspended or revoked driver's license. If any judgment entered is not paid within fifteen days of notice in writing of its entry, the court shall award reasonable attorneys' fees and costs against the defendant in any action to enforce the judgment. Notice of entry of judgment may be made by registered or certified mail, and proof of mailing may be made by affidavit of the party mailing the notice. Notice of the entry of the judgment shall read essentially as follows:

TO: . . . . .

YOU ARE HEREBY NOTIFIED JUDGMENT was entered against you in the . . . . . Court located at . . . . . in the sum of \$ . . . . ., in an action entitled . . . . ., Case No. . . . . YOU ARE FURTHER NOTIFIED that attorneys fees and costs will be awarded against you under RCW . . . if the judgment is not paid within 15 days of the date of this notice.

DATED this . . . . day of . . . . ., (year) . . .

Signature . . . . .



Typed name and address

of party mailing notice

(4) Any impounded abandoned vehicle or item of personal property registered or titled with the department that is not redeemed within fifteen days of mailing of the notice of custody and sale as required by RCW 46.55.110(3) shall be sold at public auction in accordance with all the provisions and subject to all the conditions of RCW 46.55.130. A vehicle or item of personal property registered or titled with the department may be redeemed at any time before the start of the auction upon payment of the applicable towing and storage fees.

[2009 c 387 § 3; 2004 c 250 § 1; 2003 c 177 § 2; 2000 c 193 § 1. Prior: 1999 c 398 § 7; 1999 c 327 § 5; 1998 c 203 § 5; 1996 c 89 § 2; 1995 c 360 § 7; 1993 c 121 § 3; 1989 c 111 § 11; 1987 c 311 § 12; 1985 c 377 § 12.]

**Notes:**

**Findings -- Intent -- 1999 c 327:** See note following RCW 9A.88.130.

**Finding -- 1998 c 203:** See note following RCW 46.55.105.

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**46.55.130**

**Notice requirements — Public auction — Accumulation of storage charges.**

(1) If, after the expiration of fifteen days from the date of mailing of notice of custody and sale required in RCW

46.55.110(3) to the registered and legal owners, the vehicle remains unclaimed and has not been listed as a stolen vehicle, or a suspended license impound has been directed, but no security paid under RCW 46.55.120, then the registered tow truck operator having custody of the vehicle shall conduct a sale of the vehicle at public auction after having first published a notice of the date, place, and time of the auction, and a method to contact the tow truck operator conducting the auction such as a telephone number, electronic mail address, or web site, in a newspaper of general circulation in the county in which the vehicle is located not less than three days and no more than ten days before the date of the auction. For the purposes of this section, a newspaper of general circulation may be a commercial, widely circulated, free, classified advertisement circular not affiliated with the registered tow truck operator and the notice may be listed in a classification delineating "auctions" or similar language designed to attract potential bidders to the auction. The notice shall contain a notification that a public viewing period will be available before the auction and the length of the viewing period. The auction shall be held during daylight hours of a normal business day. The viewing period must be one hour if twenty-five or fewer vehicles are to be auctioned, two hours if more than twenty-five and fewer than fifty vehicles are to be auctioned, and three hours if fifty or more vehicles are to be auctioned.

(2) The following procedures are required in any public auction of such abandoned vehicles:

(a) The auction shall be held in such a manner that all persons present are given an equal time and opportunity to bid;

(b) All bidders must be present at the time of auction unless they have submitted to the registered tow truck operator, who may or may not choose to use the preauction bid method, a written bid on a specific vehicle. Written bids may be submitted up to five days before the auction and shall clearly state which vehicle is being bid upon, the amount of the bid, and who is submitting the bid;

(c) The open bid process, including all written bids, shall be used so that everyone knows the dollar value that must be exceeded;

(d) The highest two bids received shall be recorded in written form and shall include the name, address, and telephone number of each such bidder;

(e) In case the high bidder defaults, the next bidder has the right to purchase the vehicle for the amount of his or her bid;

(f) The successful bidder shall apply for title within fifteen days;

(g) The registered tow truck operator shall post a copy of the auction procedure at the bidding site. If the bidding site is different from the licensed office location, the operator shall post a clearly visible sign at the office location that describes in detail where the auction will be held. At the bidding site a copy of the newspaper advertisement that lists the vehicles for sale shall be posted;

(h) All surplus moneys derived from the auction after satisfaction of the registered tow truck operator's lien shall be remitted within thirty days to the department for deposit in the state motor vehicle fund. A report identifying the vehicles resulting in any

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surplus shall accompany the remitted funds. If the director subsequently receives a valid claim from the registered vehicle owner of record as determined by the department within one year from the date of the auction, the surplus moneys shall be remitted to such owner;

(i) If an operator receives no bid, or if the operator is the successful bidder at auction, the operator shall, within forty-five days, sell the vehicle to a licensed vehicle wrecker, hulk hauler, or scrap processor by use of the abandoned vehicle report-affidavit of sale, or the operator shall apply for title to the vehicle.

(3) A tow truck operator may refuse to accept a bid at an abandoned vehicle auction under this section for any reason in the operator's posted operating procedures and for any of the following reasons: (a) The bidder is currently indebted to the operator; (b) the operator has knowledge that the bidder has previously abandoned vehicles purchased at auction; or (c) the bidder has purchased, at auction, more than four vehicles in the last calendar year without obtaining title to any or all of the vehicles. In no case may an operator hold a vehicle for longer than ninety days without holding an auction on the vehicle, except for vehicles that are under a police or judicial hold.

(4)(a) In no case may the accumulation of storage charges exceed fifteen days from the date of receipt of the information by the operator from the department as provided by RCW 46.55.110(3).

(b) The failure of the registered tow truck operator to comply with the time limits provided in this chapter limits the accumulation of storage charges to five days except where delay is unavoidable. Providing incorrect or incomplete identifying information to the department in the abandoned vehicle report shall be considered a failure to comply with these time limits if correct information is available. However, storage charges begin to accrue again on the date the correct and complete information is provided to the department by the registered tow truck operator.

[2006 c 28 § 1; 2002 c 279 § 12; 2000 c 193 § 2; 1998 c 203 § 6; 1989 c 111 § 12; 1987 c 311 § 13; 1985 c 377 § 13.]

**Notes:**

**Finding -- 1998 c 203:** See note following RCW 46.55.105.

**46.55.140**

**Operator's lien, deficiency claim, liability. (Effective until July 1, 2011.)**

(1) A registered tow truck operator who has a valid and signed impoundment authorization has a lien upon the impounded vehicle for services provided in the towing and storage of the vehicle, unless the impoundment is determined to have been invalid. The lien does not apply to personal property in or upon the vehicle that is not permanently attached to or is not an integral part of the vehicle except for items of personal property registered or titled with the department. The registered tow truck operator also has a deficiency claim against the registered owner of the vehicle for services provided in the towing and storage of the vehicle not to exceed the sum of five hundred dollars after deduction of the amount bid at auction, and for vehicles of over ten thousand pounds gross vehicle weight, the operator has a deficiency claim of one thousand dollars after deduction of the amount bid at auction, unless the impound is determined to be invalid. The limitation on towing and storage deficiency claims does not apply to an impound directed by a law enforcement officer. In no case may the cost of the auction or a buyer's fee be added to the amount charged for the vehicle at the auction, the vehicle's lien, or the overage due. A registered owner who has completed and filed with the department the seller's report as provided for by RCW

46.12.101 and has timely and properly filed the seller's report is relieved of liability under this section. The person named as the new owner of the vehicle on the timely and properly filed seller's report shall assume liability under this section.

(2) Any person who tows, removes, or otherwise disturbs any vehicle parked, stalled, or otherwise left on privately owned or controlled property, and any person owning or controlling the private property, or either of them, are liable to the owner or operator of a vehicle, or each of them, for consequential and incidental damages arising from any interference with the ownership or use of the vehicle which does not comply with the requirements of this chapter.

[1995 c 360 § 8; 1992 c 200 § 1; 1991 c 20 § 2; 1989 c 111 § 13; 1987 c 311 § 14; 1985 c 377 § 14.]

**46.55.140**

**Operator's lien, deficiency claim, liability. (Effective July 1, 2011.)**

(1) A registered tow truck operator who has a valid and signed impoundment authorization has a lien upon the impounded vehicle for services provided in the towing and storage of the vehicle, unless the impoundment is determined to have been invalid. The lien does not apply to personal property in or upon the vehicle that is not permanently attached to or is not an integral part of the vehicle except for items of personal property registered or titled with the department. The registered tow truck operator also has a deficiency claim against the registered owner of the vehicle for services provided in the towing and

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storage of the vehicle not to exceed the sum of five hundred dollars after deduction of the amount bid at auction, and for vehicles of over ten thousand pounds gross vehicle weight, the operator has a deficiency claim of one thousand dollars after deduction of the amount bid at auction, unless the impound is determined to be invalid. The limitation on towing and storage deficiency claims does not apply to an impound directed by a law enforcement officer. In no case may the cost of the auction or a buyer's fee be added to the amount charged for the vehicle at the auction, the vehicle's lien, or the overage due. A registered owner who has completed and filed with the department the report of sale as provided for in RCW

46.12.650 and has timely and properly filed the report of sale is relieved of liability under this section. The person named as the new owner of the vehicle on the timely and properly filed report of sale shall assume liability under this section.

(2) Any person who tows, removes, or otherwise disturbs any vehicle parked, stalled, or otherwise left on privately owned or controlled property, and any person owning or controlling the private property, or either of them, are liable to the owner or operator of a vehicle, or each of them, for consequential and incidental damages arising from any interference with the ownership or use of the vehicle which does not comply with the requirements of this chapter.

[2010 c 161 § 1121; 1995 c 360 § 8; 1992 c 200 § 1; 1991 c 20 § 2; 1989 c 111 § 13; 1987 c 311 § 14; 1985 c 377 § 14.]

**Notes:**

**Effective date -- Intent -- Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session -- 2010 c 161:** See notes following RCW 46.04.013.

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**46.55.150**

**Vehicle transaction file.**

The registered tow truck operator shall keep a transaction file on each vehicle. The transaction file shall contain as a minimum those of the following items that are required at the time the vehicle is redeemed or becomes abandoned and is sold at a public auction:

- (1) A signed impoundment authorization as required by RCW

46.55.080;

- (2) A record of the twenty-four hour written impound notice to a law enforcement agency;

(3) A copy of the impoundment notification to registered and legal owners, sent within twenty-four hours of impoundment, that advises the owners of the address of the impounding firm, a twenty-four hour telephone number, and the name of the person or agency under whose authority the vehicle was impounded;

- (4) A copy of the abandoned vehicle report that was sent to and returned by the department;

(5) A copy and proof of mailing of the notice of custody and sale sent by the registered tow truck operator to the owners advising them they have fifteen days to redeem the vehicle before it is sold at public auction;

- (6) A copy of the published notice of public auction;

- (7) A copy of the affidavit of sale showing the sales date, purchaser, amount of the lien, and sale price;

(8) A record of the two highest bid offers on the vehicle, with the names, addresses, and telephone numbers of the two bidders;

- (9) A copy of the notice of opportunity for hearing given to those who redeem vehicles;

- (10) An itemized invoice of charges against the vehicle.

The transaction file shall be kept for a minimum of three years.

[1989 c 111 § 14; 1987 c 311 § 15; 1985 c 377 § 15.]

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**46.55.160  
Availability of records, equipment, and facilities for audit and inspection.**

Records, equipment, and facilities of a registered tow truck operator shall be available during normal business hours for audit or inspection by the department of licensing, the Washington state patrol, or any law enforcement agency having jurisdiction.

[1985 c 377 § 16.]

**46.55.170  
Complaints, where forwarded.**

(1) All law enforcement agencies or local licensing agencies that receive complaints involving registered tow truck operators shall forward the complaints, along with any supporting documents including all results from local investigations, to the department.

(2) Complaints involving deficiencies of equipment shall be forwarded by the department to the state patrol.

[1987 c 330 § 741; 1985 c 377 § 17.]

**Notes:**

**Construction -- Application of rules -- Severability -- 1987 c 330:** See notes following RCW 28B.12.050.

**46.55.180  
Presiding officer at licensing hearing.**

The director or the chief of the state patrol may use a hearing officer or administrative law judge for presiding over a hearing regarding licensing provisions under this chapter or rules adopted under it.

[1989 c 111 § 15; 1987 c 330 § 742; 1985 c 377 § 18.]

**Notes:**

**Construction -- Application of rules -- Severability -- 1987 c 330:** See notes following RCW 28B.12.050.

**46.55.190  
Rules.**

The director, in cooperation with the chief of the Washington state patrol, shall adopt rules that carry out the provisions and intent of this chapter.

[1985 c 377 § 19.]

**46.55.200  
Penalties for certain acts or omissions.**

A registered tow truck operator's license may be denied, suspended, or revoked, or the licensee may be ordered to pay a monetary penalty of a civil nature, not to exceed one thousand dollars per violation, or the licensee may be subjected to any combination of license and monetary penalty, whenever the director has reason to believe the licensee has committed, or is at the time committing, a violation of this chapter or rules adopted under it or any other statute or rule relating to the title or disposition of vehicles or vehicle hulks, including but not limited to:

(1) Towing any abandoned vehicle without first obtaining and having in the operator's possession at all times while transporting it, appropriate evidence of ownership or an impound authorization properly executed by the private person or public official having control over the property on which the unauthorized vehicle was found;

(2) Forging the signature of the registered or legal owner on a certificate of title, or forging the signature of any authorized

person on documents pertaining to unauthorized or abandoned vehicles or automobile hulks;

- (3) Failing to comply with the statutes and rules relating to the processing and sale of abandoned vehicles;
- (4) Failing to accept bids on any abandoned vehicle offered at public sale;
- (5) Failing to transmit to the state surplus funds derived from the sale of an abandoned vehicle;
- (6) Selling, disposing of, or having in his or her possession, without notifying law enforcement officials, a vehicle that he or she knows or has reason to know has been stolen or illegally appropriated without the consent of the owner;
- (7) Failing to comply with the statutes and rules relating to the transfer of ownership of vehicles or other procedures after public sale; or
- (8) Failing to pay any civil monetary penalty assessed by the director pursuant to this section within ten days after the assessment becomes final.

All orders by the director made under this chapter are subject to the Administrative Procedure Act, chapter

34.05 RCW.

[2010 c 8 § 9063; 1989 c 111 § 16; 1985 c 377 § 20.]

**46.55.210  
Cease and desist order.**

Whenever it appears to the director that any registered tow truck operator or a person offering towing services has engaged in or is about to engage in any act or practice constituting a violation of any provision of this chapter or any rule adopted hereunder, the director may issue an order directing the operator or person to cease and desist from continuing the act or practice. Reasonable notice of and opportunity for a hearing shall be given. The director may issue a temporary order pending a hearing. The temporary order shall remain in effect until ten days after the hearing is held and shall become final if the person to whom notice is addressed does not request a hearing within fifteen days after the receipt of notice.

[1987 c 311 § 17; 1985 c 377 § 21.]

**46.55.220  
Refusal to issue license, grounds for.**

If an application for a license to conduct business as a registered tow truck operator is filed by any person whose license has previously been canceled for cause by the department, or if the department is of the opinion that the application is not filed in good faith or that the application is filed by some person as a subterfuge for the real person in interest whose license has previously been canceled for cause, the department, after a hearing, of which the applicant has been given twenty days' notice in writing and at which the applicant may appear in person or by counsel and present testimony, may refuse to issue such a person a license to conduct business as a registered tow truck operator.

[1987 c 311 § 18; 1985 c 377 § 22.]

**46.55.230  
Junk vehicles — Removal, disposal, sale — Penalties — Cleanup restitution payment.**

(1)(a) Notwithstanding any other provision of law, any law enforcement officer having jurisdiction, or any employee or officer of a jurisdictional health department acting pursuant to RCW

70.95.240, or any person authorized by the director shall inspect and may authorize the disposal of an abandoned junk vehicle. The person making the inspection shall record the make and vehicle identification number or license number of the vehicle if available, and shall also verify that the approximate value of the junk vehicle is equivalent only to the approximate value of the parts.

(b) A tow truck operator may authorize the disposal of an abandoned junk vehicle if the vehicle has been abandoned two or more times, the registered ownership information has not changed since the first abandonment, and the registered owner is

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also the legal owner.

(2) The law enforcement officer or department representative shall provide information on the vehicle's registered and legal owner to the landowner.

(3) Upon receiving information on the vehicle's registered and legal owner, the landowner shall mail a notice to the registered and legal owners shown on the records of the department. The notification shall describe the redemption procedure and the right to arrange for the removal of the vehicle.

(4) If the vehicle remains unclaimed more than fifteen days after the landowner has mailed notification to the registered and legal owner, the landowner may dispose of the vehicle or sign an affidavit of sale to be used as a title document.

(5) If no information on the vehicle's registered and legal owner is found in the records of the department, the landowner may immediately dispose of the vehicle or sign an affidavit of sale to be used as a title document.

(6) It is a gross misdemeanor for a person to abandon a junk vehicle on property. If a junk vehicle is abandoned, the vehicle's registered owner shall also pay a cleanup restitution payment equal to twice the costs incurred in the removal of the junk vehicle. The court shall distribute one-half of the restitution payment to the landowner of the property upon which the junk vehicle is located, and one-half of the restitution payment to the law enforcement agency or jurisdictional health department investigating the incident.

(7) For the purposes of this section, the term "landowner" includes a legal owner of private property, a person with possession or control of private property, or a public official having jurisdiction over public property.

(8) A person complying in good faith with the requirements of this section is immune from any liability arising out of an action taken or omission made in the compliance.

[2002 c 279 § 13; 2001 c 139 § 3; 2000 c 154 § 4; 1991 c 292 § 2; 1987 c 311 § 19; 1985 c 377 § 23.]

**Notes:**

**Severability -- 2000 c 154:** See note following RCW 70.93.030.

**46.55.240**

**Local ordinances — Requirements. (Effective until July 1, 2011.)**

(1) A city, town, or county that adopts an ordinance or resolution concerning unauthorized, abandoned, or impounded vehicles shall include the applicable provisions of this chapter.

(a) A city, town, or county may, by ordinance, authorize other impound situations that may arise locally upon the public right-of-way or other publicly owned or controlled property.

(b) A city, town, or county ordinance shall contain language that establishes a written form of authorization to impound, which may include a law enforcement notice of infraction or citation, clearly denoting the agency's authorization to impound.

(c) A city, town, or county may, by ordinance, provide for release of an impounded vehicle by means of a promissory note in lieu of immediate payment, if at the time of redemption the legal or registered owner requests a hearing on the validity of the impoundment. If the municipal ordinance directs the release of an impounded vehicle before the payment of the impoundment charges, the municipality is responsible for the payment of those charges to the registered tow truck operator within thirty days of the hearing date.

(d) The hearing specified in RCW

46.55.120(2) and in this section may be conducted by an administrative hearings officer instead of in the district court. A decision made by an administrative hearing officer may be appealed to the district court for final judgment.

(2) A city, town, or county may adopt an ordinance establishing procedures for the abatement and removal as public nuisances of junk vehicles or parts thereof from private property. Costs of removal may be assessed against the registered owner of the vehicle if the identity of the owner can be determined, unless the owner in the transfer of ownership of the vehicle has complied with \*RCW 46.12.101, or the costs may be assessed against the owner of the property on which the vehicle is stored. A city, town, or county may also provide for the payment to the tow truck operator or wrecker as a part of a neighborhood revitalization program.

(3) Ordinances pertaining to public nuisances shall contain:

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- (a) A provision requiring notice to the last registered owner of record and the property owner of record that a hearing may be requested and that if no hearing is requested, the vehicle will be removed;
- (b) A provision requiring that if a request for a hearing is received, a notice giving the time, location, and date of the hearing on the question of abatement and removal of the vehicle or part thereof as a public nuisance shall be mailed, by certified mail, with a five-day return receipt requested, to the owner of the land as shown on the last equalized assessment roll and to the last registered and legal owner of record unless the vehicle is in such condition that identification numbers are not available to determine ownership;
- (c) A provision that the ordinance shall not apply to (i) a vehicle or part thereof that is completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property or (ii) a vehicle or part thereof that is stored or parked in a lawful manner on private property in connection with the business of a licensed dismantler or licensed vehicle dealer and is fenced according to RCW 46.80.130;
- (d) A provision that the owner of the land on which the vehicle is located may appear in person at the hearing or present a written statement in time for consideration at the hearing, and deny responsibility for the presence of the vehicle on the land, with his or her reasons for the denial. If it is determined at the hearing that the vehicle was placed on the land without the consent of the landowner and that he or she has not subsequently acquiesced in its presence, then the local agency shall not assess costs of administration or removal of the vehicle against the property upon which the vehicle is located or otherwise attempt to collect the cost from the owner;
- (e) A provision that after notice has been given of the intent of the city, town, or county to dispose of the vehicle and after a hearing, if requested, has been held, the vehicle or part thereof shall be removed at the request of a law enforcement officer with notice to the Washington state patrol and the department of licensing that the vehicle has been wrecked. The city, town, or county may operate such a disposal site when its governing body determines that commercial channels of disposition are not available or are inadequate, and it may make final disposition of such vehicles or parts, or may transfer such vehicle or parts to another governmental body provided such disposal shall be only as scrap.

(4) A registered disposer under contract to a city or county for the impounding of vehicles shall comply with any administrative regulations adopted by the city or county on the handling and disposing of vehicles.

[2010 c 8 § 9064; 1994 c 176 § 2; 1991 c 292 § 3; 1989 c 111 § 17; 1987 c 311 § 20; 1985 c 377 § 24.]

**Notes:**

**\*Reviser's note:** RCW 46.12.101 was recodified as RCW 46.12.650 pursuant to 2010 c 161 § 1211, effective July 1, 2011.

**46.55.240**

Local ordinances — Requirements. (*Effective July 1, 2011.*)

- (1) A city, town, or county that adopts an ordinance or resolution concerning unauthorized, abandoned, or impounded vehicles shall include the applicable provisions of this chapter.
- (a) A city, town, or county may, by ordinance, authorize other impound situations that may arise locally upon the public right-of-way or other publicly owned or controlled property.
- (b) A city, town, or county ordinance shall contain language that establishes a written form of authorization to impound, which may include a law enforcement notice of infraction or citation, clearly denoting the agency's authorization to impound.
- (c) A city, town, or county may, by ordinance, provide for release of an impounded vehicle by means of a promissory note in lieu of immediate payment, if at the time of redemption the legal or registered owner requests a hearing on the validity of the impoundment. If the municipal ordinance directs the release of an impounded vehicle before the payment of the impoundment charges, the municipality is responsible for the payment of those charges to the registered tow truck operator within thirty days of the hearing date.
- (d) The hearing specified in RCW 46.55.120(2) and in this section may be conducted by an administrative hearings officer instead of in the district court. A decision made by an administrative hearing officer may be appealed to the district court for final judgment.
- (2) A city, town, or county may adopt an ordinance establishing procedures for the abatement and removal as public nuisances of junk vehicles or parts thereof from private property. Costs of removal may be assessed against the registered owner of the vehicle if the identity of the owner can be determined, unless the owner in the transfer of ownership of the vehicle has complied with RCW 46.12.650, or the costs may be assessed against the owner of the property on which the vehicle is stored. A city, town, or county may also provide for the payment to the tow truck operator or wrecker as a part of a neighborhood revitalization program.

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(3) Ordinances pertaining to public nuisances shall contain:

- (a) A provision requiring notice to the last registered owner of record and the property owner of record that a hearing may be requested and that if no hearing is requested, the vehicle will be removed;
- (b) A provision requiring that if a request for a hearing is received, a notice giving the time, location, and date of the hearing on the question of abatement and removal of the vehicle or part thereof as a public nuisance shall be mailed, by certified mail, with a five-day return receipt requested, to the owner of the land as shown on the last equalized assessment roll and to the last registered and legal owner of record unless the vehicle is in such condition that identification numbers are not available to determine ownership;
- (c) A provision that the ordinance shall not apply to (i) a vehicle or part thereof that is completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property or (ii) a vehicle or part thereof that is stored or parked in a lawful manner on private property in connection with the business of a licensed dismantler or licensed vehicle dealer and is fenced according to RCW 46.80.130;
- (d) A provision that the owner of the land on which the vehicle is located may appear in person at the hearing or present a written statement in time for consideration at the hearing, and deny responsibility for the presence of the vehicle on the land, with his or her reasons for the denial. If it is determined at the hearing that the vehicle was placed on the land without the consent of the landowner and that he or she has not subsequently acquiesced in its presence, then the local agency shall not assess costs of administration or removal of the vehicle against the property upon which the vehicle is located or otherwise attempt to collect the cost from the owner;
- (e) A provision that after notice has been given of the intent of the city, town, or county to dispose of the vehicle and after a hearing, if requested, has been held, the vehicle or part thereof shall be removed at the request of a law enforcement officer with notice to the Washington state patrol and the department of licensing that the vehicle has been wrecked. The city, town, or county may operate such a disposal site when its governing body determines that commercial channels of disposition are not available or are inadequate, and it may make final disposition of such vehicles or parts, or may transfer such vehicle or parts to another governmental body provided such disposal shall be only as scrap.

(4) A registered disposer under contract to a city or county for the impounding of vehicles shall comply with any administrative regulations adopted by the city or county on the handling and disposing of vehicles.

[2010 c 161 § 1122; 2010 c 8 § 9064; 1994 c 176 § 2; 1991 c 292 § 3; 1989 c 111 § 17; 1987 c 311 § 20; 1985 c 377 § 24.]

**Notes:**

**Reviser's note:** This section was amended by 2010 c 8 § 9064 and by 2010 c 161 § 1122, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Effective date -- Intent -- Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session -- 2010 c 161:** See notes following RCW 46.04.013.

**46.55.300  
Vehicle immobilization.**

- (1) A property owner shall not immobilize any vehicle owned by a person other than the property owner.
- (2) This section does not apply to property owned by the state or any unit of local government.
- (3) A violation of this section is a gross misdemeanor.

[2005 c 88 § 1.]

**46.55.900  
Severability — 1985 c 377.**

If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

EX C

[1985 c 377 § 26.]

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**46.55.901**  
**Headings not part of law — 1985 c 377.**

Headings and captions used in this act are not any part of the law.

[1985 c 377 § 27.]

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**46.55.902**  
**Effective date — 1985 c 377.**

This act shall take effect on January 1, 1986.

[1985 c 377 § 31.]

---

**46.55.910**  
**Chapter not applicable to certain activities of department of transportation.**

This chapter does not apply to the state department of transportation to the extent that it may remove vehicles that are traffic hazards from bridges and the mountain passes without prior authorization. If such a vehicle is removed, the department shall immediately notify the appropriate local law enforcement agency, and the vehicle shall be processed in accordance with RCW

46.55.110.

[1989 c 111 § 18.]

EXC



LAKE STEVENS CITY COUNCIL  
**STAFF REPORT**

**Council Agenda Date:** February 14<sup>th</sup>, 2011

**Subject:** Sidewalk Capital Project Fund 309

**Contact Person/Department:** Barb Lowe/ Finance      **Budget Impact:** N/A

---

**RECOMMENDATION(S)/ACTION REQUESTED OF COUNCIL:**

Approve Resolution 2011-2, establishing a capital project fund to be designated as the Sidewalk Capital Project Fund.

---

**SUMMARY/BACKGROUND:**

For reporting purposes, local governments should use capital project funds to account for the accumulation of resources that are restricted, committed, or assigned for expenditure for capital outlays.

The establishment of Fund 309 as the Sidewalk Capital Project Fund is pursuant to the recommendations outlined by the BARS manual for entities reporting on a cash basis.

---

**APPLICABLE CITY POLICIES:**

The Washington State Auditor's Office prescribes the accounting and reporting of local governments in the State of Washington, under RCW 43.09.200, using Budgetary, Accounting, and Reporting System (BARS) manuals and financial reporting packages.

---

**BUDGET IMPACT:**

N/A

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**ATTACHMENTS:**

- ▶ Exhibit A: Resolution 2011-2

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

**RESOLUTION NO. 2011-2**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAKE STEVENS,  
WASHINGTON, ESTABLISHING A FUND TO BE DESIGNATED AS THE SIDEWALK  
CAPITAL PROJECTS FUND 309**

**WHEREAS**, the Washington State Auditor's Office prescribes the accounting and reporting of local governments in the State of Washington, under RCW 43.09.200, using Budgetary, Accounting, and Reporting System (BARS) manuals and financial reporting packages; and

**WHEREAS**, for reporting purposes, local governments should use capital project funds to account for the accumulation of resources that are restricted, committed, or assigned for expenditure for capital outlays; and

**WHEREAS**, the City desires to establish a sidewalk capital project fund for the accumulation of resources that are restricted, committed, or assigned for sidewalk capital outlays.

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

Section 1. The City of Lake Stevens hereby establishes Fund 309 as the Sidewalk Capital Projects Fund.

Section 2. The Sidewalk Capital Projects Fund will be used to account for the accumulation of resources that are restricted, committed, or assigned for expenditure for sidewalk capital outlays.

**PASSED** by the City Council and **APPROVED** by the Mayor of the City of Lake Stevens this 14<sup>th</sup> day of February, 2011.

\_\_\_\_\_  
Vern Little, Mayor

ATTEST/AUTHENTICATION:

\_\_\_\_\_  
Norma J. Scott, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Grant Weed, City Attorney



LAKE STEVENS CITY COUNCIL  
**STAFF REPORT**

**Council Agenda Date:** February 14, 2011

**Subject:** Southwest Annexation Sales Tax Incentive

**Contact Person/Department:** Barb Lowe/Finance Director      **Budget Impact:** Yes

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**RECOMMENDATION(S)/ACTION REQUESTED OF COUNCIL:**

Approve Resolution No. 2011-3, setting the threshold amount in accordance with RCW 82.14.415, to offset municipal service costs to the Southwest Annexation area.

---

**SUMMARY/BACKGROUND:**

RCW 82.14.415 provides annexing cities with a credit on the State sales tax that varies depending on the population of the annexation area. The City's rate of the credit for 2011 will remain 0.1 percent. The credit applies to sales tax collected within existing city limits and within the boundaries of the annexation area. The funds are generated from the State's General Fund in the form of a locally imposed sales tax that becomes a credit against the state's share of sales tax. This will *not increase the amount of sales tax* that consumers pay but temporarily diverts revenue from the State's General Fund to annexing cities.

Anticipated revenues generated in the annexation area include property tax, sales tax, state shared revenues, and REET. Annexation related operating expenditures in the general, street, and surface water funds have been based on the percent of population in the SW Annexation area which is approximately 42% of the entire City. Because standard levels of services have been applied throughout the City, it is appropriate to allocate operating expenditures to the annexation area based on percent of population or a similar value.

This ordinance establishes the threshold amount of projected costs that exceed projected revenues at approximately \$1,494,529.

---

**APPLICABLE POLICIES:**

RCW 82.14.415 requires that the City Council determine a threshold amount representing costs to serve the area less revenues to be generated by the area each year.

---

**BUDGET IMPACT:**

The sales tax incentive will decrease the revenue shortfall anticipated for 2011 due to annexation

---

**ATTACHMENTS:**

- ▶ Exhibit A: Resolution No. 2011-3
- ▶ Exhibit B:
- ▶ Exhibit C:

**CITY OF LAKE STEVENS**  
**Lake Stevens, Washington**

**RESOLUTION NO. 2011-3**

**A RESOLUTION OF THE CITY OF LAKE STEVENS, WASHINGTON, AUTHORIZING THE CITY OF LAKE STEVENS TO CONTINUE TO IMPOSE A SALES AND USE TAX FOR THE SOUTHWEST ANNEXATION AREA AS AUTHORIZED BY RCW 82.14.415 AS A CREDIT AGAINST STATE SALES AND USE TAX; CERTIFYING THE COSTS TO PROVIDE MUNICIPAL SERVICES TO THE SOUTHWEST ANNEXATION AREA; AND SETTING A NEW THRESHOLD AMOUNT FOR FISCAL YEAR 2011 RELATED TO THE SALES AND USE TAX FOR THE SOUTHWEST ANNEXATION AREA.**

**WHEREAS**, state law authorizes the reallocation of the sales tax already collected by the state to be remitted to the City to assist with funding the costs of certain newly annexed areas; and

**WHEREAS**, the City Council of the City of Lake Stevens, Washington, adopted its Ordinance No. 801, annexing the Southwest Annexation Area with a population of at least 10,000 people, effective December 31, 2009 (“Southwest Annexation Area”); and

**WHEREAS**, pursuant to RCW 82.14.415, the City is authorized, under the circumstances of this annexation, to impose a sales and use tax as authorized with that tax being a credit against the state tax; and

**WHEREAS**, with the passage of Ordinance No. 823 in December 2009, the City imposed such a sales and use tax under RCW 82.14.415 for the Southwest Annexation Area; and

**WHEREAS**, the City Council finds and determines that the projected cost of at least \$3,996,941 to provide municipal services to the annexation area exceeds the projected general revenue estimated to be \$2,502,413 that the City would otherwise receive from the Southwest Annexation Area on an annual basis and which results in an estimated revenue shortfall of \$1,494,528; and

**WHEREAS**, due to said revenue shortfall, the City Council finds that it is appropriate to continue said sales and use tax for the Southwest Annexation Area under the authority of RCW 82.14.415.

**NOW THEREFORE**, the City Council of the City of Lake Stevens, Washington, does resolve as follows:

**Section 1. Continuation of sales and use tax under authority of RCW 82.14.415 and Ordinance No. 823.** The continuation of the sales and use tax for the Southwest Annexation Area as previously authorized and imposed pursuant to RCW 82.14.415 and Ordinance No. 823 is hereby authorized and renewed for 2011.

**Section 2. Certification of costs to provide municipal services to Southwest Annexation Area.** In accordance with RCW 82.14.415(9), it is hereby certified that the costs to provide municipal services to the Southwest Annexation Area fiscal year 2011 is \$3,996,941.

**Section 3. Threshold amount.** The threshold amount for the Southwest Annexation Area for fiscal year 2011 for imposing the sales and use tax credit under RCW 82.14.415 is \$1,494,528.

**Section 4. Implementation.** The Mayor of the City of Lake Stevens is hereby authorized to implement such administrative procedures as may be necessary to carry out the directions of this Resolution.

**Section 5. Effective Date.** This Resolution shall take effect and be in full force upon its passage and signatures hereon.

PASSED by the City Council and APPROVED by the Mayor this 14<sup>th</sup> day of February, 2011.

\_\_\_\_\_  
Vern Little, Mayor

ATTEST/AUTHENTICATION:

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

APPROVED AS TO FORM:

\_\_\_\_\_  
Grant Weed, City Attorney



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LAKE STEVENS CITY COUNCIL  
**STAFF REPORT**

**Council Agenda Date:** February 14, 2011

**Subject:** Amend Ordinance #812 to Prohibit House-banked Card Rooms

**Contact Person/Department:** City Administrator Jan Berg      **Budget Impact:** None

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**RECOMMENDATION(S)/ACTION REQUESTED OF COUNCIL:** Approve Ordinance #848

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**SUMMARY/BACKGROUND:**

In September, 2009 the City passed Ordinance #812 which prohibits social card games as a commercial stimulant. The ordinance allows card playing related to charitable organizations but prohibits both house banked and non-house banked card playing. The City currently has two establishments which have licenses from the Washington State Gambling Commission to host non-house bank card playing but because it is assumed that the establishments are gaining commercial stimulus by hosting the games by increased food and beverage sales the licenses are subject to being revoked under our current ordinance.

The proposed amendment would allow charitable and non-house banked card playing but prohibit house banked card games where the establishment collects money from the losers and pays it to the winners.

---

**BUDGET IMPACT:** None

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**ATTACHMENTS:**

- ▶ Exhibit A: Ordinance #848

## Exhibit A

### CITY OF LAKE STEVENS LAKE STEVENS, WASHINGTON

ORDINANCE NO. 848

AN ORDINANCE OF THE CITY OF LAKE STEVENS, WASHINGTON, AMENDING ORDINANCE NO. 812, SECTION 1 SOCIAL CARD GAMES AS COMMERCIAL STIMULANT PROHIBITED AND LAKE STEVENS MUNICIPAL CODE (LSMC) SECTION 4.60.010, STATE LAW APPLICABLE; AND PROVIDING FOR SEVERABILITY.

WHEREAS, the State Legislature and State Gambling Commission authorizes the ability of gambling licensees to conduct Social Card Games as a commercial stimulant for the licensee's business, and

WHEREAS, Council adopted an ordinance in 2009 prohibiting social card games as a commercial stimulant; and

WHEREAS, Council desires to allow chartable and non-house banked card games but prohibit house banked card games as described in WAC 230-05-025(2)

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

SECTION 1. Ordinance No. 812, Section 1, Social Card Games as Commercial Stimulant Prohibited and Lake Stevens Municipal Code Section 4.60.010, State Law Applicable, are amended to read as follows:

#### **4.60.010 State Law Applicable.**

Any license issued under the authority of state law to engage in any legal activity shall be legal authority to engage in the gambling activities for which the license was issued throughout the City, except that the City, in accordance with RCW [9.46.295](#), as the same now exists or may hereafter be amended, prohibits the following gambling activities within the City:

(a) It is unlawful within city limits for any person to allow any premises or any facilities to be used for the purpose of conducting house banked card games as described in WAC 230-05-025(2) as now in effect or hereinafter amended. Provided however this prohibition shall not apply to all other card games authorized by WAC 230-05-020(3) and 230-05-025(1) as now in effect or hereinafter amended. "House banking" is hereby defined to mean any procedure employed by the card room where the operator collects money from the losers and pays it to the winners.

SECTION 2. Severability. If any section, clause, phrase, or term of this ordinance is held for any reason to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance, and the remaining portions shall be in full force and effect.

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

PASSED by the City Council of the City of Lake Stevens this \_\_\_\_ day of \_\_\_\_\_, 2011.

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Vern Little, Mayor

ATTEST/AUTHENTICATION:

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Norma J. Scott, City Clerk/Admin Asst

APPROVED AS TO FORM:

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Grant K. Weed, City Attorney

First and Final Reading:

Published:

Effective:



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LAKE STEVENS CITY COUNCIL  
**STAFF REPORT**

**Council Agenda Date:** February 14, 2011

**Subject:** Planned Action Ordinances – Lake Stevens Center and 20<sup>th</sup> Street SE Corridor  
Professional Services Agreement Weinman Consulting LLC

**Contact** Rebecca Ableman **Budget** \$231,450  
**Person/Department:** Planning & Community Development Director **Impact:** \_\_\_\_\_

**RECOMMENDATION(S)/ACTION REQUESTED OF COUNCIL:**

The action requested of Council is to approve the Professional Services Agreement with Weinman Consulting LLC to complete the Planned Action EIS/Ordinances for the Lake Stevens Center and 20<sup>th</sup> Street SE Corridor Subarea Plans (Attachment 1).

**SUMMARY:**

On January 24<sup>th</sup> Council reviewed a staff recommendation to begin work on a Planned Action Ordinance for the two subareas plan projects. A Request for Qualifications yielded 4 interested consulting teams with differing levels of Planned Action Ordinance experience. The staff team interviewed the firms of Weinman and BHC and selected Weinman Consulting Group as a recommendation to the Council.

**BACKGROUND:**

This request is consistent with the work and recommendations of the Economic Development Strategy commissioned by the Council last year. The analysis shows that Lake Stevens has strong potential to improve its fiscal outlook by capitalizing on the community's strengths and looking at the land use planning in at least 3 key areas. LSC and 20<sup>th</sup> Street SE are showing the more short range potential while new or redevelopment in Historic Downtown will likely occur in the longer term. In the same light as the benefit of subarea plans, the planned actions will help poise the City for economic development when the current slow economy turns around.

Planned Actions

As presented to Council on January, a Planned Action EIS or Planned Action Ordinance is:

- ⊙ Environmental impact analysis
- ⊙ Sets development thresholds in a defined area
- ⊙ Identifies mitigation measures for qualifying development
- ⊙ Provides a more efficient, predictable, expedient permitting process to encourage development

Planned Action EIS include environmental analysis and process are generally as follows:

- ⊙ Analyzes “No Action” and 1 or 2 land use alternatives
- ⊙ Requires extensive public process at scoping to identify issues and both at Draft EIS and Final EIS stages
- ⊙ Issues can include transportation, stormwater, critical areas, land use, aesthetics, air quality, public services and utilities.

- ⊙ Council can then adopt a Planned Action Ordinance with Subarea Plans

Consultant Qualifications

Richard Weinman has significant experience with both Environmental Impact Statements and development of Planned Action Ordinances in Washington State (Attachment 2).

---

**DISCUSSION:**

It is important that a Planned Action EIS and Ordinance be complete and defensible to ensure that development will occur in the manner intended. The interview team ranked The Weinman Consulting Team above the other candidates because of his extensive involvement to date in efforts around the state. Other advantages to this group include using some of the same technical consultants working on the subarea plans and therefore, familiarity with and collection of data can be more efficient for the overlapping projects.

---

**APPLICABLE CITY POLICIES:**

The proposal is consistent with the Economic Development Strategy Goals.

---

**BUDGET IMPACT:**

The proposed budget for the Planned Action Ordinances are shown in the Professional Services Agreement Exhibit A.

- ⊙ Lake Stevens Center                      \$102,500
- ⊙ 20<sup>th</sup> Street SE Corridor                      \$118,950

Please note that the budget request includes an option \$10,000 if a shared parking analysis is needed for the two areas and will be determined further into the project.

Council approved \$300,000 in the 2011 budget for Economic Development and this would be a qualifying allocation.

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**ATTACHMENTS:**

- 1 – Professional Services Agreement with Weinman Consulting LLC
- 2 – Statement of Qualifications & Submitted Interview Materials

**PROFESSIONAL SERVICES AGREEMENT BETWEEN  
CITY OF LAKE STEVENS  
AND WEINMAN CONSULTING LLC  
FOR PLANNED ACTION EIS AND ORDINANCES FOR LAKE STEVENS CENTER AND  
20<sup>TH</sup> STREET SE CORRIDOR SUBAREA PLANS**

THIS AGREEMENT, made and entered into in Snohomish County, Washington, by and between CITY OF LAKE STEVENS, hereinafter called the "City," and Weinman Consulting LLC, a Washington corporation, hereinafter called the "Consultant."

WHEREAS, the Consultant has represented, and by entering into this Agreement now represents, that the firm and all employees assigned to work on any City project are in full compliance with the statutes of the State of Washington governing activities to be performed and that all personnel to be assigned to the work required under this agreement are fully qualified and properly licensed to perform the work to which they will be assigned.

NOW, THEREFORE, in consideration of the terms, conditions, covenants and performances contained herein below, the parties hereto agree as follows:

**ARTICLE I. PURPOSE**

The purpose of this agreement is to provide the City with consulting services to develop Planned Action EIS and Ordinances for the Lake Stevens Center and 20<sup>th</sup> Street SE Corridor Subarea Plans as described in Article II. The general terms and conditions of relationships between the City and the Consultant are specified in this agreement.

**ARTICLE II. SCOPE OF WORK**

The scope of work is set out in the attached Estimate of Professional Services for the development of Planned Action EIS and Ordinances for the Lake Stevens Center and 20th Street SE Corridor Subarea Plans , hereinafter referred to as the "scope of services," **Exhibit A**. All services and materials necessary to accomplish the tasks outlined in **Exhibit A** shall be provided by the Consultant unless noted otherwise in the scope of services or this agreement.

**ARTICLE III. OBLIGATIONS OF THE CONSULTANT**

III.1 **MINOR CHANGES IN SCOPE.** The Consultant shall accept minor changes, amendments, or revision in the detail of the work as may be required by the City when such changes will not have any impact on the service costs or proposed delivery schedule. Extra work, if any, involving substantial changes and/or changes in cost or schedules will be addressed as follows:

**Extra Work.** The City may desire to have the Consultant perform work or render services in connection with each project in addition to or other than work provided for by the expressed intent of the scope of work in the scope of services. Such work will be considered as extra work and will be specified in a written supplement to the scope of services, to be signed by both parties, which will set forth the nature and the scope thereof. All proposals for extra work or services shall be prepared by the Consultant at no cost to the City. Work under a supplemental agreement shall not proceed until executed in writing by the parties.

**III.2 WORK PRODUCT AND DOCUMENTS.** The work product and all documents listed in the scope of services shall be furnished by the Consultant to the City, and upon completion of the work shall become the property of the City, except that the Consultant may retain one copy of the work product and documents for its records. The Consultant will be responsible for the accuracy of the work, even though the work has been accepted by the City.

In the event that the Consultant shall default on this agreement or in the event that this contract shall be terminated prior to its completion as herein provided, all work product of the Consultant, along with a summary of work done to date of default or termination, shall become the property of the City. Upon request, the Consultant shall tender the work product and summary to the City. Tender of said work product shall be a prerequisite to final payment under this contract. The summary of work done shall be prepared at no additional cost to the City.

Consultant will not be held liable for reuse of these documents or modifications thereof for any purpose other than those authorized under this Agreement without the written authorization of Consultant.

**III.3 TIME OF PERFORMANCE.** The Consultant shall be authorized to begin work under the terms of this agreement upon signing of both the scope of services and this agreement and shall complete the work within 365 days, unless a mutual written agreement is signed to change the schedule. An extension of the time for completion may be given by the City due to conditions not expected or anticipated at the time of execution of this agreement.

**III.4 NONASSIGNABLE.** The services to be provided by the Consultant shall not be assigned or subcontracted without the express written consent of the City.

**III.5 EMPLOYMENT.** Any and all employees of the Consultant, while engaged in the performance of any work or services required by the Consultant under this agreement, shall be considered employees of the Consultant only and not of the City, and any and all claims that may or might arise under the Workman's Compensation Act on behalf of any said employees while so engaged, and any and all claims made by any third party as a consequence of any negligent act or omission on the part of the Consultant or its employees while so engaged in any of the work or services provided herein shall be the sole obligation of the Consultant.

**III.6 INDEMNITY.**

a. Consultant shall defend, indemnify and hold the City, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or resulting from the acts, errors or omissions of the Consultant in performance of this Agreement, except for injuries and damages caused by the sole negligence of the City.

b. Should a court of competent jurisdiction determine that this agreement is subject to RCW 4.24.115, then, in the event of liability for damaging arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Engineer and the City, its members, officers, employees and agents, the Engineer's liability to the City, by way of indemnification, shall be only to the extent of the Engineer's negligence.

c. The provisions of this section shall survive the expiration or termination of this agreement.

### III.7 INSURANCE.

a. **Minimum Limits of Insurance.** The Consultant shall, before commencing work under this agreement, file with the City certificates of insurance coverage to be kept in force continuously during this agreement, and during all work performed pursuant to all short form agreements, in a form acceptable to the City. Said certificates shall name the City as an additional named insured with respect to all coverages except professional liability insurance. The minimum insurance requirements shall be as follows:

(1) Comprehensive General Liability. \$1,000,000 combined single limit per occurrence for bodily injury personal injury and property damage; \$2,000,000 general aggregate;

(2) Automobile Liability. \$300,000 combined single limit per accident for bodily injury and property damage;

(3) Workers' Compensation. Workers' compensation limits as required by the Workers' Compensation Act of Washington;

(4) Consultant's Errors and Omissions Liability. \$1,000,000 per occurrence and as an annual aggregate.

b. **Endorsement.** Each insurance policy shall be endorsed to state that coverage shall not be suspended, voided, canceled, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City.

c. **Acceptability of Insurers.** Insurance to be provided by Consultant shall be

with a Bests rating of no less than A:VII, or if not rated by Bests, with minimum surpluses the equivalent of Bests' VII rating.

d. **Verification of Coverage.** In signing this agreement, the Consultant is acknowledging and representing that required insurance is active and current.

**III.8 DISCRIMINATION PROHIBITED AND COMPLIANCE WITH EQUAL OPPORTUNITY LEGISLATION.** The Consultant agrees to comply with equal opportunity employment and not to discriminate against client, employee, or applicant for employment or for services because of race, creed, color, religion, national origin, marital status, sex, age or handicap except for a bona fide occupational qualification with regard, but not limited to, the following: employment upgrading; demotion or transfer; recruitment or any recruitment advertising; layoff or terminations; rates of pay or other forms of compensation; selection for training, rendition of services. The Consultant further agrees to maintain (as appropriate) notices, posted in conspicuous places, setting forth the provisions of this nondiscrimination clause. The Consultant understands and agrees that if it violates this nondiscrimination provision, this agreement may be terminated by the City, and further that the Consultant will be barred from performing any services for the City now or in the future, unless a showing is made satisfactory to the City that discriminatory practices have been terminated and that recurrence of such action is unlikely.

**III.9 UNFAIR EMPLOYMENT PRACTICES.** During the performance of this agreement, the Consultant agrees to comply with RCW 49.60.180, prohibiting unfair employment practices.

**III.10 AFFIRMATIVE ACTION.** Affirmative action shall be implemented by the Consultant to ensure that applicants for employment and all employees are treated without regard to race, creed, color, sex, age, marital status, national origin or the presence of any sensory, mental or physical handicap, unless based on a bona fide occupational qualification. The Consultant agrees to take affirmative action to ensure that all of its employees and agent adhere to this provision.

**III.11 LEGAL RELATIONS.** The Consultant shall comply with all federal, state and local laws and ordinances applicable to work to be done under this agreement. This contract shall be interpreted and construed in accordance with the laws of Washington. Venue for any action commenced relating to the interpretation, breach or enforcement of this agreement shall be in Snohomish County Superior Court.

**III.12 INDEPENDENT CONTRACTOR.** The Consultant's relation to the City shall at all times be as an independent contractor.

**III.13 CONFLICTS OF INTEREST.** While this is a non-exclusive agreement the Consultant agrees to and will notify the City of any potential conflicts of interest in Consultant's client base and will seek and obtain written permission from the City prior to providing services to third parties where a conflict of interest is apparent. If a conflict is irreconcilable, the City reserves the right to terminate this agreement.

**III.14 CITY CONFIDENCES.** The Consultant agrees to and will keep in strict confidence,

and will not disclose, communicate or advertise to third parties without specific prior written consent from the City in each instance, the confidences of the City or any information regarding the City or services provided to the City.

#### **ARTICLE IV. OBLIGATIONS OF THE CITY**

IV.1 **PAYMENTS.** The Consultant shall be paid by the City for completed work for services rendered under this agreement and as detailed in the scope of services as provided hereinafter. Such payment shall be full compensation for work performed or services rendered and for all labor, materials, supplies, equipment and incidentals necessary to complete the work. Payment shall be on a time and expense basis, provided, however, in no event shall total payment under this agreement exceed \$231,450. In the event the City elects to expand the scope of services from that set forth in **Exhibit A**, the City shall pay Consultant an additional amount based on a time and expense basis, based upon Consultant's current schedule of hourly rates.

a. Invoices shall be submitted by the Consultant to the City for payment pursuant to the terms of the scope of services. The invoice will state the time expended, the hourly rate, a detailed description of the work performed, and the expenses incurred during the preceding month. Invoices must be submitted by the 20<sup>th</sup> day of the month to be paid by the 15<sup>th</sup> day of the next calendar month.

b. The City will pay timely submitted and approved invoices received before the 20<sup>th</sup> of each month within thirty (30) days of receipt.

IV.2 **CITY APPROVAL.** Notwithstanding the Consultant's status as an independent contractor, results of the work performed pursuant to this contract must meet the approval of the City, which shall not be unreasonably withheld if work has been completed in compliance with the scope of work and City requirements.

#### **ARTICLE V. GENERAL**

V.1 **NOTICES.** Notices to the City shall be sent to the following address:

CITY OF LAKE STEVENS  
C/O Rebecca Ableman, Planning and Community Development Director  
PO Box 257  
LAKE STEVENS, WA 98258-0257

Notices to the Consultant shall be sent to the following address:

Richard Weinman Consulting LLC  
Richard Weinman  
9350 SE 68<sup>th</sup> St  
Mercer Island, WA 98040

Receipt of any notice shall be deemed effective three (3) days after deposit of written notice in the U.S. mail with proper postage and address.

V.2 **TERMINATION.** The right is reserved by the City to terminate this agreement in whole or in part at any time upon ten (10) days' written notice to the Consultant.

If this agreement is terminated in its entirety by the City for its convenience, a final payment shall be made to the Consultant which, when added to any payments previously made, shall total the actual costs plus the same percentage of the fixed fee as the work completed at the time of termination applied to the total work required for the project.

V.3 **DISPUTES.** The parties agree that, following reasonable attempts at negotiation and compromise, any unresolved dispute arising under this contract may be resolved by a mutually agreed-upon alternative dispute resolution of arbitration or mediation.

V.4 **NONWAIVER.** Waiver by the City of any provision of this agreement or any time limitation provided for in this agreement shall not constitute a waiver of any other provision.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

CITY OF LAKE STEVENS

\_\_\_\_\_, CONSULTANT

By \_\_\_\_\_  
VERN LITTLE, MAYOR

By \_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
GRANT K. WEED, CITY ATTORNEY

**EXHIBIT A**

## Exhibit A

### *Weinman Consulting LLC*

#### Scope of Work

## Frontier Village (Lake Stevens Center) Sub-Area Planned Action EIS

The following narrative describes the tasks required to prepare the Planned Action EIS for the Frontier Village Sub-Area Plan. Tasks are organized according to the major steps in the EIS process. The approach includes all steps necessary to complete the Planned Action EIS, adopt a Planned Action ordinance, and satisfy all SEPA procedural requirements. Some elements of the EIS -- existing conditions and mitigation measures -- will be incorporated into and inform the sub-area plan.

### 1. Project Initiation

Pre-EIS preparatory steps include organizing the EIS team, and holding a kick-off meeting with City. The objective is to help all team members to understand the Planned Action process and requirements. We would establish internal communication protocols; specify expectations, roles and responsibilities; and discuss methodology and process issues. We would also preliminarily identify major environmental issues for discussion in the EIS.

### 2. EIS Process & Schedule

The tasks identified below include the steps necessary to prepare and publish the Draft EIS and Final EIS for the proposal, including required notices and meetings. The consultant would work under the direction of the City/lead agency. It should be noted that the steps below are those applicable to any EIS. There are no special or different rules that apply to a Planned Action EIS. In general, we are assuming that preparation and review of the EIS will inform and be integrated with development of the sub-area plan. Information from the EIS, such as recommended improvements and mitigation measures, will be used in the plan. They may be published in the same or different documents for purposes of public review.

The scope assumes an approximate one year schedule for the EIS and sub-area plan. A detailed project schedule will be prepared in coordination with the sub-area plan process.

#### **2.1 Draft Planned Action EIS**

##### Task 2.1.1. Scoping

Scoping is a formal process that helps to define and limit the environmental issues and alternatives that will be addressed in the EIS. The process begins with publication of a determination of

## Exhibit A

significance (DS) and scoping notice, which requests comments from agencies, tribes and the public. A workshop/scoping meeting could be held to help describe the project and process and solicit comment; or, the City could just accept written comments. Alternatively, if the Planned Action EIS is framed as a supplement to the EIS on the City's Comprehensive Plan, scoping is optional. The scope of work assumes that the City will draft the required notices, but we can perform this step if desired. We will also help the City to organize and conduct the scoping meeting. Presentation boards will be prepared to support the meeting.

The scope of the EIS cannot be identified with certainty until the EIS scoping process is completed. For purposes of our budget estimate, we have assumed that the EIS will be limited to transportation, stormwater, critical areas (wetlands), land use (land use patterns and consistency with policies), aesthetics (height, bulk and scale), air quality (GHG and "hot spot" analysis), public services (fire, police, schools, and parks), and utilities (sewer and water). These appear to be the likely key issues for purposes of the Planned Action.

We would prepare a Scoping Summary to document the City's consideration of all scoping comments/issues and to help support its decision to include or exclude some elements of the environment from detailed analysis in the EIS. Issues may be excluded if they are deemed to not be probable and significant, if they have been addressed in an existing environmental document, or if they are adequately addressed by City regulations.

### Task 2.1.2. Project Description/Alternatives

We will prepare a detailed description of the proposal and alternatives, which will be used by the EIS team to evaluate impacts. This will include a statement by the City of the objectives of the sub-area plan. We are assuming up to two sub-area plan alternatives plus No Action. Note that the Draft EIS does not need to identify a preferred or proposed alternative; we recommend that a preferred alternative not be identified until initial review of the Draft Sub-Area Plan/Draft EIS by the Planning Commission.

### Task 2.1.3. Preliminary Draft Planned Action EIS

The Existing Conditions section of the EIS will provide baseline information that will be used for the analysis. This section, or a summary of it, will also comprise a chapter of the sub-area plan. The EIS analyses will identify direct, indirect and cumulative impacts, and operational and construction impacts, and will identify appropriate mitigation measures and impacts that are unavoidable. The nature, timing and responsibility for mitigation measures/improvements will be highlighted, so these can be coordinated with the Comprehensive Plan's Transportation and Capital Facilities elements. More detailed scopes of work for selected technical issues -- including transportation, air quality/hot spot analysis -- are included as attachments.

A preliminary draft document will be prepared for internal review. One round of review is assumed. It is assumed that the City will consolidate its comments in a single memo or marked-up document.

## **Exhibit A**

The major sections of the Draft EIS will include the Fact Sheet, Summary, description of the proposal and alternatives, existing conditions, analysis of environmental impacts and mitigation measures, and significant impacts that cannot be avoided. A Draft Planned Action Ordinance would also be included in an appendix to the Draft EIS; the content of the ordinance is summarized below.

### Task 2.1.4. Revise/Publish Draft EIS

The text of the EIS will be revised as appropriate to respond to review comments. The EIS Summary chapter will also be prepared at this stage. The overall document will be compiled, edited and formatted for publication, printed and distributed. The consultant will assist the City to prepare drafts of required notices.

### Task 2.1.5. Public Review & EIS Meeting

Publication of the Draft EIS triggers a statutory public review period, which is a minimum of 30 days; the lead agency may extend this to 45 days (and sometimes longer). The public, agencies and tribes will have an opportunity to provide written comments on the EIS. A public meeting will also be scheduled to provide an opportunity for interested citizens to make verbal comments. The meeting could follow a workshop format, with various stations providing information about different EIS issues (e.g., traffic, utilities) and with a separate station for providing verbal comments. Alternatively, the meeting could be more formal and structured, using more formal presentation of information and an open microphone for commenting. Whichever approach is used, it is recommended that the meeting be tape recorded, or recorded and transcribed by a court reporter. It is assumed that the City will take the lead in arranging meeting facilities.

## **2.2. Final EIS**

The Final EIS will respond to comments received on the Draft EIS, make factual corrections to the text of the EIS as appropriate, and supplement the analyses as necessary. The Final EIS may also present changes to the proposal, evaluate new alternatives, and or identify a preferred alternative.

### Task 2.2.1. Review & Organize Comment Letters

The City will log-in all letters and communications received on the Draft EIS, and will transmit this package to the consultant at the conclusion of the comment period. The consultant will review and organize the comment letters/comments according to categories of environmental issues; each letter will be numbered, and each substantive comment within each letter will be given a distinct number. It is generally assumed that no significant additional technical analysis will be required to respond to the comments raised.

### Task 2.2.2. Prepare Responses to Comments

We will prepare responses to all substantive comments received on the EIS. The responses will be numbered to correspond to the letters and comments identified in the prior task. Responses will be as detailed as possible; comments on issues that are outside the scope of SEPA (e.g., effects on property values, social issues), or are expressions of opinion about the proposal do not require a

**Exhibit A**

response. The City and consultant will determine how to organize this chapter of the EIS based on the number and complexity of comments received.

## Exhibit A

### Task 2.2.3. Preliminary Draft Final Planned Action EIS

A preliminary draft Final EIS will be prepared for internal review by the City; one round of review is assumed. It is assumed that the City will compile review comments from multiple City agencies, and will resolve conflicting direction. The consultant will identify any review comments requiring further discussion or resolution and will transmit these to the City's project manager. Revisions to the Planned Action Ordinance could also occur at this time.

### Task 2.3.4. Revise/Publish Final EIS

The text of the EIS will be revised as appropriate to respond to review comments. The document will be compiled, edited and formatted for publication, and printed.

The consultant will prepare drafts of required notices and will coordinate their publication with City staff. It is assumed that notice will be published in the City's official newspaper of record and mailed to the Department of Ecology for inclusion in the SEPA Register.

Publication of the Final EIS concludes the SEPA process unless the proposal is further modified and requires supplemental analysis, or the document is appealed.

## 3. Planned Action Ordinance

The consultant will draft a planned action ordinance (PAO) for review by the City. The ordinance will generally include the following sections and provisions, which reflect the requirements of state law:

- Findings that the planned action is consistent with the requirements of state law, and that the planned action EIS adequately addresses expected environmental impacts;
- Identify the planned action area and the types, densities and amount of development that is permitted;
- Identify the criteria that will be used to determine whether subsequent projects "qualify" as planned actions;
- Identify mitigation measures and development "thresholds" or "budgets" that that will trigger additional mitigation requirements;
- Identify the process that will be followed to review planned action applications; and
- Identify the time period of the planned action (optional).

A draft of the PAO would be included as an appendix in the Draft Planned Action EIS. Changes to the ordinance would be included in the Final Planned Action EIS.

**Exhibit A**

Frontier Village (Lake Stevens Center) Sub-Area Planned Action EIS  
Estimated Budget  
(2-10-2011)

Task	Weinman Consulting		Sub-consultants	Total
	Hours	Cost <sup>1</sup>		
Project management/coordination <sup>2</sup>	20	3,500.		3,500.
Meetings	8	1,400.	3,000.	4,400.
<i>Subtotal</i>	<i>28</i>	<i>4,900.</i>	<i>3,000.</i>	<i>7,900.</i>
<b>Draft EIS</b>				
Scoping <sup>3</sup>	8	1,400.		1,400.
Alternatives/Project Description	40	7,000.		7,000.
Miscellaneous EIS sections <sup>4</sup>	16	2,800.		2,800.
Natural Environment - Wetlands (AHBL) <sup>5</sup>	4	700.	3,000.	3,700.
Land Use/Population & Housing (City Staff)*	4	700.	---	700.
Cultural Resources (AHBL)			700.	700.
Transportation (Fehr & Peers) <sup>6</sup>	4	700.	18,000.	18,700.
Aesthetics	8	1,400.		1,400.
Air Quality/GHG (ENVIRON & Fehr & Peers) <sup>7</sup>	4	700.	15,000.	15,700.
Public Services (City Staff)*	4	700.	---	700.
Utilities (AHBL)	8	1,400.	10,000.	11,400.
Compile/edit preliminary DEIS	8	1,400.	3,000.	4,400.
Edit/revise/print	8	1,400.	700.	2,100.
Draft EIS Meeting	8	1,400.		1,400.
<i>Subtotal Draft EIS</i>	<i>124</i>	<i>21,700.</i>	<i>50,400.</i>	<i>72,100.</i>
<b>Final EIS Estimate <sup>8</sup></b>				
<i>Subtotal Final EIS</i>				<i>18,000.</i>
<b>Planned Action Ordinance</b>				
<i>Subtotal PAO</i>	<i>8</i>	<i>1,400.</i>		<i>1,400.</i>
<b>Expenses</b>				
Misc. expenses (includes 5% sub-consultant fee)		3,000.		3,000.
Graphics (LMN + AHBL above)			---	
Printing <sup>7</sup>			1,500.	1,500.
<i>Subtotal Expenses</i>		<i>3,000.</i>	<i>1,500.</i>	<i>4,500.</i>
<b>TOTAL</b>				
		<b>29,600.</b>	<b>54,900.</b>	<b>102,500.</b>

## Exhibit A

### Notes to Table:

1. Hourly rate is \$175.
2. Assumes approximately 1/2 hour per week for 40 weeks.
3. Assumes scoping meeting in Lake Stevens, and preparation of a scoping summary report. Note that if EIS is a Supplement to the Comprehensive Plan EIS, scoping is optional. Costs could be reduced if a single, combined scoping meeting is held for the Frontier Village and 20<sup>th</sup> Street sub-area plans.
4. Includes Fact Sheet, Summary, References, Coordination and Consultation.
5. Assumes 1/2 day field work (2 scientists) plus data base search to inventory all critical areas. Assumes that wetlands are the only critical area addressed in the EIS.
6. The budget assumes that WSDOT, in cooperation with the City, will prepare a traffic analysis and report for SR-9, that this report will address sub-area transportation plan, and will be usable in the EIS. Fehr & Peers scope includes review and evaluation of the report and preparation of an EIS section, plus preparation of portions of the existing conditions section. At the time of this writing, the precise scope of WSDOT's analysis is unknown, however. The budget and underlying assumptions will be revisited when the scope of this study is available. A shared parking analysis could be prepared as an optional task (\$5,000) if an objective of the sub-area plan is to minimize impervious area and surface parking.
7. The estimate assumes a "hot spot" analysis of up to 3 intersections. Estimate could be reduced if traffic analysis indicates hot spot analysis not required or if fewer intersections are modeled. GHG analysis (\$5,000.) is recommended in view of SR-9/a state facility, and WSDOT's involvement.
8. Estimate assumes FEIS cost is approximately 20% of DEIS. Costs have not been allocated as between team members. FEIS cost is dependent on the number and substance of comments and cannot be accurately identified at this time. We would revisit the scope and budget and revise as necessary following review of comments.
9. Assumes 50 hard copies & 50 CD copies. One volume, 200 pages @ .06 page. Assumes 15 copies each of Preliminary DEIS and FEIS for internal review. Costs could vary depending on number of color graphics, and volume of technical appendices.
- Assumes that City staff will prepare the Land Use/Population & Housing, and Public Services sections of the EIS.

## Exhibit A

# Scope of Work

## 20<sup>th</sup> Street Corridor Sub-Area Planned Action EIS

The following narrative describes the tasks required to prepare the Planned Action EIS for the 20<sup>th</sup> Street Corridor Sub-Area Plan. Tasks are organized according to the major steps in the EIS process. The approach includes all steps necessary to complete the Planned Action EIS, adopt a Planned Action ordinance, and satisfy all SEPA procedural requirements. Some elements of the EIS (e.g., Existing Conditions) will be incorporated into sections of the sub-area plan.

### 1. Project Initiation

Pre-EIS preparatory steps include organizing the EIS team, and holding a kick-off meeting with City. The objective is to help all team members to understand the Planned Action process and requirements. We would establish internal communication protocols; specify expectations, roles and responsibilities; and discuss methodology and process issues. We would also preliminarily identify major environmental issues for discussion in the EIS.

### 2. EIS Process & Schedule

The tasks identified below include the steps necessary to prepare and publish the Draft EIS and Final EIS for the proposal, including required notices and meetings. The consultant would work under the direction of the City/lead agency. It should be noted that the steps below are those applicable to any EIS. There are no special or different rules that apply to a Planned Action EIS. In general, we are assuming that preparation and review of the EIS will inform and be integrated with development of the sub-area plan. Information from the EIS – including existing conditions, recommended improvements and mitigation measures -- will be incorporated in and will inform the sub-area plan. The plan and EIS may be published in the same or different documents for purposes of public review.

The scope assumes an approximate one year schedule for the EIS and sub-area plan. A detailed project schedule will be prepared in coordination with the sub-area plan process.

#### 2.1 Draft Planned Action EIS

##### Task 2.1.1. Scoping

Scoping is a formal process that helps to define and limit the environmental issues and alternatives that will be addressed in the EIS. The process begins with publication of a determination of significance (DS) and scoping notice, which requests comments from agencies, tribes and the public. A workshop/scoping meeting could be held to help describe the project and process and solicit comment; or, the City could just accept written comments. Alternatively, if the Planned

## Exhibit A

Action EIS is framed as a supplement to the EIS on the City's Comprehensive Plan, scoping is optional. The scope of work assumes that the City will draft the required notices, but we can perform this step if desired. We will also help the City to organize and conduct the scoping meeting. Presentation boards will be prepared to support the meeting.

The scope of the EIS cannot be identified with certainty until the EIS scoping process is completed. For purposes of our budget estimate, we have assumed that the EIS will be limited to transportation, stormwater, critical areas (wetlands), land use (land use patterns and consistency with policies, and population and housing), aesthetics (height, bulk and scale), air quality (GHG and "hot spot" analysis), public services (fire, police, schools, and parks), and utilities (sewer and water). These appear to be the likely key issues for purposes of the Planned Action.

We would prepare a Scoping Summary to document the City's consideration of all scoping comments/issues and to help support its decision to include or exclude some elements of the environment from detailed analysis in the EIS. Issues may be excluded if they are deemed to not be probable and significant, if they have been addressed in an existing environmental document, or if they are adequately addressed by City regulations.

### Task 2.1.2. Project Description/Alternatives

We will prepare a detailed description of the proposal and alternatives, which will be used by the EIS team to evaluate impacts. This will include a statement by the City of the objectives of the sub-area plan. We are assuming up to two sub-area plan alternatives plus No Action. Note that the Draft EIS does not need to identify a preferred or proposed alternative; we recommend that a preferred alternative not be identified until initial review of the Draft Sub-Area Plan/Draft EIS by the Planning Commission.

### Task 2.1.3. Preliminary Draft Planned Action EIS

The Existing Conditions section of the EIS will provide baseline information that will be used for the analysis. This section, or a summary of it, will also comprise a chapter of the sub-area plan. The EIS analyses will identify direct, indirect and cumulative impacts, and operational and construction impacts, and will identify appropriate mitigation measures and impacts that are unavoidable. The nature, timing and responsibility for mitigation measures/improvements will be highlighted, so these can be coordinated with the Comprehensive Plan's Transportation and Capital Facilities elements. More detailed scopes of work for selected technical issues – including transportation, air quality/hot spot analysis -- are included as attachments.

A preliminary draft document will be prepared for internal review. One round of review is assumed. It is assumed that the City will consolidate its comments in a single memo or marked-up document.

The major sections of the Draft EIS will include the Fact Sheet, Summary, description of the proposal and alternatives, existing conditions, analysis of environmental impacts and mitigation

## **Exhibit A**

measures, and significant impacts that cannot be avoided. A Draft Planned Action Ordinance would also be included in an appendix to the Draft EIS; the content of the ordinance is summarized below.

### Task 2.1.4. Revise/Publish Draft EIS

The text of the EIS will be revised as appropriate to respond to review comments. The EIS Summary chapter will also be prepared at this stage. The overall document will be compiled, edited and formatted for publication, printed and distributed. The consultant will assist the City to prepare drafts of required notices.

### Task 2.1.5. Public Review & EIS Meeting

Publication of the Draft EIS triggers a statutory public review period, which is a minimum of 30 days; the lead agency may extend this to 45 days (and sometimes longer). The public, agencies and tribes will have an opportunity to provide written comments on the EIS. A public meeting will also be scheduled to provide an opportunity for interested citizens to make verbal comments. The meeting could follow a workshop format, with various stations providing information about different EIS issues (e.g., traffic, utilities) and with a separate station for providing verbal comments. Alternatively, the meeting could be more formal and structured, using more formal presentation of information and an open microphone for commenting. Whichever approach is used, it is recommended that the meeting be tape recorded, or recorded and transcribed by a court reporter. It is assumed that the City will take the lead in arranging meeting facilities.

## **2.2. Final EIS**

The Final EIS will respond to comments received on the Draft EIS, make factual corrections to the text of the EIS as appropriate, and supplement the analyses as necessary. The Final EIS may also present changes to the proposal, evaluate new alternatives, and or identify a preferred alternative.

### Task 2.2.1. Review & Organize Comment Letters

The City will log-in all letters and communications received on the Draft EIS, and will transmit this package to the consultant at the conclusion of the comment period. The consultant will review and organize the comment letters/comments according to categories of environmental issues; each letter will be numbered, and each substantive comment within each letter will be given a distinct number. It is generally assumed that no significant additional technical analysis will be required to respond to the comments raised.

### Task 2.2.2. Prepare Responses to Comments

We will prepare responses to all substantive comments received on the EIS. The responses will be numbered to correspond to the letters and comments identified in the prior task. Responses will be as detailed as possible; comments on issues that are outside the scope of SEPA (e.g., effects on property values, social issues), or are expressions of opinion about the proposal do not require a response. The City and consultant will determine how to organize this chapter of the EIS based on the number and complexity of comments received.

## Exhibit A

### Task 2.2.3. Preliminary Draft Final Planned Action EIS

A preliminary draft Final EIS will be prepared for internal review by the City; one round of review is assumed. It is assumed that the City will compile review comments from multiple City agencies, and will resolve conflicting direction. The consultant will identify any review comments requiring further discussion or resolution and will transmit these to the City's project manager. Revisions to the Planned Action Ordinance could also occur at this time.

### Task 2.3.4. Revise/Publish Final EIS

The text of the EIS will be revised as appropriate to respond to review comments. The document will be compiled, edited and formatted for publication, and printed.

The consultant will prepare drafts of required notices and will coordinate their publication with City staff. It is assumed that notice will be published in the City's official newspaper of record and mailed to the Department of Ecology for inclusion in the SEPA Register.

Publication of the Final EIS concludes the SEPA process unless the proposal is further modified and requires supplemental analysis, or the document is appealed.

## 3. Planned Action Ordinance

The consultant will draft a planned action ordinance (PAO) for review by the City. The ordinance will generally include the following sections and provisions, which reflect the requirements of state law:

- Findings that the planned action is consistent with the requirements of state law, and that the planned action EIS adequately addresses expected environmental impacts;
- Identify the planned action area and the types, densities and amount of development that is permitted;
- Identify the criteria that will be used to determine whether subsequent projects "qualify" as planned actions;
- Identify mitigation measures and development "thresholds" or "budgets" that that will trigger additional mitigation requirements;
- Identify the process that will be followed to review planned action applications; and
- Identify the time period of the planned action (optional).

A draft of the PAO would be included as an appendix in the Draft Planned Action EIS. Changes to the ordinance would be included in the Final Planned Action EIS.

**Exhibit A**

**20<sup>th</sup> Street Corridor Sub-Area Planned Action EIS  
 Estimated Budget  
 (2-10-2011)**

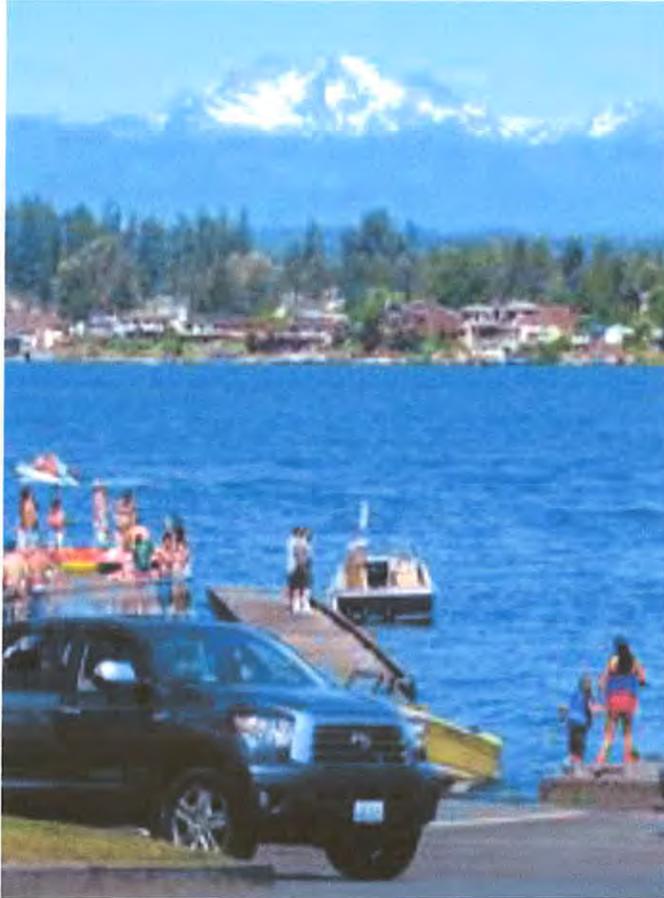
<b>Task</b>	<b>Weinman Consulting</b>		<b>Sub-consultants</b>	<b>Total</b>
	Hours	Cost <sup>1</sup>		
Project management/coordination <sup>2</sup>	20	3,500.		3,500.
Meetings	12	2,100.	3,000.	4,100.
<i>Subtotal</i>	32	5,600.	3,000.	8,600.
<b>Draft EIS</b>				
Scoping <sup>3</sup>	8	1,400.		1,400.
Alternatives/Project Description	24	4,200.		4,200.
Miscellaneous EIS sections <sup>4</sup>	16	2,800.		2,800.
Natural Environment - Wetlands (AHBL) <sup>5</sup>	4	700.	3,000.	3,700.
Land Use/Population & Housing (City staff)*	4	700.	---	700.
Cultural Resources (AHBL) <sup>6</sup>	2	350.	1,300.	1,650.
Transportation (Fehr & Peers) <sup>7</sup>	4	700.	32,000.	32,700.
Aesthetics	8	1,400.		1,400.
Air Quality/GHG (ENVIRON/Fehr & Peers) <sup>8</sup>	4	700.	15,000.	15,700.
Public Services (City Staff)	4	700.	---	700.
Utilities (AHBL)	8	1,400.	10,000.	11,400.
Compile/edit preliminary DEIS (incl. graphics)	8	1,400.	3,000.	4,400.
Edit/revise/print	8	1,400.	700.	2,100.
Draft EIS Meeting	8	1,400.		1,400.
<i>Subtotal Draft EIS</i>	110	19,250.	65,000.	84,250.
<b>Final EIS Estimate</b> <sup>9</sup>				18,000.
<i>Subtotal FEIS</i>				18,000.
<b>Planned Action Ordinance</b>	12	2,100.		2,100.
<i>Subtotal PAO</i>				2,100.
<b>Expenses</b>				
Misc. expenses (& 5% sub-consultant fee)		4,500.		4,500.
Graphics (LMN + AHBL above)				---
Printing <sup>10</sup>			1,500.	1,500.
<i>Subtotal Expenses</i>		4,500.	1,500.	6,000.
<b>TOTAL</b>		<b>29,350.</b>	<b>69,500.</b>	<b>118,950.</b>

## Exhibit A

### Notes to Table:

10. Hourly rate is \$175.
11. Assumes approximately 1/2 hour per week for 40 weeks.
12. Assumes scoping meeting in Lake Stevens, and preparation of a scoping summary report. Note that if EIS is a Supplement to the Comprehensive Plan EIS, scoping is optional. Costs could be reduced if a single, combined scoping meeting is held for the Frontier Village and 20<sup>th</sup> Street sub-area plans.
13. Includes Fact Sheet, Summary, References, Coordination and Consultation.
14. Includes ½ day field reconnaissance (2 biologists) to inventory critical areas. Assumes that wetlands only are evaluated in the EIS.
15. Includes review of published documents and communication with State Dept. of Archaeology & Historic Preservation to determine the presence of/potential for cultural resources in general area. Does not include field work. The budget assumes that the initial review will support excluding this issue from detailed analysis in the EIS.
16. The traffic analysis assumes that Fehr & Peers will develop a sub-area traffic model using the Snohomish County model. A shared parking analysis (\$5,000) is an optional task; it may be appropriate and helpful to include if the sub-area plan emphasizes shared parking as a means to minimize surface parking.
17. The estimate assumes a “hot spot” analysis of up to 3 intersections for air quality. Estimate could be reduced if the traffic analysis indicates that hot spot analysis is not required or if fewer intersections are modeled. The GHG analysis (\$5,000) is an optional task but is recommended.
18. Estimate assumes FEIS cost = approximately 20 percent of DEIS. The cost of the Final EIS is dependent on the number and substance of comments received on the Draft EIS and cannot be accurately identified at this time. We would revisit the scope and budget and revise it as necessary following review of DEIS comments.
19. Assumes 50 hard copies & 50 CD copies. One volume, 200 pages @.06 page. Assumes 15 copies each of Preliminary DEIS and FEIS for internal review. Costs could vary depending on number of color graphics, and the volume of technical appendices.
  - Assumes that City staff will prepare the Land Use/Population & Housing, and Public Services sections of the EIS.

Attachment 2



## Statement of Qualifications

### Planned Action EISs & Ordinances for the Frontier Village & 20<sup>th</sup> Street Corridor Sub-Area Plans

**Weinman Consulting LLC  
with AHBL, Fehr & Peers, & Environ**

**City of Lake Stevens  
January 26, 2011**

RECEIVED

JAN 20 2011

CITY OF LAKE STEVENS

## Weinman Consulting, LLC



January 26 , 2011

Ms. Rebecca Ableman, Planning Director  
City of Lake Stevens  
1812 Main Street  
Lake Stevens, WA 98258

RE: Statement of Qualifications for Lake Stevens Planned Actions

Dear Ms. Ableman:

On behalf of the Weinman Consulting LLC team, I am pleased to submit our statement of qualifications to provide consulting services to prepare Planned Action EISs and Planned Action Ordinances for the Frontier Village and 20<sup>th</sup> Street Corridor Sub-Area Plans. We appreciate the significance of this project to the City, and we understand the challenges that are involved.

To meet the City's objectives, we have assembled a team with substantial experience with all aspects of Planned Actions and sub-area planning projects, and with recent and current experience in Lake Stevens. Our team is lead by Weinman Consulting, with AHBL, Fehr & Peers, and Environ. The team's key staff are exceptionally well qualified, have a long history of collaborating successfully on EIS projects, and of meeting client needs efficiently. The staff identified in our qualifications are the staff who would perform the work, and all have committed the time necessary to meet the project schedule.

Our team brings the following strengths, which are demonstrated in our submittal:

- A project manager (Richard Weinman) with extensive experience in SEPA and in all aspects of Planned Actions, including preparing EISs; drafting Planned Action ordinances tailored to local needs; developing administrative/tracking tools; and helping to educate staff, elected officials and the public on planned action requirements;
- A team with strong local experience in Lake Stevens and Snohomish County, an understanding of local land use procedures and the context of the project, and the ability to hit the ground running;
- Extensive experience preparing and evaluating sub-area plans and development regulations;
- Strong working relationships and overlap with your existing consultant team, which includes LMN Architects, AHBL and Fehr & Peers; and
- Technical expertise to support the evaluation of a wide range of environmental issues.

We recognize that financial resources are limited, and we will work closely with the City to identify a scope of work that fits within the available budget and results in legally defensible products.

9350 S.E. 68<sup>th</sup> Street      Mercer Island, WA 98040  
Phone: 206.295.0783      Fax: 206.232.6364  
Email: Richardw-LLC@comcast.net

Ms. Rebecca Ableman  
January 26, 2011  
Page 2

We are eager to share our expertise and enthusiasm with the City. We are familiar with the economic and market studies that have been prepared and understand the opportunity that the City wishes to seize. We will work with the City to help achieve this objective.

Please contact me at 206.295.0783 or via email if you have any questions about our qualifications.

Sincerely,

A handwritten signature in black ink that reads "Richard Weinman". The signature is written in a cursive style with a large initial 'R'.

Richard Weinman

## I. INTRODUCTION

### Introduction

Weinman Consulting, LLC, in partnership with AHBL, Fehr & Peers and Environ is pleased to submit this statement of qualifications (SOQ) to prepare Planned Action Environmental Impact Statements (EIS) and Planned Action Ordinances for two sub-area plans -- Frontier Village and the 20<sup>th</sup> Street Corridor -- in the City of Lake Stevens. Our team is exceptionally experienced preparing EISs for sub-area plans and Planned Actions, has relevant experience in Lake Stevens, and has collaborated on many projects with the City's planning lead, LMN Architects. Weinman Consulting has substantial experience with all aspects of Planned Actions, including EIS preparation, procedural compliance with SEPA, and drafting of Planned Action Ordinances.

Richard Weinman would serve as project manager for the EIS and lead for State Environmental Policy Act (SEPA) compliance. He would be responsible for ensuring the overall quality and adequacy of the EIS, would write portions of the document (project description and land use section), would provide quality control, and would draft the Planned Action Ordinance.

Other team members bring recognized expertise in transportation (Fehr & Peers), utilities, infrastructure and biology (AHBL), and air quality (Environ). Team members have worked with Weinman Consulting and with LMN Architects on multiple projects over a long period of time. All are familiar with SEPA, with Planned Actions and with the City of Lake Stevens.

The proposal is organized in three sections plus an appendix. **Section I** introduces the team and describes our understanding of the project. **Section II** describes the team's experience and qualifications, including an overview of each firm, lists of relevant projects and brief biographical sketches of key staff. Resumes and abstracts of relevant projects and are contained in Appendices. **Section III** includes references; resumes for key staff are included in the **Appendix**.

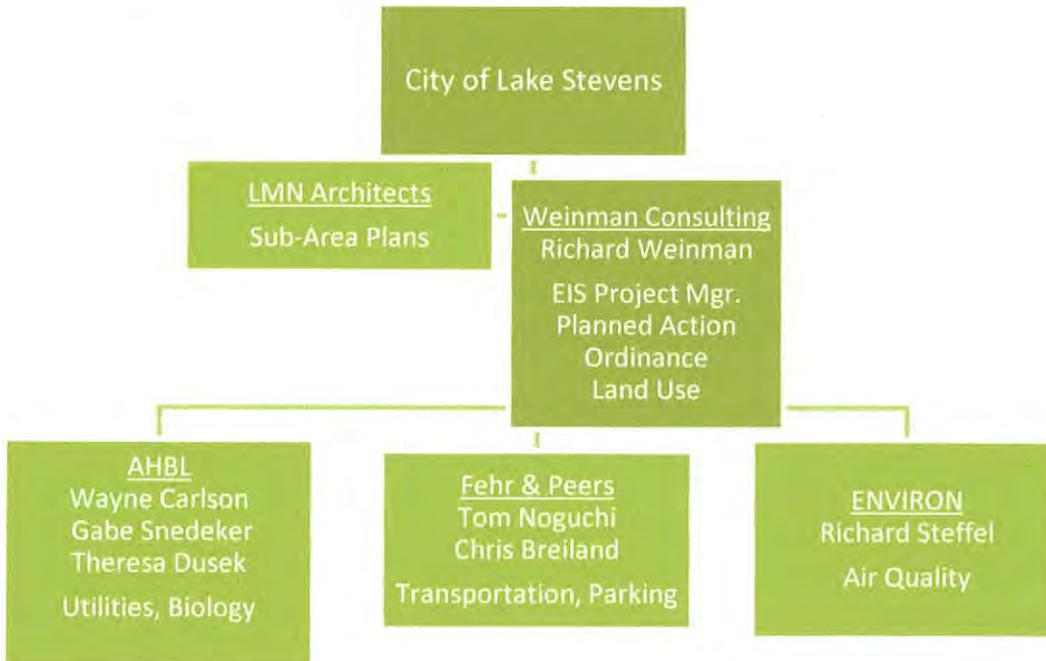
### Project Understanding

We understand that the City originally engaged LMN Architects and its team -- comprised of Leland Consulting, AHBL, Fehr & Peers and Weinman Consulting -- to prepare a sub-area plan for the City Center. Based on a market and economic study prepared by Leland Consulting, the City recognized that greater market opportunities exist for the Frontier Village Center and 20<sup>th</sup> Street Corridor, both of which are identified as centers in the Comprehensive Plan. The City also recognized that it would be desirable to adopt sub-area plans & SEPA planned actions for these two centers as a way to enhance their economic competitiveness. LMN and its planning team will move forward to prepare sub-area plans for the two centers. The objective of the RFQ is to engage an experienced team, who will work closely with LMN, to prepare a Planned Action EIS and Planned Action Ordinance. The sub-area planning and EIS processes are expected to run concurrently and to extend over approximately one year.

## II. Team Qualifications & Experience

The Weinman Consulting team includes AHBL, Fehr & Peers, and Environ. Together, these firms possess the technical expertise considered likely (in our opinion) to be included in the EISs. Project organization is shown in **Figure 1** below. This section summarizes the qualifications and experience of each team member. It describes each firm’s areas of expertise, relevant project experience and contains bios of key staff assigned to the project. Resumes are provided in the **Appendix**.

**Figure 1. Project Organization**



**Weinman Consulting, LLC**



**Key Staff: Richard Weinman**  
**Project Role: Project Manager/  
 SEPA Lead, Land Use**

Weinman Consulting assists public and private sector clients with the following specialized issues: land use, SEPA/NEPA documents & process management, comprehensive plans & sub-area plans, development regulations, regulatory compliance and permitting strategies. Development project experience includes mixed-use master plans, transit oriented development

and redevelopment, institutional facilities, and varied commercial, energy, transportation and industrial projects, as well as non-project actions. The firm has substantial experience with Planned Actions for plans and projects.

**Richard Weinman** is an attorney and land use consultant with more than 30 years of experience in land use planning, regulatory issues environmental review and permitting. He also provides strategic advice to public agencies and private applicants on compliance with the requirements of the State Environmental Policy Act and National Environmental Policy Act. He was formerly a principal with Huckell/Weinman Associates. Richard’s experience includes managing and preparing SEPA documents for a wide variety of complex and controversial development projects, including approximately one-half of all Planned Actions completed in Washington State. He has also drafted numerous Planned Action Ordinances (PAO) and tailors each ordinance to the situation and needs of the individual jurisdiction. His approach to SEPA emphasizes thoroughness, clarity and legal defensibility. Representative Planned Action project experience (PAOs, EISs, and SEPA process), including projects with LMN Architects, are shown in **Table 1** below:

**Table 1. Planned Action Experience**

<b>Planned Action Project Experience</b>	<b>Planned Action Ordinance</b>	<b>EIS/ SEPA</b>	<b>Teamed with LMN</b>
Bothell Downtown Plan (PAO)	0		
Bremerton/South Kitsap Industrial Area	0	0	
Ferndale Axton/Main Street Corridor	0	0	
Kent/Midway	0		
Kent Station	0	0	0
Kirkland Parkplace/Touchstone	0	0	0
Lynnwood City Center		0	0
Mountlake Terrace Town Center	0		0
North City Business District/City of Shoreline		0	
Renton Highlands/Sunset Terrace	0	0	
Suncadia Master Planned Resort		0	
Tukwila Urban Center	0	0	

Additional sub-area plan/master plan SEPA experience includes the Greenbridge and Westpark/Bay Vista HOPE VI Redevelopment Master Plans, and the following projects where the firm or Richard was teamed with LMN Architects:

- Lake Stevens Sub-Area Plan (part of original LMN team)
- Lake Stevens South (with AHBL)
- I-5/128<sup>th</sup> Street Urban Center
- I-5/164<sup>th</sup> Street Urban Center
- Totem Lake Neighborhood Plan
- Everett/Broadway Corridor Sub-Area
- Snohomish County UDC Update
- Snohomish County Urban Centers
- Redmond Code Update

Richard holds a J.D. degree from the University of Puget Sound (now Seattle University) School of Law, an M.A. (English) from Brandeis University, and a B.A. (English) from New York University. He has also completed a certificate training program in mediation skills at the University of Washington School of Law.



**Key Staff: Wayne Carlson, Gabe Snedeker, Theresa Dusek**  
**Project Role: Utilities & Infrastructure, Wetlands/Wildlife**

AHBL was founded in 1969 to bring a collaborative approach to the development of the built environment. The firm provides services in civil and structural engineering, landscape architecture, community planning, natural resources, and land surveying from offices in Seattle and Tacoma. AHBL provides planning services for cities, counties, towns, and special governments, as well as clients in the private sector. They excel at building successful communities -- planning for them, helping create them, and living and working in them. The planning group has diverse backgrounds in areas such as public sector planning, urban design, landscape architecture, real estate development, and private land use consulting, and works with both public agencies and private developers.

Representative planning and EIS projects include the following:

- City of Lake Stevens Green Infrastructure Guidance Document (with LMN)
- City of Lake Stevens South Growth Framework Plan
- City of Covington Downtown Plan & Code Revisions (with LMN)
- Snohomish County Unified Development Code Update (with Weinman)
- South Kitsap / Port Orchard Subarea Plan
- South Hill Community Plan & EIS (Pierce County)
- Upper Nisqually Valley Community Plan (Pierce County)
- Spanaway Midland Parkland Community Plan (Pierce County)
- Newcastle Community Business Center Plan Zoning Code & Design Standards
- South Kitsap (Bremerton) Industrial Area Sub-Area Plan/Planned Action EIS

**Gabe Snedeker, AICP**, is a project manager and planner with 16 years of experience. In addition to private sector consulting experience, Gabe served as the Principal Planner and SEPA Responsible Official for the City of Mercer Island, where he supervised both current and long-range planning. Prior to that, he was the Senior Planner and SEPA Responsible Official at the City

*Weinman Consulting Team*  
*Lake Stevens Planned Action EISs*

of Shoreline. Gabe has extensive experience with policy development, code revision, public participation, environmental analysis and development review. He has led interdisciplinary teams in shoreline master program updates, environmental restoration projects, critical area inventories and ordinances and EIS development. He is experienced at tailoring and executing public involvement programs and is highly skilled at public presentations. He has served on the Washington State APA Board and is a past-president of the Puget Sound Section of APA.

**Wayne Carlson, AICP, LEED AP** is an associate principal and land use planner with 18 years of professional experience. He has also authored scores of environmental reports and assessments, environmental checklists, and initial studies for projects under SEPA, NEPA and CEQA. He has authored Environmental Impact Statements and Environmental Impact Reports in association with municipal non-project actions such as Comprehensive Plans and Community Plans, as well as varied project actions. Wayne has also served as the SEPA Responsible Official for the cities of Bonney Lake, Milton, and the Bethel School District.

**Theresa Dusek** is a natural resource ecologist with 20 years' experience, including tenure as City of Tacoma's Senior Environmental Scientist. She has completed over 10,000 natural resource projects, including wetland inventories; freshwater and estuarine delineations; function and value assessments; impact assessments; conceptual and final mitigation planning; regulatory review and permitting; biological assessments; wildlife, fish and stream surveys; and forestry studies. She has successfully acquired permits from the U.S. Army Corps of Engineers, the Washington State Departments of Ecology and Fish and Wildlife, and local agency SEPA, NEPA, and critical area permits.



**Key Staff: Tom Noguchi, Chris Breiland**  
**Project Role: Traffic and Parking Analysis**

For 20 years, Fehr & Peers has provided transportation planning services to clients with a distinct focus on transportation planning and traffic engineering. The firm offers specialized expertise in the following areas:

- Bicycle and Pedestrian Master Plans
- Intelligent Transportation Systems
- Land Use/Transportation Planning
- Parking
- Smart Growth Planning
- Sustainable Transportation
- Traffic Calming
- Traffic Engineering Design
- Transit Operations and Simulation
- Transit Planning and Simulation
- Transportation Systems Planning
- Travel Demand Forecasting

Fehr & Peers emphasizes client responsiveness, collaboration to build consensus among stakeholders, and highly developed presentation and communication skills, including the latest visualization and simulation technologies that communicate complicated concepts in a clear, comprehensible manner.

Representative planning and EIS projects – many teamed with LMN and/or Weinman Consulting, Huckell/Weinman Associates – include:

- Lake Stevens Subarea Plan Transportation Analysis (with LMN)
- Lynnwood City Center Plan and Planned Action EIS (with LMN & Richard Weinman)
- Northgate Coordinated Transportation Improvement Plan (with Weinman Consulting)

*Weinman Consulting Team*

*Lake Stevens Planned Action EISs*

- Northgate Rezone EIS – Transportation Impact Analysis (with Weinman Consulting)
- Redmond Overlake Neighborhood Plan/Planned Action EIS
- South Lake Union Rezone Planned Action EIS
- South Kitsap Industrial Area Planned Action EIS
- Snohomish County Transit Oriented Village Planning – Ash Way and 128<sup>th</sup> Street (with LMN and Richard Weinman)
- Mill Creek/Clearview Subarea Plan EIS (with Richard Weinman)
- Lynnwood City Center Transportation Plan (with LMN and Richard Weinman)
- Mill Creek Traffic Mitigation Update
- Mill Creek Gateway Traffic Analysis
- Monroe Transportation Plan Update

**Tom Noguchi** has over 30 years of experience working with communities on transportation solutions and integrating transportation plans with urban planning objectives, and supporting sustainable developments. He is experienced in multi-modal transportation planning, transit and rail station area planning, and multi-agency regional transportation planning studies. Tom prepared Seattle’s Northgate Coordinated Transportation Investment Plan (CTIP), the APA award winning University Area Transportation Study (UATS), and provided leadership for developing best practices to manage growth to achieve sustainability goals for the Cities of Seattle, Redmond and Tukwila. Other complex transportation projects include the Northgate rezone EIS project, and the Redmond Overlake Neighborhood Plan update and planned action EIS.

**Chris Breiland** focuses on Travel Demand Forecasting and Traffic Operations. Mr. Breiland is also a member of Fehr & Peers CoolConnections initiative, which focuses on researching and implementing the latest tools in transportation sustainability and greenhouse gas emissions analyses. Mr. Breiland recently served as the lead transportation analyst for the Washington State Department of Commerce land use and transportation tools evaluation project, in which he conducted the majority of the transportation research and led the preparation of the final report.



**Key Staff: Richard Steffel**  
**Project Role: Air Quality**  
**Greenhouse Gas Emissions**

ENVIRON Lynnwood offers a comprehensive array of air quality management services. Staff have conducted and managed numerous investigations for all types of air pollution sources, including electric generating stations, pulp and paper mills, mining, smelting, and refining operations, manufacturing plants, large mixed use development and redevelopment for planned actions and project-specific reviews, vehicular traffic and other mobile sources, and large municipal facilities such as landfills and wastewater treatment plants. Representative EIS project experience -- all teamed with Richard Weinman -- include:

- Kent Station Planned Action EIS
- Suncadia Planned Action
- Westpark EIS
- Greenbridge EIS

*Weinman Consulting Team*  
*Lake Stevens Planned Action EISs*

- DuPont Mining
- I-5/196<sup>th</sup> Street Interchange
- LakePointe EIS
- Mill Creek/Clearview Sub-Area Plans
- Snohomish County Mineral Resource Lands EIS
- Southcenter Expansion

**Richard Steffel** has over 30 years of experience evaluating impacts and mitigation related to mobile and area sources of air pollution, including transportation and general conformity assessments under state and federal air quality rules. Mr. Steffel also has over 21 years of experience conducting and managing a wide variety of environmental noise compliance, impact, and mitigation assessments. He has conducted and overseen numerous evaluations of roadway, transit, and development projects that have addressed compliance with state and local noise rules along with both federal and state noise impact and mitigation criteria established by the Federal Transit Administration (FTA), the Federal Highway Administration (FHWA), the US Department of Housing and Urban Development (HUD), and various state transportation agencies including the Washington State Department of Transportation (WSDOT).

## Summary of Team Experience

**Table 2** below summarizes the team’s experience relative to Lake Stevens project requirements.

**Table 2. Team Experience Matrix**

Experience	Weinman Consulting	AHBL	Fehr & Peers	Environ
Planned Action Ordinances	0			
Planned Action EISs	0	0	0	0
Sub-Area Plans	0	0	0	0
Development Regulations	0	0	0	
Public Involvement & Communication	0	0	0	0
Public Hearing Support	0	0	0	0
<i>Plan/EIS Technical Issues:</i>				
Land & Shoreline Use	0	0		
Transportation/Parking			0	
Utilities		0		
Public Services	0	0		
Natural Environment		0		
Air Quality/Greenhouse Gas				0

### III. REFERENCES

<b>Weinman Consulting</b>	<b>AHBL</b>
<p><i>Kent Station Planned Action EIS, Midway Planned Action Ordinance</i>            Charlene Anderson, City of Kent Planning Manager            220 4<sup>th</sup> Ave. South, Kent, WA 98032            (253) 856-5431, <a href="mailto:CAnderson@ci.kent.wa.us">CAnderson@ci.kent.wa.us</a></p> <p><i>Mountlake Terrace Town Center Planned Action Ordinance</i>            Shane Hope, Planning Director, City of Mountlake Terrace, 23204 58<sup>th</sup> Ave. W            Mountlake Terrace, WA 98043            (425) 744-6281, <a href="mailto:SHope@ci.mlt.wa.us">SHope@ci.mlt.wa.us</a></p>	<p><i>City of Newcastle On-Call Planning Services</i>            Steve Roberge, Director of Community Development, City of Newcastle            13020 Newcastle Way, Newcastle, WA 98059-3002            425.649.4444 ext. 112  <a href="mailto:stever@ci.newcastle.wa.us">stever@ci.newcastle.wa.us</a></p> <p><i>City of Covington Downtown Plan &amp; Code Update; SMP Update; Sustainability Workshop &amp; Recommendations</i>            Richard Hart, Planning Manager, City of Covington            16720 SE 271st Street, Covington, WA 98042            253.638.1110 ext. 2226  <a href="mailto:rhart@ci.covington.wa.us">rhart@ci.covington.wa.us</a></p>
<p><i>Kirkland Parkplace Planned Action Ordinance</i>            Angela Ruggeri, City of Kirkland Planning            123 5<sup>th</sup> Ave, Kirkland, WA 98033            (425) 587-3256, <a href="mailto:ARuggeri@ci.kirkland.wa.us">ARuggeri@ci.kirkland.wa.us</a></p> <p><i>Westpark/Bay Vista Master Plan EIS</i>            Andrea Spencer, Bremerton Planning Director            345 6<sup>th</sup> Street, Bremerton, WA 98337            (360) 473-5283  <a href="mailto:Andrea.Spencer@ci.bremerton.wa.us">Andrea.Spencer@ci.bremerton.wa.us</a></p>	<p><b>Fehr &amp; Peers</b>            Jim Bloodgood, P.E., Traffic Operations Manager and Snohomish County Traffic Engineer            5th floor, County Admin-West Building            3000 Rockefeller Ave., M/S 607            Everett, WA 98201            (425) 388-3488, <a href="mailto:Jim.Bloodgood@snoco.org">Jim.Bloodgood@snoco.org</a></p> <p>Carol Hunter, WSDOT US2 Project Manager            WSDOT Urban Planning Office            401 2nd Avenue South, Suite 300            Seattle, WA 98104-2887            (206) 464-1262, <a href="mailto:urbanplanning@wsdot.wa.gov">urbanplanning@wsdot.wa.gov</a></p>
<p><i>Greenbridge Redevelopment Master Plan EIS</i>            John Eliason, Project Manager,            King County Housing Authority            600 Andover Park W, Seattle WA 981            (206) 574-1196, <a href="mailto:johne@kcha.org">johne@kcha.org</a></p>	<p><b>ENVIRON</b>  <b>Crilly Ritz</b>            Snohomish County Public Works            Public Involvement and Environment            3000 Rockefeller Street, MS 607            Everett, WA 98201            (425) 388-3488, ext. 4586,  <a href="mailto:crilly.ritz@co.snohomish.wa.us">crilly.ritz@co.snohomish.wa.us</a></p> <p><b>Mr. Chad Bieren</b>            City of Kent Engineering Dept            220 4th Avenue S.            Kent, WA 98032            (253) 859-3383, <a href="mailto:cbieren@ci.kent.wa.us">cbieren@ci.kent.wa.us</a></p>

# APPENDIX

## Staff Resumes

## **RICHARD WEINMAN**

### **Expertise**

- Land Use & Environmental Analysis
- SEPA/NEPA
- GMA Planning & Development Regulations
- Regulatory Compliance & Permitting Strategies

### **Education**

- J.D. Seattle University School of Law (1978)
- M.A. (English) Brandeis University (1966)
- B.A. (English) New York University (1965)
- Mediation skills training (40 hours) Univ. of Washington School of Law (1993)

### **Experience**

- SEPA and NEPA documents for master planned communities & resorts, HOPE VI housing redevelopments, shopping centers, mixed-use and transit oriented developments, business parks, mining operations, transportation and infrastructure projects, civic and institutional projects, and for comprehensive and sub-area plans.
- Planned Action EISs and ordinances for central business districts, sub-areas, master planned resorts, and redevelopment projects.
- GMA plans and sub-area plans.
- Peer review and staffing assistance for public agencies.
- Evaluations of land use/environmental regulations and permitting requirements.
- Drafting of state statutes and local ordinances, including zoning codes/classifications, planned action ordinances, master planned development procedures, and critical area regulations.

### **Prior Experience**

- Huckell/Weinman Associates, Inc., Senior Principal
- Northwest Land Use Review, Editor/Publisher
- Land Use Research Council, Executive Director
- Manufacturing Company Account Executive

### **Professional Associations**

- Washington State Bar Association - Environmental & Land Use Section
- American Planning Association
- NAIOP - Local Government Committee, State Government Committee
- Governor's Regulatory Reform Task Force - SEPA/GMA Subcommittee
- City of Mercer Island Design Commission (Chair)

### **Publications & Presentations**

Numerous presentations and articles on SEPA and planned actions are available upon request.



## **Wayne Carlson, AICP, LEED AP**

### **Associate Principal, Planner**

Wayne Carlson is an associate principal and land use planner with 18 years of professional experience. He has also authored scores environmental reports and assessments, environmental checklists, and initial studies for projects under the Washington State Environmental Policy Act (SEPA), the California Environmental Quality Act (CEQA), and the National Environmental Policy Act (NEPA). He has authored Environmental Impact Statements and Environmental Impact Reports in association with municipal non-project actions such as Comprehensive Plans and Community Plans along with project actions such as the construction of master planned resorts and corrections facilities. Wayne has also served as the SEPA environmental official for the cities of Bonney Lake, Milton, as well as the Bethel Public School District.

#### **EDUCATION & CERTIFICATION**

- 1991 California State University, Fullerton, B.A. in Political Science, *Cum Laude*
- 1994 The Ohio State University, Master of City and Regional Planning *with Distinction*
- 1997 American Institute of Certified Planners
- 2004 LEED® Accredited Professional, U.S. Green Building Council

#### **SELECTED PROJECT EXPERIENCE**

- Covington Downtown Plan & Code Update**, City of Covington, WA, *Principal-in-Charge*
- Lake Stevens Green Infrastructure Guidance Document**, City of Lake Stevens, WA, *Principal-in-Charge*
- South Hill Community Plan EIS**, Pierce County Planning & Land Services, Pierce County, WA, *Project Manager*
- Parkland Midland Spanaway Community Plan EIS Assistance**, Pierce County Planning & Land Services, Pierce County, WA, *Project Manager*
- Milton Comprehensive Plan EIS**, City of Milton, WA, *Project Manager*
- SEPA Responsible Official**, City of Milton, WA, *Project Manager*
- SEPA Administration and Development Review**, City of Milton, WA, *Project Manager*
- SEPA Responsible Official**, City of Bonney, WA, *Project Manager*
- SEPA Administration and Development Review**, City of Bonney Lake, WA, *Project Manager*
- Graham Kapowsin Expanded Checklist, Managed SEPA Review and Lead Agency**, Bethel Public Schools, Spanaway, WA, *Project Manager*
- Kapowsin Elementary School Expanded Checklist, Managed SEPA Review and Lead Agency**, Bethel Public Schools, Spanaway, WA, *Project Manager*
- McNeil Island Corrections Center Fuel Supply Line SEPA Lead Agency**, Washington State Department of Corrections, McNeil Island, WA, *Project Manager*



## **Gabe Snedeker, AICP**

### **Project Manager, Planner**

Gabe Snedeker is a project manager and planner at AHBL's Seattle office with 16 years of experience. In addition to private sector experience as a project manager with two firms, he has amassed a great deal of knowledge working with the public sector. Gabe served as the Principal Planner for the City of Mercer Island, where he supervised both current and long-range planning during a period of tremendous change in the City's Town Center. Prior to that, he was the Senior Planner at the City of Shoreline, where he served for more than five years. Gabe has extensive experience with policy development, code revision, public participation, environmental analysis and development review. He is highly skilled at integrating scientific analysis into plans and regulations and the art of crafting legislation that can be implemented effectively in challenging political environments. Gabe has led interdisciplinary teams in shoreline master program updates, critical area inventories and ordinances, environmental restoration projects and EIS development.

#### **EDUCATION & CERTIFICATION**

- 1999 University of Washington, Master of Urban Planning (MUP)
- 1993 University of Oregon, Bachelor of Arts, Political Science
- 2001 American Institute of Certified Planners

#### **SELECTED PROJECT EXPERIENCE**

- Snohomish County Unified Development Code Update**, Snohomish County, WA, *Project Manager*
- Covington Downtown Plan & Code Update**, City of Covington, WA, *Project Manager*
- Sumner & Pacific Manufacturing & Industrial Center Plan**, Cities of Sumner & Pacific, WA, *Project Manager*
- Environmental Sustainability Strategy & Public Involvement**, City of Shoreline, WA, *Project Manager*
- Covington Sustainability Workshop & Recommendations**, City of Covington, WA, *Project Manager*
- South Tacoma Way Manufacturing & Industrial Center Designation Project**, City of Tacoma, WA, *Project Manager*
- Fircrest Campus Excess Property Master Plan**, Washington State Department of Social & Health Services, Shoreline, WA, *Senior Planner*
- Tacoma Mixed-use Centers Evaluation, Code Update & Comprehensive Plan Amendments**, City of Tacoma, WA, *Senior Planner*
- Mercer Island Comprehensive Plan Update**, City of Mercer Island, WA, *Principal Planner for City*
- Shoreline Comprehensive Plan**, City of Shoreline, WA, *Element Project Manager while Planner for City*
- Redmond Code Update**, City of Redmond, WA, *Project Manager*
- Lower Duwamish River Habitat Restoration Plan**, Port of Seattle, WA, *Project Manager*
- Sewer Lake Line Replacement Project EIS**, City of Mercer Island, WA, *SEPA Official & Principal Planner for City*
- SEPA Responsible Official**, City of Shoreline, WA, *Lead Environmental Official while Planner for City*
- Shoreline Comprehensive Plan EIS**, City of Shoreline, WA, *Section Lead while Environmental Planner for City*



## TOM NOGUCHI, PTP, PRINCIPAL



Tom Noguchi has over 30 years of experience working with communities on transportation solutions and integrating transportation plans with urban planning objectives, supporting sustainable developments. He is experienced in multi modal transportation planning, transit and rail station area planning, multi-agency regional transportation planning studies, and concurrency issues. He has worked to establish multi-modal transportation plans for local jurisdictions to achieve community goals while supporting growth. He is Professional Transportation Planner (PTP).

### EDUCATION

BS in Civil Engineering, Drexel University, Philadelphia, PA  
MS in Civil Engineering, University of Washington

### AREAS OF EXPERTISE

Regional and Local Multi Modal Transportation Planning • Transportation Impact Fee Programs • Transit Alternative Analysis and HOV Planning • Travel Demand Modeling • Area-wide Traffic Impact Analysis

### PROJECT EXPERIENCE

#### **Best Practices on Multi-Modal Approaches to Development Impact Mitigations for City of Seattle**

Mr. Noguchi conducted workshops for the City of Seattle staff covering a topic of how best to mitigate development impacts from a multi-modal perspective. The workshops also covered issues of how to fund transit, pedestrian and bike projects using development impact mitigation payments. Mr. Noguchi presented most recent research and practices related to multi-modal concurrency, multi-modal levels of service, development impact assessment techniques on pedestrian and bike modes, impact fees based on auto trips generated and modeling techniques that can be used to create a nexus between development impacts and impact fees on transit, pedestrian and bike facilities.

#### **Transportation Master Plan, Shoreline, WA**

Mr. Noguchi led the work to develop a multimodal 20-year transportation master plan and update the Transportation Element of the City's Comprehensive Plan. He created a project prioritization system that linked transportation projects to the goals and objectives of the Comprehensive Plan. He also identified implementation measures to help the City secure financing sources for future projects..

#### **Redmond Overlake Neighborhood Plan Update/Planned Action EIS, Redmond, WA**

The City of Redmond Comprehensive Plan identifies the Overlake area as one of two urban centers in the City. To support Redmond's land use vision for the Overlake neighborhood, Mr. Noguchi developed a comprehensive multi-modal transportation plan. Mr. Noguchi analyzed the traffic impacts of two 2030 land use alternatives using the Redmond travel demand model and a traffic operation model using Synchro/SimTraffic. The analysis included how much traffic congestion could be reduced with varying degrees of transit and carpool uses, as well as parking management strategies such as parking pricing. An extensive public outreach plan guided the plan development to ensure community acceptance of the updated neighborhood plan.

#### **Northgate Coordinated Transportation Investment Plan (CTIP) and Rezone EIS, Seattle, WA**

Mr. Noguchi managed this area-wide transportation study that prioritized multi-modal transportation improvements for this urban center. The CTIP was designed to serve as a blueprint for public and private transportation investments through 2030, as new development brings more urban density to the Northgate Urban Center. Guided by the City Council's legislative direction and SDOT's Transportation Strategic Plan, Mr. Noguchi analyzed existing and future traffic conditions for the years 2010 and 2030. Innovative performance measures were applied to help identify prospective project and program recommendations, which were then sorted as high, mid-level, and long-range priorities for transportation investments. Mr. Noguchi helped the City define a financing and implementation plan to make transportation investments in Northgate a reality.

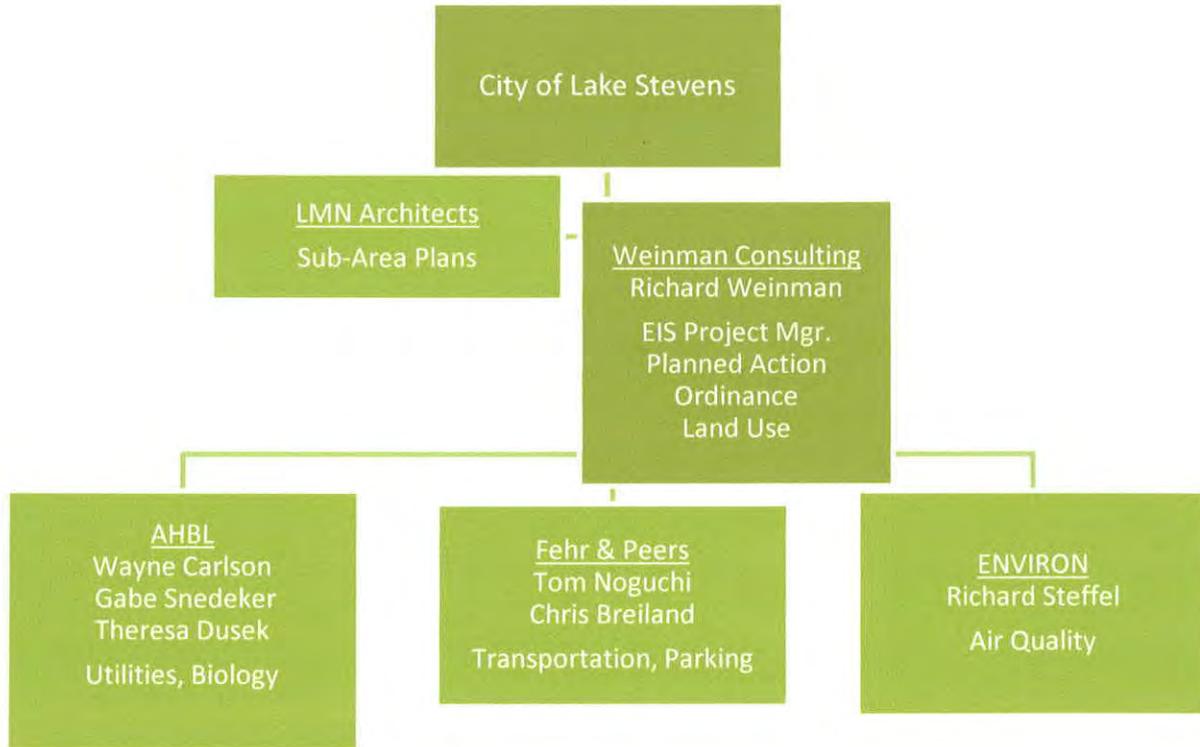
**Lake Stevens Sub-Areas- Planned Action EISs**

**PLANNED ACTION & SUB-AREA PLAN EXPERIENCE**

<b>Planned Action Project Experience</b>	<b>Planned Action Ordinance</b>	<b>EIS/SEPA</b>	<b>Teamed with LMN</b>
<i>Bothell Downtown Plan (PAO)</i>	0		
<i>Bremerton/South Kitsap Industrial Area</i>	0	0	
<i>Ferndale Axton/Main Street Corridor</i>	0	0	
<i>Kent/Midway</i>	0		
<i>Kent Station</i>	0	0	0
<i>Kirkland Parkplace/Touchstone</i>	0	0	0
<i>Lynnwood City Center</i>		0	0
<i>Mountlake Terrace Town Center</i>	0		0
<i>North City Business District/City of Shoreline</i>		0	
<i>Renton Highlands/Sunset Terrace</i>	0	0	
<i>Suncadia Master Planned Resort</i>		0	
<i>Tukwila Urban Center</i>	0	0	
<b>Sub-Area Plan &amp; Code Experience</b>			
<i>I-5/128<sup>th</sup> Street Urban Center</i>			0
<i>I-5/164<sup>th</sup> Street Urban Center</i>			0
<i>Snohomish County Urban Centers</i>			0
<i>Totem Lake Neighborhood Plan</i>			0
<i>Everett/Broadway Corridor Sub-Area</i>			0
<i>Lake Stevens South (with AHBL)</i>			
<i>Lake Stevens Sub-Area Plan</i>			0
<i>Snohomish County UDC Update</i>			0
<i>Redmond Code Update</i>			0

**Lake Stevens Sub-Areas- Planned Action EISs**

**PROJECT ORGANZATION**



**Weinman Consulting Team**

**Lake Stevens Sub-Areas- Planned Action EISs**

**TEAM EXPERIENCE**

<b>Experience</b>	<b>Weinman Consulting</b>	<b>AHBL</b>	<b>Fehr &amp; Peers</b>	<b>Environ</b>
<i>Planned Action Ordinances</i>	<i>0</i>			
<i>Planned Action EISs</i>	<i>0</i>	<i>0</i>	<i>0</i>	<i>0</i>
<i>Sub-Area Plans</i>	<i>0</i>	<i>0</i>	<i>0</i>	<i>0</i>
<i>Development Regulations</i>	<i>0</i>	<i>0</i>	<i>0</i>	
<i>Public Involvement &amp; Communication</i>	<i>0</i>	<i>0</i>	<i>0</i>	<i>0</i>
<i>Public Hearing Support</i>	<i>0</i>	<i>0</i>	<i>0</i>	<i>0</i>
<i>Plan/EIS Technical Issues:</i>				
<i>Land &amp; Shoreline Use</i>	<i>0</i>	<i>0</i>		
<i>Transportation/Parking</i>			<i>0</i>	
<i>Utilities</i>		<i>0</i>		
<i>Public Services</i>	<i>0</i>	<i>0</i>		
<i>Natural Environment</i>		<i>0</i>		
<i>Air Quality/Greenhouse Gas</i>				<i>0</i>

**Weinman Consulting Team**



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LAKE STEVENS CITY COUNCIL  
**STAFF REPORT**

**Agenda Date:** February 14, 2011

**Subject:** Lake Stevens Shoreline Master Program Update – SMP Document Briefing #3 (LS2009-11)

**Contact Person/Department:** Karen Watkins **Budget Impact:** Grant

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**RECOMMENDATION(S)/ACTION REQUESTED OF CITY COUNCIL:** No action at this time. A public hearing will be held on April 25, 2011. This will be a summary of Chapters 5, 6, 7 and appendices of the Shoreline Master Program (SMP) document and associated documents in a PowerPoint presentation (*Attachment 1*).

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**SUMMARY:** City received a two year, \$60,000, Shoreline Master Program Update grant from the Washington State Department of Ecology in 2009 to complete a comprehensive Shoreline Master Program update. The grant covers July 1, 2009 through June 30, 2011. The City hired Makers Architecture, Inc. and The Watershed Company to assist City Staff. A Shoreline Citizen Advisory Board was created to guide the consultants and staff through the process. As part of drafting of the required documents, four open houses were offered to solicit public comments. The draft Shoreline Master Program Update was completed in December and sent to Ecology for review. This briefing will include Chapters 5 Shoreline Use Provisions, 6 Definitions and 7 Administrative Provisions and the Appendices of the Shoreline Master Program Draft dated December 15, 2010 (*Attachment 2*).

**DISCUSSION:** The SMP Local Adoption process will include at least two public hearings by the Planning Commission with a recommendation to Council and three public hearings by the City Council with final adoption. The process includes the Shoreline Master Program document, related code amendments, related comprehensive plan amendments and fee amendments. In addition, State Environmental Policy Act (SEPA) review is required. Staff is currently working towards completing the Local Adoption process by the end of May. Then the Washington State Department of Ecology's review process will begin. At the end of Ecology's process, the City will need to adopt the approved Ecology version of the SMP.

At last week's briefing, a question was asked about what the Shoreline Administrator was proposed to regulate and potentially modify some of the regulations in the SMP. *Attachment 3* lists all the sections of the SMP giving the Shoreline Administrator authority.

Another question was on how a determination was made regarding No Net Loss. *Attachment 4* includes the development implications chapter from the Cumulative Impacts Analysis. This includes three tables on average residential setbacks, key changes in regulations for overwater structures from existing SMP to proposed SMP, and comparison of build-out conditions for overwater structures.

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**APPLICABLE CITY POLICIES:** The State requires all cities to update their Shoreline Master Programs (SMP) on a specific schedule. The City's current SMP was adopted in 1974. The Comprehensive Plan includes shoreline goals and policies in Chapter 10 – Critical Areas Element. The

Lake Stevens Municipal Code includes shoreline regulations in Chapter 14.92 (Shoreline Management) and Section 14.16C.100 (Shoreline Permits).

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**BUDGET IMPACT:** The City received a two year, \$60,000 Shoreline Master Program Update grant from the Washington Department of Ecology for consultants. The grant does not include staff time.

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**ATTACHMENTS:**

- Attachment 1 – SMP PowerPoint Presentation
- Attachment 2 – Chapters 5, 6 and 7 and Appendices of the SMP
- Attachment 3 – Shoreline Administrator As Regulator
- Attachment 4 – Development Implications from Cumulative Impacts Analysis



### Boating Facilities (5.C.3)

- No new marinas
- Accessory uses have a building setback of 30'
- Avoid or minimize impacts to ecological function

### Commercial Development (5.C.4)

DEVELOPMENT STANDARDS <sup>3, 4</sup> <i>(See also section cited in parentheses)</i>		Natural	High-Intensity	Urban Conservancy	Shoreline Residential	Aquatic
Commercial Development (Ch. 5 Sec. C.4)						
Lakes:		N/A	60'	60'	N/A <sup>2</sup>	N/A
Rivers and Streams:		N/A	160'	160'	N/A	N/A

- Water-oriented commercial given preference

### Industry (5.C.5)

- Nonwater-oriented industrial development allowed on Little Pilchuck and Catherine Creek with ecological restoration

DEVELOPMENT STANDARDS <sup>3, 4</sup> <i>(See also section cited in parentheses)</i>		Natural	High-Intensity	Urban Conservancy	Shoreline Residential	Aquatic
Industrial Development (Ch. 5 Sec. C.5)						
Rivers and Streams:		N/A	160'	N/A	N/A	N/A

### Residential Setbacks on Lake

1. Current CAO Regulation

Setbacks are the average of those of adjacent neighbors but no less than 60 feet. Decks can extend 10 feet in front of the house.

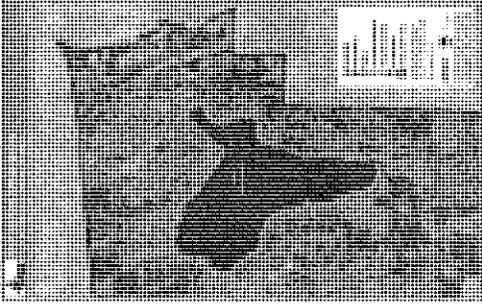
*Matches current code*



Appendix B – Critical Areas  
Regulations in Shoreline Jurisdiction

- Mostly, same as Chapter 14.88 CAR

Appendix A  
Environment  
Designation  
Map



Next Steps

- April 6 – Planning Commission  
Public Hearing #1
- April 25 – City Council Public  
Hearing #1

## CHAPTER 5

# Shoreline Use Provisions

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### A. Introduction

The provisions in this section apply to specific common uses and types of development to the extent they occur within shoreline jurisdiction.

### B. Shoreline Use and Development Standards Matrices

The following matrices (Table 5 and Table 6) indicate the allowable uses and some of the standards applicable to those uses and modifications. Where there is a conflict between the matrices and the written provisions in Chapters 3, 4, or 5 of this SMP, the written provisions shall apply. The numbers in the matrices refer to footnotes which may be found immediately following the matrix. These footnotes provide additional clarification or conditions applicable to the associated use or shoreline environment designation.

**Table 1. Shoreline Use Matrix**

SHORELINE USE	Natural	High-Intensity	Urban Conservancy <sup>11</sup>	Shoreline Residential	Aquatic <sup>12</sup>
Agriculture	C <sup>9</sup>	X	P	X	X
Aquaculture	X	X	X	X	X
Boating facilities <sup>14</sup>	X	P	P	P	P
Commercial:					
Water-dependent	X	P	P <sup>1</sup>	X	X
Water-related, water-enjoyment	X	P	P <sup>1</sup>	X	X
Nonwater-oriented	X	C <sup>4</sup>	X	X	X
Flood hazard management	X	P	P	P	C
Forest practices	X	X	X	X	X
Industrial:					
Water-dependent	X	P	X	X	X

P = May be permitted

C = May be permitted as a conditional use only

X = Prohibited; the use is not eligible for a variance or conditional use permit<sup>10</sup>

N/A = Not applicable

P = May be permitted  
 C = May be permitted as a conditional use only  
 X = Prohibited; the use is not eligible for a variance or conditional use permit<sup>10</sup>  
 N/A = Not applicable

<b>SHORELINE USE</b>	<b>Natural</b>	<b>High-Intensity</b>	<b>Urban Conservancy<sup>11</sup></b>	<b>Shoreline Residential</b>	<b>Aquatic<sup>12</sup></b>
Water-related, water-enjoyment	X	P	X	X	X
Nonwater-oriented	X	P <sup>4</sup>	X	X	X
In-stream structures	C	C	C	C	C
Mining	X	X	X	X	X
Parking (accessory)	X	P <sup>2</sup>	P <sup>2</sup>	P <sup>2</sup>	X
Parking (primary, including paid)	X	X	X	X	X
Recreation:					
Water-dependent	P <sup>3</sup>	P	P	P	P
Water-enjoyment	P <sup>3</sup>	P	P	P	X
Nonwater-oriented	X	P <sup>4</sup>	P <sup>4</sup>	P	X
Single-family residential	X	X	X	P <sup>8</sup>	X
Multi-family residential	X	P	C <sup>13</sup>	P	X
Land subdivision	P	P	P <sup>5</sup>	P	X
Signs:					
On premise	X	P	P <sup>6</sup>	X	X
Off premise	X	X	X	X	X
Public, highway	X	P	P	X	X
Solid waste disposal	X	X	X	X	X
Transportation:					
Water-dependent	X	P	P	C	P
Nonwater-dependent	X	P	C	C	C <sup>7</sup>
Roads, railroads	C <sup>7</sup>	P	P <sup>7</sup>	P	C <sup>7</sup>
Private non-commercial float plane landing and mooring facilities on Lake Stevens	X	X	X	X	P
Utilities (primary)	C <sup>7</sup>	P <sup>15</sup>	P <sup>7</sup>	P <sup>7</sup>	C <sup>7, 16</sup>

**Use Matrix Notes:**

1. Park concessions, such as small food stands, cafes, and restaurants with views and seating oriented to the water, and uses that enhance the opportunity to enjoy publicly accessible shorelines are allowed.
2. Accessory parking is allowed in shoreline jurisdiction only if there is no other feasible option, as determined by the City.
3. Passive activities, such as nature watching and trails, that require little development with no significant adverse impacts may be allowed.

4. *Nonwater-oriented uses may be allowed as a permitted use where the City determines that water-dependent or water-enjoyment use of the shoreline is not feasible due to the configuration of the shoreline and water body or due to the underlying land use classification in the comprehensive plan.*
5. *Land division is only allowed where the City determines that it is for a public purpose.*
6. *Signs are allowed for public facilities only.*
7. *Roadways and public utilities are allowed if there is no other feasible alternative, as determined by the City, and all significant adverse impacts are mitigated.*
8. *Residences are allowed in shoreline jurisdiction only if it is not feasible, as determined by the City, to locate the building on the portion of the property outside shoreline jurisdiction.*
9. *Agricultural activities existing at the time of adoption of this SMP only.*
10. *For the treatment of existing nonconforming development, see Chapter 7 Section G.*
11. *Development in channel migration zones is allowed only by conditional use permit where it can be shown that such development would not prevent natural channel migration.*
12. *Uses noted as allowed in the Aquatic environment are allowed only if allowed in the adjacent upland environment.*
13. *Multifamily residences may be allowed as part of a mix of uses, provided public access and ecological restoration are included as part of the project.*
14. *No new marinas allowed. See Chapter 5 Section C.3. for specific boating facilities regulations.*
15. *See Chapter 5 Section C.10 for specific regulations for utilities.*
16. *Publicly owned and operated aerators are allowed in the aquatic environment without a conditional use permit.*

**Table 2. Shoreline Development Standards Matrix<sup>3</sup>**

	Natural	High-Intensity	Urban Conservancy	Shoreline Residential	Aquatic
<b>DEVELOPMENT STANDARDS<sup>3, 4</sup></b> (See also section cited in parentheses)					
<b>Commercial Development (Ch. 5 Sec. C.4)</b>					
Lakes:					
Water-dependent setback	N/A	60'	60'	N/A <sup>2</sup>	N/A
Water-related, water-enjoyment setback	N/A	60'	60'	N/A <sup>2</sup>	N/A
Nonwater-oriented setback	N/A	60'	60'	N/A <sup>2</sup>	N/A
Rivers and Streams:					
Water-dependent setback	N/A	160'	160'	N/A	N/A
Water-related, water-enjoyment setback	N/A	160'	160'	N/A	N/A
Nonwater-oriented setback	N/A	160'	160'	N/A	N/A
<b>Industrial Development (Ch. 5 Sec. C.5)</b>					
Rivers and Streams:					
Water-dependent	N/A	160'	N/A	N/A	N/A
Water-related and water-enjoyment	N/A	160'	N/A	N/A	N/A
Nonwater-oriented	N/A	160'	N/A	N/A	N/A
<b>Accessory Parking (Ch. 3 Sec. B.6)</b>					
Setbacks	N/A	70' <sup>1</sup>	70' <sup>1</sup>	75' <sup>2</sup>	N/A
<b>Recreational Development</b>					
Water-dependent park structures setback	N/A	60'	60'	N/A	N/A
Water-related, water enjoyment park structures setback	N/A	60'	60'	N/A	N/A
Nonwater-oriented park structures setback (Ch. 5 Sec. C.7.c.4)	N/A	60' <sup>1</sup>	60' <sup>1</sup>	N/A	?
<b>Miscellaneous</b>					
New agricultural activities setback (Ch. 5 Sec. C.2.c.4)	N/A	N/A	20' <sup>1</sup>	N/A	N/A
<b>Residential Development<sup>2</sup></b>					

Other provisions in this SMP also apply.

**Development Standards Matrix Notes:**

1. The City may reduce this dimension if it determines that the type of development allowed within this SMP and other municipal, state, and federal codes cannot be accommodated within

*the allowed site development area by reconfiguring, relocating, or resizing the proposed development. Where the City reduces a requirement, compensatory mitigation, such as vegetation enhancement or shoreline armoring removal, must be provided as determined by the City.*

2. See regulation 5.C.8.c for residential development standards.
3. The maximum height of structures in shoreline jurisdiction is 35 feet above grade measured as called for in the City's zoning code and with exceptions as noted in the City's zoning code.
4. Setbacks from the shoreline do not apply to development separated from the shoreline by a public roadway.

## C. Shoreline Use Policies and Regulations

### 1. General Policies and Regulations

#### a. Applicability

The following provisions apply to all uses in shoreline jurisdiction.

#### b. Policy

1. The City should give preference to those uses that are consistent with the control of pollution and prevention of damage to the natural environment, or are unique to or dependent upon uses of the state's shoreline areas.
2. The City should ensure that all proposed shoreline development will not diminish the public's health, safety, and welfare, as well as the land or its vegetation and wildlife, and should endeavor to protect property rights while implementing the policies of the Shoreline Management Act.
3. The City should reduce use conflicts by prohibiting or applying special conditions to those uses which are not consistent with the control of pollution and prevention of damage to the natural environment or are not unique to or dependent upon use of the state's shoreline. In implementing this provision, preference should be given first to water-dependent uses, then to water-related uses and water-enjoyment uses.
4. The City should encourage the full use of existing urban areas before expansion of intensive development is allowed.

#### c. Regulations

1. Developments that include a mix of water-oriented and nonwater-oriented uses may be considered water-oriented provided the City's Shoreline Administrator finds that the proposed development does give preference to those uses that are consistent with the control of pollution and prevention of damage to the natural environment, are dependent on a shoreline location, or enhance the public's ability to enjoy the shoreline.
2. All uses not explicitly covered in the SMP require a conditional use permit. The City's Shoreline Administrator should impose conditions to ensure that the proposed development meets the policies of this SMP.

3. All development and uses must conform to all of the provisions in the SMP.
4. All development and uses shall conform to the shoreline use matrix and the development standards matrix in Section B of this chapter unless otherwise stated in this chapter.
5. In channel migration zones, natural geomorphic and hydrologic processes shall not be limited and new development shall not be established where future stabilization will be required. (Refer to the Channel Migration Zone Map, Figure No. 10.2 in the June 9, 2009 Final Shoreline Inventory and Analysis Report).
6. As described in WAC 173-26-221(3)(c), appropriate development may be allowed in areas landward of roads because the road prevents active channel movement and flooding. This area is therefore not within a channel migration zone (refer to Channel Migration Zone Map, Figure No. 10.2 in the Inventory and Analysis Report).

## 2. Agriculture

### a. Applicability

Agriculture includes, but is not limited to, the commercial production of horticultural, viticultural, floricultural, dairy, apiary, vegetable, or animal products or of berries, grain, hay, straw, turf, seed, or Christmas trees not subject to the excise tax imposed by RCW 84.33.100 through 84.33.140; finfish in upland hatcheries, or livestock, that has long-term commercial significance.

Uses and shoreline modifications associated with agriculture that are identified as separate use activities in this program, such as industry, shoreline stabilization, and flood hazard management, are subject to the regulations established for those uses in addition to the standards established in this section for agriculture.

### b. Policies

1. The creation of new agricultural lands by diking, draining, or filling marshes, channel migration zones, and associated marshes, bogs, and swamps should be prohibited.
2. A vegetative buffer should be maintained between agricultural lands and water bodies or wetlands in order to reduce harmful bank erosion and resulting sedimentation, enhance water quality, reduce flood hazard, and maintain habitat for fish and wildlife.
3. Animal feeding operations, retention and storage ponds, and feedlot waste and manure storage should be located out of shoreline jurisdiction and constructed to prevent contamination of water bodies and degradation of the adjacent shoreline environment.
4. Appropriate farm management techniques should be utilized to prevent contamination of nearby water bodies and adverse effects on valuable plant, fish, and animal life from fertilizer and pesticide use and application.

5. Where ecological functions have been degraded, new development should be conditioned with the requirement for ecological restoration to ensure no net loss of ecological functions.

The City's Shoreline Administrator will consult the provisions of this SMP and determine the applicability and extent of ecological restoration. The extent of ecological restoration shall be that which is reasonable given the specific circumstances of an agricultural development.

### **c. Regulations**

1. Agricultural development shall conform to applicable state and federal policies and regulations, provided they are consistent with the Shoreline Management Act and this SMP to ensure no net loss of ecological function.
2. New manure lagoons, confinement lots, feeding operations, lot wastes, stockpiles of manure solids, aerial spraying, and storage of noxious chemicals are prohibited within shoreline jurisdiction.
3. A buffer of natural or planted permanent native vegetation not less than 20 feet in width, measured perpendicular to the shoreline, shall be maintained between areas of new development for crops, grazing, or other agricultural activity and adjacent waters, channel migration zones, and marshes, bogs, and swamps. The City's Shoreline Administrator shall determine the extent and composition of the buffer when the applicant applies for a permit or letter of exemption.
4. Stream banks and water bodies shall be protected from damage caused by concentration and overgrazing of livestock. Provide fencing or other grazing controls to prevent bank compaction, bank erosion, or the overgrazing of or damage to buffer vegetation. Provide suitable bridges, culverts, or ramps for stock crossing.
5. Agricultural practices shall prevent and control erosion of soils and bank materials within shoreline areas and minimize siltation, turbidity, pollution, and other environmental degradation of watercourses and wetlands.
6. Existing and ongoing agricultural uses may be allowed within a channel migration zone or floodway provided that no new restrictions to channel movement occur.
7. See Chapter 3 Section B.12.c.3-4 for water quality regulations related to the use of pesticides, herbicides, and fertilizers.
8. Agriculture in the natural environment is limited to those activities existing at the date of adoption of this SMP.

### 3. Boating Facilities

#### a. Applicability

Boating facilities include marinas, both dry storage and wet-moorage types; boat launch ramps; covered moorage; mooring buoys; and marine travel lifts.

A marina is a water-dependent use that consists of a system of piers, buoys, or floats to provide moorage for four or more boats. For regulatory purposes, commercial and community moorage facilities, yacht club facilities, and camp or resort moorage areas would also be reviewed as marinas. Publicly owned docks for transient moorage or small craft rental are not considered marinas. Boat launch facilities and supplies and services for small commercial and/or pleasure craft may be associated with marinas.

Accessory uses in support of boating facilities may include fuel docks and storage, boating equipment sales and rental, wash-down facilities, fish cleaning stations, repair services, public launching, bait and tackle shops, potable water, waste disposal, administration, parking, groceries, and dry goods.

There are uses and activities associated with boating facilities that are identified in this section as separate uses (e.g., Commercial Development and Industrial Development, including ship and boat building, repair yards, utilities, and transportation facilities) or as separate shoreline modifications (e.g., piers, docks, bulkheads, breakwaters, jetties and groins, dredging, and fill). These uses are subject to the regulations established for those uses and modifications in addition to the standards for boating facilities established in this section.

This section does not apply to residential moorage serving an individual single-family residence, including piers, docks, landing ramps, boat houses, float plane moorage, and moorage buoys serving a single-family residence. Chapter 4 Section C.3 does apply to single-family residential moorage facilities.

#### b. Policies

1. Boating facilities should be located, designed, and operated to provide maximum feasible protection and restoration of ecological processes and functions and all forms of aquatic, littoral, or terrestrial life—including animals, fish, shellfish, birds, and plants—and their habitats and migratory routes. To the extent possible, boating facilities should be located in areas of low ecological function.
2. Boating facilities should be located and designed so their structures and operations will be aesthetically compatible with the area visually affected and will not unreasonably impair shoreline views. However, the need to protect and restore ecological functions and to provide for water-dependent uses carries higher priority than protection of views.
3. Boat launch facilities should be provided at appropriate public access sites.
4. Existing public moorage and launching facilities should be maintained.

**c. Regulations**

1. It is the applicant's responsibility to comply with all other applicable state agency policies and regulations, including, but not limited to: the Department of Fish and Wildlife criteria for the design of bulkheads and landfills; Federal Marine Sanitation standards (EPA 1972) requiring water quality certification from the U.S. Army Corps of Engineers (Section 10); U.S. Army Corps of Engineers dredging standards (Section 404); and state and federal standards for the storage of fuels and toxic materials.
2. New boating facilities shall not significantly impact the rights of navigation on the waters of the state.
3. Accessory uses that support boating facilities, such as fuel service, pump out stations, or potable water stations, are allowed provided they meet all health and safety regulations.
4. Live aboard vessels are prohibited.

Location

5. Boating facilities shall not be located where their development would reduce the quantity or quality of critical aquatic habitat or where significant ecological impacts would necessarily occur.
6. Accessory uses associated with a boating facility that require a building or structure, such as a marina office, grocery, cafe or restaurant, or boating rental or sales, shall be located as far landward as is feasible, with a minimum setback of 30'.

Design/Renovation/Expansion

7. Boating facilities shall be designed to avoid or minimize significant ecological impacts. The City's Shoreline Administrator shall apply the mitigation sequence defined in Chapter 3 Section B.4 in the review of boating facility proposals. On degraded shorelines, the City's Shoreline Administrator may require ecological restoration measures to account for environmental impacts and risks to the ecology to ensure no net loss of ecological function.

The City's Shoreline Administrator will consult the provisions of this SMP and determine the applicability and extent of ecological restoration required. The extent of ecological restoration shall be that which is reasonable given the specific circumstances of the proposed boating facility.

8. Boating facility design shall:
  - a. Provide thorough flushing of all enclosed water areas and shall not restrict the movement of aquatic life requiring shallow water habitat.
  - b. Minimize interference with geohydraulic processes and disruption of existing shoreline ecological functions.
9. Dry moorage shall require a conditional use permit.

10. The perimeter of parking, dry moorage, and other storage areas shall be landscaped to provide a visual and noise buffer between adjoining dissimilar uses or scenic areas. See Chapter 14.76 LSMC for specific landscape requirements.
11. Moorage of floating homes is prohibited.
12. New covered moorage is prohibited.

#### Boat Launches

13. Launch ramps shall, where feasible, be located where:
  - a. There are stable, non-erosional banks, where no or a minimum number of current deflectors or other stabilization structures will be necessary.
  - b. Water depths are adequate to eliminate or minimize the need for offshore channel construction dredging, maintenance dredging, spoil disposal, filling, beach enhancement, and other river, lake, harbor, and channel maintenance activities.
  - c. There is adequate water mixing and flushing, and the facility is designed so as not to retard or negatively influence flushing characteristics.
14. Boat ramps shall be placed and kept as flush as possible with the foreshore slope to permit launch and retrieval and to minimize the interruption of hydrologic processes.

## 4. Commercial Development

### **a. Applicability**

Commercial development means those uses that are involved in wholesale, retail, service, and business trade. Examples include hotels, motels, grocery markets, shopping centers, restaurants, shops, offices, and private or public indoor recreation facilities. Commercial nonwater-dependent recreational facilities, such as sports clubs and amusement parks, are also considered commercial uses. This category also applies to institutional and public uses such as hospitals, libraries, schools, churches and government facilities.

Uses and activities associated with commercial development that are identified as separate uses in this program include Mining, Industry, Boating Facilities, Transportation Facilities, Utilities (accessory), and Solid Waste Disposal. Piers and docks, bulkheads, shoreline stabilization, flood protection, and other shoreline modifications are sometimes associated with commercial development and are subject to those shoreline modification regulations in Chapter 4 in addition to the standards for commercial development established herein.

### **b. Policies**

1. Multi-use commercial projects that include some combination of ecological restoration, public access, open space, and recreation should be encouraged in the High-Intensity Environment consistent with the City's Comprehensive Plan.

2. Where possible, commercial developments are encouraged to incorporate Low Impact Development techniques into new and existing projects.

**c. Regulations**

1. Water-oriented commercial developments may be permitted as indicated in Chapter 5 Section B, “Shoreline Use and Development Standards Matrices.”
2. Nonwater-oriented commercial developments may be permitted only where they are either separated from the shoreline and there is no opportunity for water-oriented uses **or** where all three (3) of the following can be demonstrated:
  - a. A water-oriented use is not reasonably expected to locate on the proposed site due to topography, incompatible surrounding land uses, physical features, or the site’s separation from the water.
  - b. The proposed development does not usurp or displace land currently occupied by a water-oriented use and will not interfere with adjacent water-oriented uses.
  - c. The proposed development will be of appreciable public benefit by increasing ecological functions together with public use of or access to the shoreline.
3. Nonwater-oriented uses may be allowed as part of a mixed-use facility that includes water-dependent uses.
4. Commercial development shall be designed to avoid or minimize ecological impacts, to protect human health and safety, and to avoid significant adverse impacts to surrounding uses and the shoreline’s visual qualities, such as views to the waterfront and the natural appearance of the shoreline. To this end, the City’s Shoreline Administrator may adjust the project dimensions and setbacks (so long as they are not relaxed below minimum standards without a shoreline variance permit) or prescribe operation intensity and screening standards as deemed appropriate.
5. All new commercial development proposals will be reviewed by the City’s Shoreline Administrator for ecological restoration and public access requirements consistent with Chapter 3 Section B.7. When restoration or public access plans indicate opportunities exist, the City’s Shoreline Administrator may require that those opportunities are either implemented as part of the development project or that the project design be altered so that those opportunities are not diminished.

All new water-related and water-enjoyment development shall be conditioned with the requirement for ecological restoration and public access unless those activities are demonstrated to be not feasible. (See definition of “feasible.”)

All new nonwater-oriented development, where allowed, shall be conditioned with the requirement to provide ecological restoration and public access.

The City's Shoreline Administrator will consult the provisions of this SMP and determine the applicability and extent of ecological restoration and/or public access required. The extent of ecological restoration shall be that which is reasonable given the specific circumstances of a commercial development.

6. All commercial loading and service areas shall be located or screened to minimize adverse impacts to the shoreline environment.
7. Commercial development and accessory uses must conform to the setback and height standards established in Section B "Development Standards Matrix" in this Chapter.
8. Low Impact Development (LID) techniques shall be incorporated where appropriate.

## 5. Industry

### a. Applicability

Industrial developments and uses are facilities for processing, manufacturing, and storing of finished or semi-finished goods. Included in industry are such activities as log storage, log rafting, petroleum storage, hazardous waste generation, transport and storage, ship building, concrete and asphalt batching, construction, manufacturing, and warehousing. Excluded from this category and covered under other sections of the SMP are boating facilities, piers and docks, mining (including on-site processing of raw materials), utilities, solid waste disposal, and transportation facilities.

Shoreline modifications and other uses associated with industrial development are described separately in this SMP. These include dredging, fill, transportation facilities, utilities, piers and docks, bulkheads, breakwaters, jetties and groins, shoreline stabilization and flood protection, and signs. They are subject to their own regulations in Chapter 4 in addition to the provisions in this chapter.

### b. Policies

1. Because Little Pilchuck Creek and Catherine Creek are non-navigable waterways, new nonwater-oriented industrial development should be allowed if ecological restoration is provided as a significant public benefit.
2. Where possible, industrial developments are encouraged to incorporate Low Impact Development techniques into new and existing projects.

### c. Regulations

1. The amount of impervious surface shall be the minimum necessary to provide for the intended use. The remaining land area shall be landscaped with native plants according to Chapter 3 Section B.11.c.5.
2. Water-dependent industry shall be located and designed to minimize the need for initial and/or continual dredging, filling, spoil disposal, and other harbor and channel maintenance activities.

3. Storage and disposal of industrial wastes is prohibited within shoreline jurisdiction; PROVIDED, that wastewater treatment systems may be allowed in shoreline jurisdiction if alternate, inland areas have been adequately proven infeasible.
4. At new or expanded industrial developments, the best available facilities practices and procedures shall be employed for the safe handling of fuels and toxic or hazardous materials to prevent them from entering the water, and optimum means shall be employed for prompt and effective cleanup of those spills that do occur. The City's Shoreline Administrator may require specific facilities to support those activities as well as demonstration of a cleanup/spill prevention program.
5. Display and other exterior lighting shall be designed, shielded, and operated to avoid illuminating the water surface.
6. All industrial loading and service areas shall be located or screened to minimize adverse impacts to the shoreline environment (including visual impacts) and public access facilities.
7. Low Impact Development (LID) techniques shall be incorporated where appropriate.
8. Ship and boat building and repair yards shall employ Best Management Practices (BMPs) concerning the various services and activities they perform and their impacts on the surrounding water quality. Standards for BMPs are found in the City of Lake Stevens Surface Water Management Plan.
9. All nonwater-oriented industrial development shall provide ecological restoration sufficient to mitigate for any impacts to ecological function as a result of the development.

## 6. In-Stream Structures

### a. Applicability

In-stream structures are constructed waterward of the OHWM and either cause or have the potential to cause water impoundment or diversion, obstruction, or modification of water flow. They typically are constructed for hydroelectric generation and transmission (including both public and private facilities), flood control, irrigation, water supply (both domestic and industrial), recreational, or fisheries enhancement.

In Lake Stevens, the only in-stream structures applicable are for water treatment or environmental restoration purposes.

### b. Policies

1. In-stream structures should provide for the protection, preservation, and restoration of ecosystem-wide processes, ecological functions, and cultural resources, including, but not limited to, fish and fish passage, wildlife and water resources, shoreline critical areas, hydrogeological processes, and

natural scenic vistas. Within the City of Lake Stevens, in-stream structures should be allowed only for the purposes of environmental restoration, maintenance of water levels, or water quality treatment.

### **c. Regulations**

1. In-stream structures are permitted only for the purposes of environmental restoration, water quality management, or maintenance of water levels.
2. The City's Shoreline Administrator may require that projects with in-stream structures include public access, provided public access improvements do not create adverse environmental impacts or create a safety hazard.

## **7. Recreational Development**

### **a. Applicability**

Recreational development includes public and commercial facilities for recreational activities such as hiking, photography, viewing, and fishing, boating, swimming, bicycling, picnicking, and playing. It also includes facilities for active or more intensive uses, such as parks, campgrounds, golf courses, and other outdoor recreation areas. This section applies to both publicly and privately owned shoreline facilities intended for use by the public or a private club, group, association or individual.

Recreational uses and development can be part of a larger mixed-use project. For example, a resort will probably contain characteristics of, and be reviewed under, both the Commercial Development and the Recreational Development sections. Primary activities such as boating facilities, resorts, subdivisions, and hotels are not addressed directly in this category.

Uses and activities associated with recreational developments that are identified as separate use activities in this SMP, such as Boating Facilities, Piers and Docks, Residential Development, and Commercial Development, are subject to the regulations established for those uses in addition to the standards for recreation established in this section.

Commercial indoor nonwater-oriented recreation facilities, such as bowling alleys and fitness clubs, are addressed as commercial uses.

### **b. Policies**

1. The coordination of local, state, and federal recreation planning should be encouraged to satisfy recreational needs. Shoreline recreational developments should be consistent with all adopted park, recreation, and open space plans.
2. Recreational developments and plans should promote the conservation of the shoreline's natural character, ecological functions, and processes.
3. A variety of compatible recreational experiences and activities should be encouraged to satisfy diverse recreational needs.
4. Water-dependent recreational uses, such as angling, boating, and swimming, should have priority over water-enjoyment uses, such as picnicking and golf.

Water-enjoyment uses should have priority over nonwater-oriented recreational uses, such as field sports.

5. Recreation facilities should be integrated and linked with linear systems, such as hiking paths, bicycle paths, easements, and scenic drives.
6. Where appropriate, nonintensive recreational uses may be permitted in floodplain areas. Nonintensive recreational uses include those that do not do any of the following:
  - a. Adversely affect the natural hydrology of aquatic systems.
  - b. Create any flood hazards.
  - c. Damage the shoreline environment through modifications such as structural shoreline stabilization or vegetation removal.
7. Opportunities to expand the public's ability to enjoy the shoreline in public parks through dining or other water-enjoyment activities should be pursued.

**c. Regulations**

1. Water-oriented recreational developments and mixed-use developments with water-oriented recreational activities may be permitted as indicated in Chapter 5 Section B, "Shoreline Use and Development Standard Matrices." In accordance with this matrix and other provisions of this SMP, nonwater-oriented recreational developments may be permitted only where it can be demonstrated that all of the following apply:
  - a. A water-oriented use is not reasonably expected to locate on the proposed site due to topography, surrounding land uses, physical features, or the site's separation from the water.
  - b. The proposed use does not usurp or displace land currently occupied by a water-oriented use and will not interfere with adjacent water-oriented uses.
  - c. The proposed use and development will appreciably increase ecological functions or, in the case of public projects, public access.
2. Accessory parking shall not be located in shoreline jurisdiction unless all of the following conditions are met:
  - a. The City's Shoreline Administrator determines there is no other feasible option,
  - b. The parking supports a water-oriented use, and
  - c. All adverse impacts from the parking in the shoreline jurisdiction are mitigated.
3. All new recreational development proposals will be reviewed by the City's Shoreline Administrator for ecological restoration and public access opportunities. When restoration or public access plans indicate opportunities exist for these improvements, the City's Shoreline Administrator may require that those opportunities are either implemented as part of the development

project or that the project design be altered so that those opportunities are not diminished.

All new nonwater-oriented recreational development, where allowed, shall be conditioned with the requirement to provide ecological restoration and, in the case of public developments, public access. The City's Shoreline Administrator shall consult the provisions of this SMP and determine the applicability and extent of ecological restoration and public access required.

4. Nonwater-oriented structures, such as restrooms, recreation halls and gymnasiums, recreational buildings and fields, access roads, and parking areas, shall be set back from the OHWM at least 70 feet unless it can be shown that there is no feasible alternative.
5. See Chapter 3 Section 12.c.3-4 for water quality regulations related to the use of pesticides, herbicides, and fertilizers.

## 8. Residential Development

### a. Applicability

Residential development means one or more buildings, structures, lots, parcels or portions thereof which are designed for and used or intended to be used to provide a place of abode, including single-family residences, duplexes, other detached dwellings, floating homes, multi-family residences, mobile home parks, residential subdivisions, residential short subdivisions, and planned residential development, together with accessory uses and structures normally applicable to residential uses, including, but not limited to, garages, sheds, tennis courts, swimming pools, parking areas, fences, cabanas, saunas, and guest cottages. Residential development does not include hotels, motels, or any other type of overnight or transient housing or camping facilities.

Single-family residences are a preferred use under the Shoreline Management Act when developed in a manner consistent with this Shoreline Master Program.

### b. Policies

1. Residential development should be prohibited in critical areas including, but not limited to, wetlands, steep slopes, floodways, and buffers.
2. The overall density of development, lot coverage, and height of structures should be appropriate to the physical capabilities of the site and consistent with the comprehensive plan.
3. Recognizing the single-purpose, irreversible, and space consumptive nature of shoreline residential development, new development should provide adequate setbacks or open space from the water to provide space for community use of the shoreline and the water, to provide space for outdoor recreation, to protect or restore ecological functions and ecosystem-wide processes, to preserve views, to preserve shoreline aesthetic characteristics, to protect the privacy of nearby residences, and to minimize use conflicts.

4. Adequate provisions should be made for protection of groundwater supplies, erosion control, stormwater drainage systems, aquatic and wildlife habitat, ecosystem-wide processes, and open space.
5. Sewage disposal facilities, as well as water supply facilities, shall be provided in accordance with appropriate state and local health regulations.
6. New residences should be designed and located so that shoreline armoring will not be necessary to protect the structure. The creation of new residential lots should not be allowed unless it is demonstrated the lots can be developed without:
  - a. Constructing shoreline stabilization structures (such as bulkheads).
  - b. Causing significant erosion or slope instability.
  - c. Removing existing native vegetation within 20 feet of the shoreline.

**c. Regulations**

Properties within Shoreline Jurisdiction on Lakes

1. A summary of regulations for residential properties within shoreline jurisdiction is presented in Table 7 below. Refer to written provisions within this section for exceptions and more detailed explanations. See also Chapter 3 Section B.11 for vegetation conservation provisions.

**Table 3. Shoreline Regulations for Residential Properties on Lakes**

	<b>Regulation:</b>
Standard Minimum Building Setback from OHWM	60 feet <sup>1</sup>
Standard Minimum Deck Setback from OHWM	50 feet
Maximum Impervious Surface of Lot Area Above OHWM	40%

<sup>1</sup> Standard 2.a.i. discussed below requires the averaging of the setbacks of adjacent dwelling units with a minimum setback of 60 feet.

2. New residential development, including new structures, new pavement, and additions, within shoreline jurisdiction on lakes shall adhere to the following standards:
  - a. Setbacks:
    - i. Buildings: Set back all covered or enclosed structures the average of the setbacks of existing houses on adjacent lots on both sides of the subject parcel, with a minimum setback of 60 feet from the OHWM. Where the City’s Shoreline Administrator finds that an existing site does not provide sufficient area to locate the residence entirely landward of this setback, the City’s Shoreline Administrator may allow the residence to be located closer to the OHWM, provided all other provisions of this SMP are met and impacts are mitigated.
    - ii. Patios and decks: Uncovered patios or decks that are no higher than 2 feet above grade may extend a maximum of 10 feet into the building

setback, up to within 50 feet of the OHWM. See Section d below for exception to this requirement.

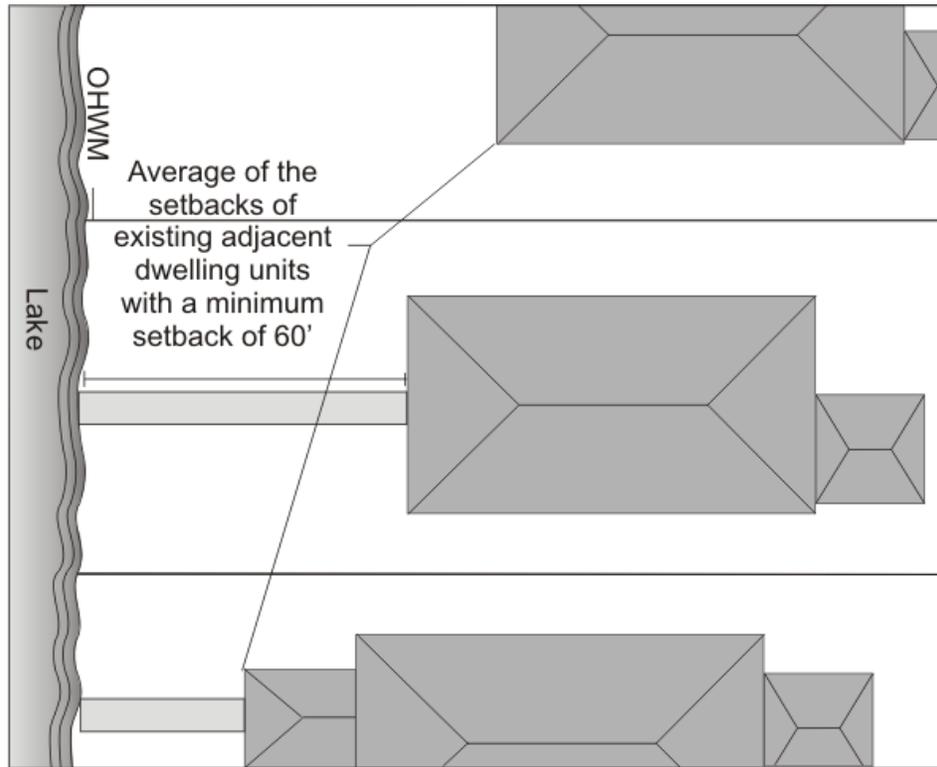
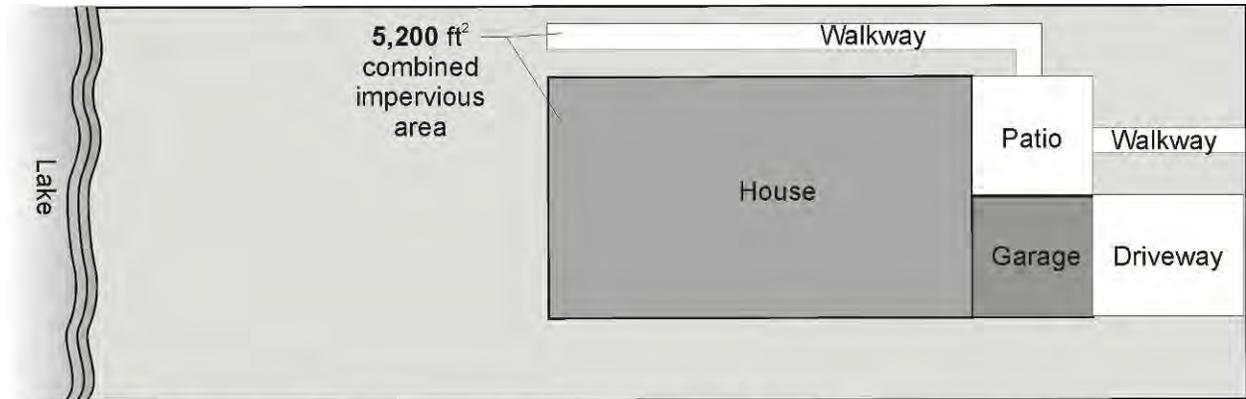


Figure 1. Standard setback from residential development on lakes.

- b. Maximum amount of impervious surface: The maximum amount of impervious surface for each lot, including structures and pavement shall be no greater than 40 percent of the total lot area above OHWM.

In calculating impervious surface, pavers on a sand bed may be counted as 50 percent impervious and wood decks with gaps between deck boards may be counted as permeable if over bare soil or loose gravel (such as pea gravel). Pervious concrete and asphalt may be counted as per manufacturer's specifications. To calculate the net impervious surface, multiply the area of the pavement by the percentage of imperviousness.

The City may determine the percentage of imperviousness for pavements that are not specified here.



Maximum amount of impervious surface is 40%. With a 13,000 square foot lot (65'x200'), 5,200 square feet of combined impervious surface is allowed.

*Figure 2. Illustration of maximum impervious surface.*

- c. Incentives to provide shoreline vegetation. The maximum amount of impervious surface area can be increased if native vegetation, including trees and shrubs, is included along the shoreline. For every five feet of vegetation depth (measured perpendicular to the shoreline) added along the OHWM, the percentage of total impervious surface area can increase by 2 percent, up to a maximum of 50 percent for total impervious surface area. Twenty-five percent of the native vegetated area may be left open for views and access. The vegetation provided cannot also be counted toward the incentive in d. below. If the property owner wants to take advantage of both incentives, the vegetation cannot be double counted.

All property owners who obtain approval for increase in the impervious surface cover in exchange for planting native vegetation must prepare, and agree to adhere to, a shoreline vegetation management plan prepared by a qualified professional and approved by the Shoreline Administrator that:

- i. Requires the native vegetation to consist of a mixture of trees, shrubs and groundcover and be designed to improve habitat functions,
- ii. Includes appropriate limitations on the use of fertilizer, herbicides and pesticides as needed to protect lake water quality, and
- iii. Includes a monitoring and maintenance program.

This plan shall be recorded as a covenant against the property after approval by the Shoreline Administrator. A copy of the recorded covenant shall be provided to the Shoreline Administrator.

- d. If there is no bulkhead, or if a bulkhead is removed, a small waterfront deck or patio can be placed along the shoreline provided:
- i. Waterfront deck or patio covers less than 25 percent of the shoreline frontage (width of lot measured along shoreline) and native vegetation covers a minimum of 75 percent of the shoreline frontage. The waterfront deck would count toward total impervious surface calculations.

- ii. Within 25 feet of the shoreline, for every 1 square foot of waterfront deck or patio, 3 square feet of native vegetated area (not lawn) shall be provided along the shoreline. The vegetation provided cannot also be counted toward the incentive in c. above. If the property owner wants to take advantage of both incentives, the vegetation cannot be double counted.
- iii. The total area of the waterfront deck or patio along the shoreline shall not exceed 400 square feet.
- iv. The deck or patio is set back 5 feet from the OHWM.
- v. The deck or patio is no more than 2 feet above grade and is not covered.
- vi. There are no permanent structures above the level of the deck within 20 feet of the property line.

All property owners who obtain approval for a waterfront deck or patio in exchange for removing a bulkhead and retaining or planting native vegetation must prepare, and agree to adhere to, a shoreline vegetation management plan prepared by a qualified professional and approved by the Shoreline Administrator that:

- i. Requires the preparation of a revegetation plan,
- ii. Requires the native vegetation to consist of a mixture of trees, shrubs and groundcover and be designed to improve habitat functions,
- iii. Includes appropriate limitations on the use of fertilizer, herbicides and pesticides as needed to protect lake water quality, and
- iv. Includes a monitoring and maintenance program.

This plan shall be recorded as a covenant against the property after approval by the Shoreline Administrator. A copy of the recorded covenant shall be provided to the Shoreline Administrator.

Lots with no bulkhead or if bulkhead is removed

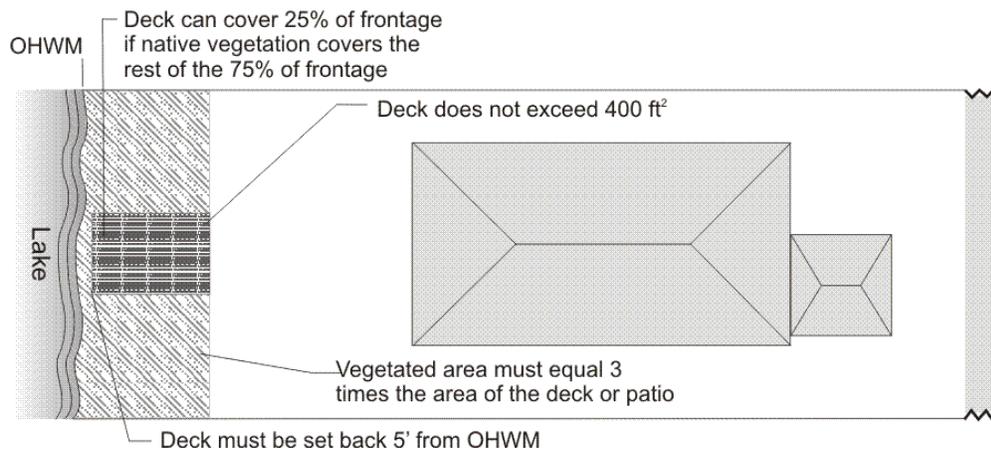


Figure 3. Waterfront deck bonus for lots with no bulkhead or if bulkhead is removed.

- 3. For new development on previously undeveloped lots, any existing native vegetation shall be retained along the shoreline to 20 feet from the OHWM. If

little or no native vegetation exists on the previously undeveloped lot, native vegetation shall be planted along the shoreline to 20 feet from the OHWM. 25 percent of the required vegetated area can be cleared or thinned for view maintenance and waterfront access, provided 75 percent of the area remains vegetated. Invasive species may be removed, vegetation trimmed, and trees “limbed up” from the ground to provide views. In the 25 percent cleared area, pathways for access to the water are allowed.

Property owners must prepare, and agree to adhere to, a shoreline vegetation management plan prepared by a qualified professional and approved by the Shoreline Administrator that:

- a. Requires the preparation of a revegetation plan,
- b. Requires the native vegetation to consist of a mixture of trees, shrubs and groundcover and be designed to improve habitat functions,
- c. Includes appropriate limitations on the use of fertilizer, herbicides and pesticides as needed to protect lake water quality, and
- d. Includes a monitoring and maintenance program.

This plan shall be recorded as a covenant against the property after approval of the Shoreline Administrator. A copy of the recorded covenant shall be provided to the Shoreline Administrator.

Property owners who provide more native vegetation than the minimum required can apply any additional vegetation over 20 feet to take advantage of the incentives described in subsection c.2.c and c.2.d above. For example, if 30 feet of vegetation is provided, 10 feet can be applied to the calculations described in subsection c.2.c above, for a total increase in impervious surface area of 4%.

#### New development on previously undeveloped lots

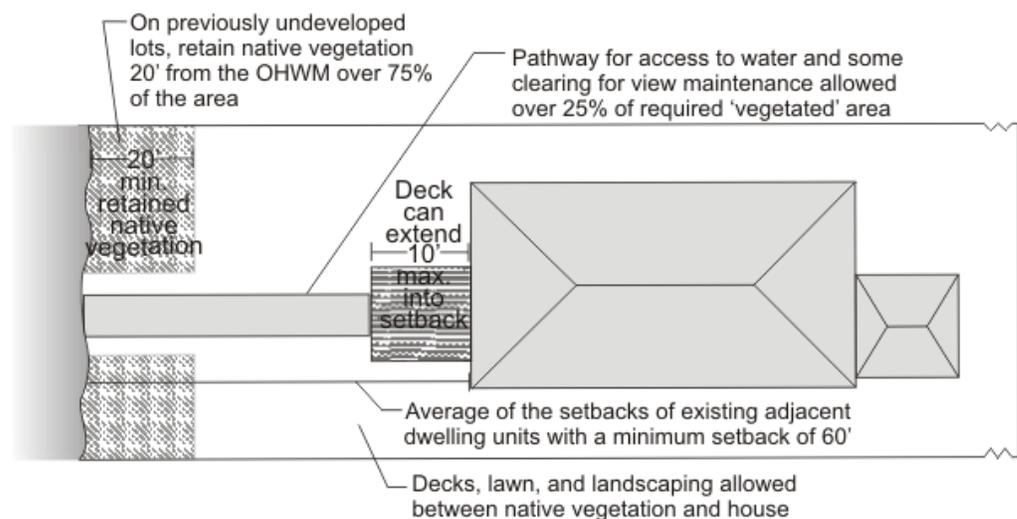


Figure 4. Standards for new development on previously undeveloped lots.

- a. Maximum impervious area 40%.
- b. Also see regulations for Shoreline Stabilization and Docks and Floats in Chapter 4 for those structures.
- 4. Garages and pavements for motorized vehicles (drives and parking areas) shall be set back at least 75 feet from the OHWM, unless the Shoreline Administrator determines that such a configuration is not feasible.
- 5. Accessory uses and appurtenant structures not addressed in the regulations above shall be subject to the same conditions as primary residences.
- 6. The creation of new residential lots within shoreline jurisdiction on lakes shall be prohibited unless the applicant demonstrates that all of the provisions of this SMP, including setback and size restrictions, can be met on the proposed lot. Specifically, it must be demonstrated that:
  - a. The residence can be built in conformance with all applicable setbacks and development standards in this SMP.
  - b. Adequate water, sewer, road access, and utilities can be provided.
  - c. The intensity of development is consistent with the City’s comprehensive plan.
  - d. The development will not cause flood or geological hazard to itself or other properties.

In addition, new residential development on new lots that contain intact native vegetation shall conform to the regulations of c.3. above. (See also Vegetation Conservation standards section in Chapter 3 Section B.11).

- 7. The stormwater runoff for all new or expanded pavements or other impervious surfaces shall be directed to infiltration systems in accordance with the City of Lake Stevens Surface Water Management Plan.
- 8. See the Chapter 3 Section B.11 for regulations related to clearing, grading, and conservation of vegetation.

Residential Properties within Shoreline Jurisdiction on Rivers and Streams

- 9. Table 8 below is a summary of regulations for Residential Properties within shoreline jurisdiction on rivers or streams:

**Table 4. Regulations for Residential Properties within Shoreline Jurisdiction on Rivers or Streams**

	Regulation:
Standard Minimum Building Setback	
Catherine Creek	160'
Little Pilchuck Creek	160'
Standard Minimum Deck Setback	150'

10. New residential development within shoreline jurisdiction on rivers and streams shall adhere to the following standards:
  - a. Setbacks:
    - i. Buildings on Catherine Creek and Little Pilchuck Creek: All covered or enclosed structures shall be set back a minimum of 160 feet. The City's Shoreline Administrator may revise this setback in accordance with levee reconstruction design. (See Chapter 3 Section B.5.c.7)
    - ii. Patios and decks: Uncovered patios or decks no higher than 2 feet above grade may extend up to within 150 feet of the OHWM.
  - b. Maximum amount of impervious surface: In single-family zones, maximum impervious surface shall not exceed 40 percent of the lot for single-family and duplex residential developments. Other zones do not have a maximum impervious surface requirement.
  - c. Height: See Chapter 14.48 LSMC, Table 14.4I for maximum height limitations within each zone.
11. Also see regulations for Shoreline Stabilization and Docks and Floats in Chapter 4 for those structures.
12. For the purposes of maintaining visual access to the waterfront, the following standards apply to accessory uses, structures, and appurtenances for new and existing residences.
  - a. Fences: All streams shall have a wildlife-passable fence installed at the edge of the required SMP setback. Fencing shall consist of split rail cedar fencing (or other nonpressure treated materials approved by the City's Shoreline Administrator). The fencing shall also include sensitive area signage at a rate of one (1) sign per lot, or one (1) sign per one hundred (100) feet and along public right-of-way, whichever is greater.
  - b. Garages and pavements for motorized vehicles (drives and parking areas) shall be set back at least 200 feet from the OHWM. If the Shoreline Administrator determines that the property is not sufficiently deep (measured perpendicularly from the shoreline) to allow construction of garages or parking areas outside of shoreline jurisdiction then (s)he may allow such elements to be built closer to the water, provided that the garage or parking area is set back from the water as far as physically possible.
13. The stormwater runoff for all new or expanded pavements or other impervious surfaces shall be directed to infiltration systems in accordance with the City of Lake Stevens Surface Water Management Plan.
14. The creation of new residential lots within shoreline jurisdiction on rivers and streams shall be prohibited unless the applicant demonstrates that all of the provisions of this SMP, including setback and size restrictions, can be met on the proposed lot. Specifically, it must be demonstrated that:

- a. The residence can be built in conformance with all applicable setbacks and development standards in this SMP.
- b. Adequate water, sewer, road access, and utilities can be provided.
- c. The intensity of development is consistent with the City's comprehensive plan.
- d. The development will not cause flood or geological hazard to itself or other properties.

In addition, new residential development on new lots that contain intact native vegetation shall conform to the regulations of c.3 above. (See also Chapter 3 Section B.11).

15. See Chapter 3 Section B.11 for regulations related to clearing, grading, and conservation of vegetation.

## 9. Transportation

### a. Applicability

Transportation facilities are those structures and developments that aid in land and water surface movement of people, goods, and services. They include roads and highways, bridges and causeways, bikeways, trails, railroad facilities, airports, heliports, float plane moorage, and other related facilities.

The various transport facilities that can impact the shoreline cut across all environmental designations and all specific use categories. The policies and regulations identified in this section pertain to any project, within any environment, that is effecting some change in present transportation facilities.

### b. Policies

1. Circulation system planning on shorelands should include systems for pedestrian, bicycle, and public transportation where appropriate. Circulation planning and projects should support existing and proposed shoreline uses that are consistent with the SMP.
2. Trail and bicycle paths should be encouraged along shorelines and should be constructed in a manner compatible with the natural character, resources, and ecology of the shoreline.
3. When existing transportation corridors are abandoned, they should be reused for water-dependent use or public access.

### c. Regulations

#### General

1. Development of all new and expanded transportation facilities in shoreline jurisdiction shall be consistent with the City's Comprehensive Plan and applicable capital improvement plans.
2. All development of new and expanded transportation facilities shall be conditioned with the requirement to mitigate significant adverse impacts

consistent with Chapter 3 Section B.4 of this SMP. Development of new or expanded transportation facilities that cause significant ecological impacts shall not be allowed unless the development includes shoreline mitigation/restoration that increases the ecological functions being impacted to the point where:

- a. Significant short- and long-term risks to the shoreline ecology from the development are eliminated.
- b. Long-term opportunities to increase the natural ecological functions and processes are not diminished.

If physically feasible, the mitigation/restoration shall be in place and functioning prior to project impacts. The mitigation/restoration shall include a monitoring and adaptive management program that describes monitoring and enhancement measures to ensure the viability of the mitigation over time.

#### Float Plane Facilities

3. Use of a private, non-commercial dock for private float plane access or moorage on Lake Stevens shall be allowed for one float plane per residential lot.
4. Moorage for float planes shall meet all dock regulations in Chapter 4.C.3.
5. Float plane facilities and operation shall comply with FAA standards, including standards for fueling, oil spill cleanup, firefighting equipment, and vehicle and pedestrian separation.

#### Location

6. New nonwater-dependent transportation facilities shall be located outside shoreline jurisdiction, if feasible. In determining the feasibility of a non-shoreline location, the City's Shoreline Administrator will apply the definition of "feasible" in Chapter 6 and weigh the action's relative public costs and benefits, considered in the short- and long-term time frames.
7. New transportation facilities shall be located and designed to prevent or to minimize the need for shoreline protective measures such as riprap or other bank stabilization, fill, bulkheads, groins, jetties, or substantial site grading. Transportation facilities allowed to cross over water bodies and wetlands shall utilize elevated, open pile, or pier structures whenever feasible. All bridges must be built high enough to allow the passage of debris and provide three feet of freeboard above the 100-year flood level.
8. Roads and railroads shall be located to minimize the need for routing surface waters into and through culverts. Culverts and similar devices shall be designed with regard to the 100-year storm frequencies and allow continuous fish passage. Culverts shall be located so as to avoid relocation of the stream channel.

9. Bridge abutments and necessary approach fills shall be located landward of wetlands or the OHWM for water bodies without wetlands; provided, bridge piers may be permitted in a water body or wetland as a conditional use.

Design/Construction/Maintenance

10. All roads and railroads, if permitted parallel to shoreline areas, shall provide buffer areas of compatible, self-sustaining vegetation. Shoreline scenic drives and viewpoints may provide breaks periodically in the vegetative buffer to allow open views of the water.
11. Development of new and expanded transportation facilities shall include provisions for pedestrian, bicycle, and public transportation where appropriate as determined by the City's Shoreline Administrator. Circulation planning and projects shall support existing and proposed shoreline uses that are consistent with the SMP.
12. Transportation and primary utility facilities shall be required to make joint use of rights-of-way and to consolidate crossings of water bodies if feasible, where adverse impact to the shoreline can be minimized by doing so.
13. Fills for development of transportation facilities are prohibited in water bodies and wetlands; except, such fill may be permitted as a conditional use when all structural and upland alternatives have been proven infeasible and the transportation facilities are necessary to support uses consistent with this SMP.
14. Development of new and expanded transportation facilities shall not diminish but may modify public access to the shoreline.
15. Waterway crossings shall be designed to provide minimal disturbance to banks.
16. All transportation facilities shall be designed, constructed, and maintained to contain and control all debris, overburden, runoff, erosion, and sediment generated from the affected areas. Relief culverts and diversion ditches shall not discharge onto erodible soils, fills, or sidecast materials without appropriate BMPs, as determined by the City's Shoreline Administrator.
17. All shoreline areas disturbed by construction and maintenance of transportation facilities shall be replanted and stabilized with native, drought-tolerant, self-sustaining vegetation by seeding, mulching, or other effective means immediately upon completion of the construction or maintenance activity. Such vegetation shall be maintained by the agency or developer constructing or maintaining the road until established. The vegetation restoration/replanting plans shall be as approved by the City's Shoreline Administrator.

## 10. Utilities

### a. Applicability

Utilities are services and facilities that produce, transmit, carry, store, process, or dispose of electric power, gas, water, sewage, communications, oil, and the like. The provisions in this section apply to primary uses and activities, such as solid waste handling and disposal, sewage treatment plants, pipelines and outfalls, public high-tension utility lines on public property or easements, power generating or transfer facilities, and gas distribution lines and storage facilities. See Chapter 3 Section B.10, "Utilities (Accessory)," for on-site accessory use utilities.

Solid waste disposal means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid or hazardous waste on any land area or in the water.

Solid waste includes solid and semisolid wastes, including garbage, rubbish, ashes, industrial wastes, wood wastes and sort yard wastes associated with commercial logging activities, swill, demolition and construction wastes, abandoned vehicles and parts of vehicles, household appliances and other discarded commodities. Solid waste does not include sewage, dredge material, agricultural wastes, auto wrecking yards with salvage and reuse activities, or wastes not specifically listed above.

### b. Policies

1. New utility facilities should be located so as not to require extensive shoreline protection works.
2. Utility facilities and corridors should be located so as to protect scenic views. Whenever possible, such facilities should be placed underground, or alongside or under bridges.
3. Utility facilities and rights-of-way should be designed to preserve the natural landscape and to minimize conflicts with present and planned land uses.

### c. Regulations

1. All utility facilities shall be designed and located to minimize harm to shoreline ecological functions, preserve the natural landscape, and minimize conflicts with present and planned land and shoreline uses while meeting the needs of future populations in areas planned to accommodate growth. The City's Shoreline Administrator may require the relocation or redesign of proposed utility development in order to avoid significant ecological impacts.
2. Utility production and processing facilities, such as power plants or parts of those facilities that are nonwater-oriented shall not be allowed in shoreline areas unless it can be demonstrated that no other feasible option is available. In such cases, significant ecological impacts shall be avoided.

3. Transmission facilities for the conveyance of services, such as power lines, cables, and pipelines, shall be located to cause minimum harm to the shoreline and shall be located outside of the shoreline area where feasible. Utilities shall be located in existing rights-of-way and utility easements whenever possible.
4. Development of pipelines and cables on shorelines, particularly those running roughly parallel to the shoreline, and development of facilities that may require periodic maintenance or that cause significant ecological impacts shall not be allowed unless no other feasible option exists. When permitted, those facilities shall include adequate provisions to protect against significant ecological impacts.
5. Restoration of ecological functions shall be a condition of new and expanded nonwater-dependent utility facilities.

The City's Shoreline Administrator will consult the provisions of this SMP and determine the applicability and extent of ecological restoration required. The extent of ecological restoration shall be that which is reasonable given the specific circumstances of utility development.

6. On Lake Stevens, utility development shall, through coordination with local government agencies, provide for compatible, multiple uses of sites and rights-of-way. Such uses include shoreline access points, trail systems and other forms of recreation and transportation, providing such uses will not unduly interfere with utility operations, endanger public health and safety or create a significant liability for the owner. On Little Pilchuck and Catherine Creek, connections to existing trails or access sites shall be provided, but new public access shall not be required.
7. New solid waste disposal sites and facilities are prohibited. Existing solid waste disposal and transfer facilities in shoreline jurisdiction shall not be added to or substantially reconstructed.
8. New electricity, communications and fuel lines shall be located underground, except where the presence of bedrock or other obstructions make such placement infeasible or if it is demonstrated that above-ground lines would have a lesser impact. Existing aboveground lines shall be moved underground during normal replacement processes.
9. Transmission and distribution facilities shall cross areas of shoreline jurisdiction by the shortest, most direct route feasible, unless such route would cause significant environmental damage.
10. Utility developments shall be located and designated so as to avoid or minimize the use of any structural or artificial shoreline stabilization or flood protection works.
11. Utility production and processing facilities shall be located outside shoreline jurisdiction unless no other feasible option exists. Where major facilities must be placed in a shoreline area, the location and design shall be chosen so as not to destroy or obstruct scenic views, and shall avoid significant ecological impacts.

12. All underwater pipelines transporting liquids intrinsically harmful to aquatic life or potentially injurious to water quality are prohibited, unless no other feasible alternative exists. In those limited instances when permitted by conditional use, automatic shut-off valves shall be provided on both sides of the water body.
13. Filling in shoreline jurisdiction for development of utility facility or line purposes is prohibited, except where no other feasible option exists and the proposal would avoid or minimize adverse impacts more completely than other methods. Permitted crossings shall utilize pier or open pile techniques.
14. Power-generating facilities shall require a conditional use permit.
15. Clearing of vegetation for the installation or maintenance of utilities shall be kept to a minimum and upon project completion any disturbed areas shall be restored to their pre-project condition.
16. Telecommunication towers, such as radio and cell phone towers, are specifically prohibited in shoreline jurisdiction.
17. Utilities that need water crossings shall be placed deep enough to avoid the need for bank stabilization and stream/riverbed filling both during construction and in the future due to flooding and bank erosion that may occur over time. Boring, rather than open trenching, is the preferred method of utility water crossing.
18. Publicly owned and operated aerators are allowed in the aquatic environment for water quality purposes.

## CHAPTER 6

# Definitions

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*Accessory use.* Any structure or use incidental and subordinate to a primary use or development.

*Adjacent lands.* Lands adjacent to the shorelines of the state (outside of shoreline jurisdiction).

*Administrator.* See Shoreline Administrator.

*Alteration.* Any human-induced action which impacts the existing condition of a critical area. Alterations include but are not limited to grading; filling; dredging; draining; channelizing; cutting, pruning, limbing or topping, clearing, relocating or removing vegetation; applying herbicides or pesticides or any hazardous or toxic substance; discharging pollutants; grazing domestic animals; paving, construction, application of gravel; modifying for surface water management purposes; or any other human activity that impacts the existing vegetation, hydrology, wildlife or wildlife habitat. Alteration does not include walking, passive recreation, fishing or other similar activities.

*Anadromous.* Fish species, such as salmon, which are born in fresh water, spend a large part of their lives in the sea, and return to freshwater rivers and streams to spawn.

*Appurtenance.* A structure or development which is necessarily connected to the use and enjoyment of a single-family residence and is located landward of the ordinary high water mark and also of the perimeter of any wetland. On a state-wide basis, normal appurtenances include a garage, deck, driveway, utilities, fences and grading which does not exceed two hundred fifty cubic yards and which does not involve placement of fill in any wetland or waterward of the ordinary high water mark. (WAC 173-27-040(2)(g))

*Aquatic.* Pertaining to those areas waterward of the ordinary high water mark.

*Aquaculture.* The cultivation of fish, shellfish, and other aquatic animals or plants, including the incidental preparation of these products for human use.

*Archaeological.* Having to do with the scientific study of material remains of past human life and activities.

*Associated Wetlands.* Wetlands that are in proximity to and either influence, or are influenced by tidal waters or a lake or stream subject to the Shoreline Management Act. Refer to WAC 173-22-030(1).

*Average grade level.* See “base elevation.”

*Base elevation.* The average elevation of the approved topography of a parcel at the midpoint on each of the four sides of the smallest rectangle that will enclose the proposed structure, excluding eaves and decks.

*Beach.* The zone of unconsolidated material that is moved by waves and wind currents, extending landward to the shoreline.

*Beach enhancement/restoration.* Process of restoring a beach to a state more closely resembling a natural beach, using beach feeding, vegetation, drift sills and other nonintrusive means as applicable.

*Berm.* A linear mound or series of mounds of sand and/or gravel generally paralleling the water at or landward of the ordinary high water mark. Also, a linear mound used to screen an adjacent activity, such as a parking lot, from transmitting excess noise and glare.

*Best management practices (BMPs).* The best available conservation practices or systems of practices and management measures that:

- (1) Control soil loss and protect water quality from degradation caused by nutrients, animal waste, toxins, and sediment; and
- (2) Minimize adverse impacts to surface water and groundwater flow, circulation patterns, and to the chemical, physical, and biological characteristics of critical areas.

*Bioengineering.* The use of biological elements, such as the planting of vegetation, often in conjunction with engineered systems, to provide a structural shoreline stabilization measure with minimal negative impact to the shoreline ecology.

*Biofiltration system.* A stormwater or other drainage treatment system that utilizes as a primary feature the ability of plant life to screen out and metabolize sediment and pollutants. Typically, biofiltration systems are designed to include grassy swales, retention ponds and other vegetative features.

*Bog.* A wet, spongy, poorly drained area which is usually rich in very specialized plants, contains a high percentage of organic remnants and residues, and frequently is associated with a spring, seepage area, or other subsurface water source. A bog sometimes represents the final stage of the natural process of eutrophication by which lakes and other bodies of water are very slowly transformed into land areas.

*Buffer or buffer area.* Areas that are contiguous to and protect a critical area and are required for continued maintenance, functioning, and/or structural stability of a critical area.

*Building height.* The vertical distance measured from the mean elevation of the finished grade around the perimeter of the building to the highest point of the building.

*Building Setback.* An area in which structures, including but not limited to sheds, homes, buildings, and awnings shall not be permitted within, or allowed to project into. It is measured horizontally upland from and perpendicular to the ordinary high water mark.

*Bulkhead.* A solid wall erected generally parallel to and near the ordinary high water mark for the purpose of protecting adjacent uplands from waves or current action.

*Buoy.* An anchored float for the purpose of mooring vessels.

*Channel.* An open conduit for water, either naturally or artificially created; does not include artificially created irrigation, return flow, or stockwatering channels.

*Channel Migration Zone (CMZ).* The area along a river within which the channel(s) can be reasonably predicted to migrate over time as a result of natural and normally occurring hydrological and related processes when considered with the characteristics of the river and its surroundings. For locations of CMZ, refer to the Channel Migration Zone Map, Figure No. 10.2 in the June 9, 2009 Final Shoreline Inventory and Analysis Report.

*City.* The City of Lake Stevens, Washington.

*Clearing.* The destruction or removal of vegetation groundcover, shrubs and trees including root material removal and topsoil removal.

*Compensation.* Replacement, enhancement, or creation of an undevelopable critical area equivalent in functions, values and size to those being altered by or lost to development.

*Compensatory mitigation.* Mitigation which compensates for the impact by replacing, enhancing, or providing substitute resources or environments.

*Comprehensive Plan.* The document, including maps, prepared under the Growth Management Act and adopted by the City Council, that outlines the City's goals and policies related to management of growth, and prepared in accordance with Chapter 36.70A RCW. The term also includes adopted subarea plans prepared in accordance with Chapter 36.70A RCW.

*Conditional use.* A use, development, or substantial development which is classified as a conditional use; or a use development, or substantial development that is not specifically classified within the SMP and is therefore treated as a conditional use.

*Covered moorage.* Boat moorage, with or without walls, that has a roof to protect the vessel.

*Creation, wetland mitigation.* Manipulation of the physical, chemical, or biological characteristics present to develop a wetland on an upland or deepwater site, where a wetland did not previously exist. Activities typically involve excavation of upland soils to elevation that will produce a wetland hydroperiod, create hydric soils, and support the growth of hydrophytic plant species. Establishment results in a gain in wetland acres.

*Critical areas.* Areas of the City that are subject to natural hazards or any landform feature that carries, holds, or purifies water and/or supports unique, fragile or valuable natural resources including fish, wildlife, and other organisms and their habitat. Critical areas include the following features: geologically hazardous areas, wetlands, streams, frequently flooded hazard areas, fish and wildlife conservation areas, aquifer recharge areas, and groundwater discharge areas.

*Critical Areas Regulations, Non-Shoreline Jurisdiction.* Refers to the City of Lake Stevens's Critical Areas Regulations, Chapter 14.88 LSMC (Ordinance 741 effective May 8, 2007 and updated by Ordinance 773 effective April 21, 2008).

*Critical habitat.* Habitat necessary for the survival of endangered, threatened, sensitive species as listed by the Federal Government or the State of Washington. Habitat for species listed on the candidate list, or monitored species as listed by the Federal Government or the State of Washington, may be considered critical habitat.

*Current deflector.* An angled stub-dike, groin, or sheet-pile structure which projects into a stream channel to divert flood currents from specific areas, or to control downstream current alignment.

*Degraded wetland.* A wetland in which the vegetation, soils, and/or hydrology have been adversely altered, resulting in lost or reduced functions and values.

*Department of Ecology.* The Washington State Department of Ecology.

*Developable area.* Land outside of critical areas, their setback, and buffers.

*Development.* A use consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals; bulkheading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters of the state subject to Chapter 90.58 RCW at any stage of water level. (RCW 90.58.030(3)(d)).

*Development regulations.* The controls in Title 14 LSMC placed on development or land uses by the City of Lake Stevens, including, but not limited to, zoning ordinances, Critical Areas Regulations, and all portions of a shoreline master program other than goals and policies approved or adopted under Chapter 90.58 RCW, together with any amendments thereto.

*Dock.* A structure which abuts the shoreline and is used as a landing or moorage place for craft. A dock may be built either on a fixed platform or float on the water. See also “development” and “substantial development.”

*Dredging.* Excavation or displacement of the bottom or shoreline of a water body.

*Ecological functions (or shoreline functions).* The work performed or role played by the physical, chemical, and biological processes that contribute to the maintenance of the aquatic and terrestrial environments that constitute the shoreline’s natural ecosystem.

*Ecosystem-wide processes.* The suite of naturally occurring physical and geologic processes of erosion, transport, and deposition and specific chemical processes that shape landforms within a specific shoreline ecosystem and determine both the types of habitat and the associated ecological functions.

*Edge.* Boundary of a wetland as delineated based on the criteria contained in this chapter.

*EIS.* Environmental Impact Statement.

*Emergency.* An unanticipated and imminent threat to public health, safety, or the environment which requires immediate action within a time too short to allow full compliance with the SMP.

Emergency construction is construed narrowly as that which is necessary to protect property and facilities from the elements. Emergency construction does not include development of new permanent protective structures where none previously existed. Where new protective structures are deemed by the Shoreline Administrator to be the appropriate means to address the emergency situation, upon abatement of the emergency situation the new structure shall be removed or any permit which would have been required, absent an emergency, pursuant to Chapter 90.58 RCW or this SMP, shall be obtained. All emergency construction shall be consistent with the policies of Chapter 90.58 RCW and this SMP. As a general matter, flooding or seasonal events that can be anticipated and may occur but that are not imminent are not an emergency. (RCW 90.58.030(3)(e)(iii)).

*Enhancement.* Alteration of an existing resource to improve or increase its characteristics, functions, or processes without degrading other existing ecological functions.

*Environment designation(s).* See “shoreline environment designation(s).”

*Erosion.* The wearing away of land by the action of natural forces.

*Erosion hazard areas.* Lands or areas that, based on a combination of slope inclination and the characteristics of the underlying soils, are susceptible to varying degrees of risk of erosion.

*Exemption.* Certain specific developments listed in WAC 173-27-040 are exempt from the definition of substantial developments and are therefore exempt from the substantial development permit process of the SMA. An activity that is exempt from the substantial development provisions of the SMA must still be carried out in compliance with policies and standards of the SMA and the local SMP. Conditional use and variance permits may also still be required even though the activity does not need a substantial development permit. (RCW 90.58.030(3)(e); WAC 173-27-040.) (See also “development” and “substantial development.”)

*Exotic species.* Plants or animals that are not native to the Puget Sound Lowlands region.

*Fair market value.* The open market bid price for conducting the work, using the equipment and facilities, and purchase of the goods, services, and materials necessary to accomplish the development. This would normally equate to the cost of hiring a contractor to undertake the development from start to finish, including the cost of labor, materials, equipment and facility usage, transportation, and contractor overhead and profit. The fair market value of the development shall include the fair market value of any donated, contributed, or found labor, equipment, or materials.

*Feasible.* An action, such as a development project, mitigation, or preservation requirement, is feasible when it meets all of the following conditions:

- (a) The action can be accomplished with technologies and methods that have been used in the past, or studies or tests have demonstrated that such approaches are currently available and likely to achieve the intended results.
- (b) The action provides a reasonable likelihood of achieving its intended purpose.
- (c) The action does not physically preclude achieving the project's primary intended use.

In cases where these regulations require certain actions unless they are infeasible, the burden of proving infeasibility is on the applicant.

In determining an action's infeasibility, the City may weigh the action's relative public costs and public benefits, considered in the short- and long-term time frames.

*Fill.* The addition of soil, sand, rock, gravel, sediment, earth retaining structure, or other material to an area waterward of the ordinary high water mark, in wetlands, or on shorelands in a manner that raises the elevation or creates dry land.

*Fish and wildlife habitats (of local importance).* A seasonal range or habitat element with which a given species has a primary association, and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long-term. These might include areas of relative density or species richness, breeding habitat, winter range, and movement corridors. These also include habitats of limited availability or high vulnerability to alteration, such as cliffs and wetlands.

*Floats.* An anchored, buoyed object.

*Floodplain.* A term that is synonymous with the one hundred-year floodplain and means that land area susceptible to inundation with a one percent chance of being equaled or exceeded in any given year. The limit of this area shall be based upon flood ordinance regulation maps or a reasonable method which meets the objectives of the SMA.

*Floodway.* Those portions of the area of a river valley lying streamward from the outer limits of a watercourse upon which flood waters are carried during periods of flooding that occur with reasonable regularity, although not necessarily annually, said floodway being identified, under normal condition, by changes in surface soil conditions or changes in types or quality of vegetative groundcover condition. The floodway shall not include those lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or maintained under license from the federal government, the state, or a political subdivision of the state.

*Forested wetland.* Wetlands with at least 20 percent of the surface area covered by woody vegetation greater than 30 feet in height.

*Functions and values.* Beneficial roles served by critical areas including, but not limited to, water quality protection and enhancement, fish and wildlife habitat, food chain support, flood storage, conveyance and attenuation, groundwater recharge and discharge, erosion control, wave attenuation, aesthetic value protection, and recreation. These roles are not listed in order of priority.

*Gabions.* Structures composed of masses of rocks, rubble or masonry held tightly together usually by wire mesh so as to form blocks or walls. Sometimes used on heavy erosion areas to retard wave action or as foundations for breakwaters or jetties.

*Geologically hazardous areas.* Lands or areas characterized by geologic, hydrologic, and topographic conditions that render them susceptible to varying degrees of potential risk of landslides, erosion, or seismic or volcanic activity; and areas characterized by geologic and hydrologic conditions that make them vulnerable to contamination of groundwater supplies through infiltration of contaminants to aquifers.

*Geotechnical report (or geotechnical analysis).* A scientific study or evaluation conducted by a qualified expert that includes a description of the ground and surface hydrology and geology, the affected land form and its susceptibility to mass wasting, erosion, and other geologic hazards or processes, conclusions and recommendations regarding the effect of the proposed development on geologic conditions, the adequacy of the site to be developed, the impacts of the proposed development, alternative approaches to the proposed development, and measures to mitigate potential site-specific and cumulative impacts of the proposed development, including the potential adverse impacts to adjacent and down-current properties. Geotechnical reports shall conform to accepted technical standards and must be prepared by qualified engineers or geologists who are knowledgeable about the regional and local shoreline geology and processes. If the project is in a Channel Migration Zone, then the report must be prepared by a professional with specialized experience in fluvial geomorphology in addition to a professional engineer. (Refer to the Channel Migration Zone Map, Figure No. 10.2 in the June 9, 2009 Final Shoreline Inventory and Analysis Report).

*Grade.* See “base elevation.”

*Grading.* The movement or redistribution of the soil, sand, rock, gravel, sediment, or other material on a site in a manner that alters the natural contour of the land.

*Grassy Swale.* A vegetated drainage channel that is designed to remove various pollutants from stormwater runoff through biofiltration.

*Guidelines.* Those standards adopted by the Department of Ecology into the Washington Administrative Code (WAC) to implement the policy of Chapter 90.58 RCW for regulation of use of the shorelines of the state prior to adoption of shoreline master programs. Such standards also provide criteria for local governments and the Department of Ecology in developing and amending shoreline master programs. The Guidelines may be found under WAC 173-26 Part III.

*Habitat.* The place or type of site where a plant or animal naturally or normally lives and grows.

*Height.* See “building height.”

*Hydric soil.* Soil that is saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper part. The presence of hydric soil shall be determined following the methods described in the Washington State Wetlands Identification and Delineation Manual 1997, or as amended hereafter.

*Hydrological.* Referring to the science related to the waters of the earth including surface and groundwater movement, evaporation and precipitation. Hydrological functions in shoreline include, water movement, storage, flow variability, channel movement and reconfiguration,

recruitment and transport of sediment and large wood, and nutrient and pollutant transport, removal and deposition.

*Landslide hazard areas.* Areas that, due to a combination of slope inclination and relative soil permeability, are susceptible to varying degrees of risk of landsliding.

*Land uses, high intensity.* Land uses which are associated with moderate or high levels of human disturbance or substantial impacts including, but not limited to, a zone classification allowing four or more dwelling units per acre, active recreation, and commercial and industrial land uses.

*Land uses, low intensity.* Land uses which are associated with low levels of human disturbance or low habitat impacts, including, but not limited to, passive recreation and open space.

*Letter of exemption.* A letter or other official certificate issued by the City to indicate that a proposed development is exempted from the requirement to obtain a shoreline permit as provided in WAC 173-27-050. Letters of exemption may include conditions or other provisions placed on the proposal in order to ensure consistency with the Shoreline Management Act and this SMP.

*Littoral.* Living on, or occurring on, the shore.

*Littoral drift.* The mud, sand, or gravel material moved parallel to the shoreline in the nearshore zone by waves and currents.

*Low Impact Development (LID) technique.* A stormwater management and land development strategy applied at the parcel and subdivision scale that emphasizes conservation and use of on-site natural features integrated with engineered, small-scale hydrologic controls to more closely mimic pre-development hydrologic functions. Additional information may be found in the City of Lake Stevens Surface Water Management Plan in addition to the 2005 State Department of Ecology Storm Water Management Manual for Western Washington, as amended by Sections 1 through 6 of Appendix 1 of the NPDES Phase II Municipal Stormwater Permit, as now or hereafter amended.

*LSMC.* Lake Stevens Municipal Code, including any amendments thereto.

*May.* Refers to actions that are acceptable, provided they conform to the provisions of this SMP and the SMA.

*Mitigation (or mitigation sequencing).* The process of avoiding, reducing, or compensating for the environmental impact(s) of a proposal, including the following, which are listed in the order of sequence priority, with (a) being top priority.

- (a) Avoiding the impact altogether by not taking a certain action or parts of an action.
- (b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology or by taking affirmative steps to avoid or reduce impacts.
- (c) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment.
- (d) Reducing or eliminating the impact over time by preservation and maintenance operations.

- (e) Compensating for the impact by replacing, enhancing, or providing substitute resources or environments.
- (f) Monitoring the impact and the compensation projects and taking appropriate corrective measures.

*Moorage facility.* Any device or structure used to secure a boat, float plane or a vessel, including piers, docks, piles, lift stations or buoys.

*Moorage pile.* A permanent mooring generally located in open waters in which the vessel is tied up to a vertical column to prevent it from swinging with change of wind.

*Multi-family dwelling (or residence).* A building containing three or more dwelling units, including but not limited to townhouses, apartments and condominiums.

*Must.* A mandate; the action is required.

*Native growth protection areas (NGPA).* Areas where native vegetation is permanently preserved for the purpose of preventing harm to property and the environment, including, but not limited to, controlling surface water runoff and erosion, maintaining slope stability, buffering and protecting plants and animal habitat.

*Native plants or native vegetation.* These are plant species indigenous to the Puget Sound region that could occur or could have occurred naturally on the site, which are or were indigenous to the area in question.

*Nonconforming development.* A shoreline use or structure which was lawfully constructed or established prior to the effective date of this SMP provision, and which no longer conforms to the applicable shoreline provisions.

*Nonpoint pollution.* Pollution that enters any waters of the state from any dispersed land-based or water-based activities, including, but not limited to, atmospheric deposition, surface water runoff from agricultural lands, urban areas, or forest lands, subsurface or underground sources, or discharges from boats or marine vessels not otherwise regulated under the National Pollutant Discharge Elimination System program.

*Nonwater-oriented uses.* Those uses that are not water-dependent, water-related, or water-enjoyment.

*Normal maintenance.* Those usual acts to prevent a decline, lapse, or cessation from a lawfully established condition. See also “normal repair.”

*Normal protective bulkhead.* Those structural and nonstructural developments installed at or near, and parallel to, the ordinary high water mark for the sole purpose of protecting an existing single-family residence and appurtenant structures from loss or damage by erosion.

*Normal repair.* To restore a development to a state comparable to its original condition, including, but not limited to, its size, shape, configuration, location, and external appearance, within a reasonable period after decay or partial destruction, except where repair causes

substantial adverse effects to shoreline resource or environment. (WAC 173-27-040) See also “normal maintenance” and “development.”

*Off-site replacement.* To replace wetlands or other shoreline environmental resources away from the site on which a resource has been impacted by a regulated activity.

*OHWM.* See “ordinary high water mark.”

*Open space.* Areas of varied size which contain distinctive geologic, botanic, zoologic, historic, scenic or other critical area or natural resource land features.

*Ordinary high water mark (OHWM).* That mark that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition exists on June 1, 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by the City or the Department of Ecology. Any area where the ordinary high water mark cannot be found, the ordinary high water mark shall be the line of mean high water. (RCW 90.58.030(2)(b) and (c))

*Periodic.* Occurring at regular intervals.

*Person.* An individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, or agency of the state or local governmental unit however designated. (RCW 90.58.030(1)(e))

*Pesticide management plan.* A guidance document for the prevention, evaluation, and mitigation for occurrences of pesticides or pesticide breakdown products in ground and surface waters.

*Pier.* An over-water structure, generally used to moor vessels or for public access, that is supported by piles and sits above the OHWM. A pier may be all or a portion of a dock.

*Pier element.* Sections of a pier including the pier walkway, the pier float, the ell, etc.

*Practicable alternative.* An alternative that is available and capable of being carried out after taking into consideration cost, existing technology, and logistics in light of overall project purposes, and having less impacts to critical areas. It may include an area not owned by the applicant which can reasonably be obtained, utilized, expanded, or managed in order to fulfill the basic purpose of the proposed activity.

*Priority habitats.* Areas that support diverse, unique, and/or abundant communities of fish and wildlife, as determined by the Washington Department of Fish and Wildlife Map Products 2006.

*Priority species.* Wildlife species of concern due to their population status and their sensitivity to habitat alteration.

*Provisions.* Policies, regulations, standards, guideline criteria or designations.

*Public access.* Public access is the ability of the general public to reach, touch, and enjoy the water's edge, to travel on the waters of the state, and to view the water and the shoreline from adjacent locations. (WAC 173-26-221(4))

*Public interest.* The interest shared by the citizens of the state or community at large in the affairs of government, or some interest by which their rights or liabilities are affected such as an effect on public property or on health, safety, or general welfare resulting from a use or development.

*RCW.* Revised Code of Washington.

*Re-establishment, wetland mitigation.* The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural or historic functions to a former wetland. Activities could include removing fill material, plugging ditches, or breaking drain tiles. Re-establishment results in a gain in wetland acres.

*Regulated wetlands.* Wetlands, including their submerged aquatic beds, and those lands defined as wetlands under the 1989 Federal Clean Water Act, 33 USC Section 251, et seq., and rules promulgated pursuant thereto and shall be those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Regulated wetlands generally include swamps, bogs, and similar areas. Wetlands created as mitigation and wetlands modified for approved land use activities shall be considered as regulated wetlands. Regulated wetlands do not include those constructed wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention/retention facilities, wastewater treatment facilities, farm ponds, and landscape amenities or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway.

*Rehabilitation, wetland mitigation.* The manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural or historic function of a degraded wetland. Activities could involve breaching a dike or reconnecting wetland to a floodplain or returning tidal influence to a wetland. Rehabilitation results in a gain in wetland function but does not result in a gain in wetland acres

*Repair or maintenance activities.* An action to restore the character, size, or scope of a project only to the previously authorized condition.

*Residential development.* Development which is primarily devoted to or designed for use as a dwelling(s).

*Restore.* To significantly re-establish or upgrade shoreline ecological functions through measures such as revegetation, removal of intrusive shoreline structures, and removal or

treatment of toxic sediments. To restore does not mean returning the shoreline area to aboriginal or pre-European settlement condition.

*Revetment.* Facing of stone, concrete, etc., built to protect a scarp, embankment, or shore structure against erosion by waves or currents.

*Riparian.* Of, on, or pertaining to the banks of a river.

*Riparian area.* A transitional area between terrestrial and aquatic ecosystems and which is distinguished by gradients in biophysical conditions, ecological processes, and biota.

*Riparian habitat.* An ecosystem that borders a stream which is occasionally flooded and periodically supports predominantly hydrophytes.

*Riparian zone.* A transitional area between aquatic ecosystems (lakes, streams, and wetlands) and upland terrestrial habitats.

*Riprap.* A layer, facing, or protective mound of stones placed to prevent erosion, scour, or sloughing of a structure or embankment; also, the stone so used.

*Riverbank.* The upland areas immediately adjacent to the floodway, which confine and conduct flowing water during non-flooding events. The riverbank, together with the floodway, represents the river channel capacity at any given point along the river.

*Runoff.* Water that is not absorbed into the soil but rather flows along the ground surface following the topography.

*Sediment.* The fine grained material deposited by water or wind.

*Seismic hazard areas.* Areas that, due to a combination of soil and groundwater conditions, are subject to severe risk of ground shaking, subsidence or liquefaction of soils during earthquakes.

*SEPA (State Environmental Policy Act).* SEPA requires state agencies, local governments and other lead agencies to consider environmental factors when making most types of permit decisions, especially for development proposals of a significant scale. As part of the SEPA process an EIS may be required to be prepared and public comments solicited.

*Setback.* A required open space, specified in this SMP, measured horizontally upland from and perpendicular to the ordinary high water mark. Setbacks are protective buffers which provide a margin of safety through protection of slope stability, attenuation of surface water flows, and landslide hazards reasonably necessary to minimize risk to the public from loss of life or well-being or property damage resulting from natural disasters; or an area which is an integral part of a stream or wetland ecosystem and which provides shading, input of organic debris and coarse sediments, room for variation in stream or wetland edge, habitat for wildlife and protection from harmful intrusion necessary to protect the public from losses suffered when the functions and values of aquatic resources are degraded.

*Shall.* A mandate; the action must be done.

*Shorelands.* Those lands extending landward for 200 feet in all directions as measured on a horizontal plane from the ordinary high water mark; floodways and contiguous floodplain areas landward 200 feet from such floodways; and all wetlands and river deltas associated with the streams, lakes, and tidal waters which are subject to the provisions of this chapter; the same to be designated as to location by the Department of Ecology. (RCW 90.58.030(2)(d))

*Shoreline Administrator.* City of Lake Stevens Planning Director or his/her designee charged with the responsibility of administering the Shoreline Master Program.

*Shoreline areas (and shoreline jurisdiction).* The same as "shorelines of the state" and "shorelands" as defined in RCW 90.58.030.

*Shoreline environment designation(s).* The categories of shorelines established to provide a uniform basis for applying policies and use regulations within distinctively different shoreline areas. Shoreline environment designations include: Aquatic, High Intensity, Urban Conservancy, Natural, and Shoreline Residential.

*Shoreline functions.* See "ecological functions."

*Shoreline jurisdiction.* The term describing all of the geographic areas covered by the SMA, related rules and this SMP. See definitions of "shorelines", "shorelines of the state", "shorelines of state-wide significance" and "wetlands." See also the "Shoreline Management Act Scope" section in the "Introduction" of this SMP.

*Shoreline Management Act (SMA).* The Shoreline Management Act of 1971, Chapter 90.58 RCW, as amended.

*Shoreline master program, master program, or SMP.* This Shoreline Master Program as adopted by the City of Lake Stevens and approved by the Washington Department of Ecology.

*Shoreline modifications.* Those actions that modify the physical configuration or qualities of the shoreline area, usually through the construction of a physical element such as a dike, breakwater, dock, weir, dredged basin, fill, bulkhead, or other shoreline structures. They can include other actions, such as clearing, grading, or application of chemicals.

*Shoreline permit.* A substantial development, conditional use, revision, or variance permit or any combination thereof.

*Shoreline property.* An individual property wholly or partially within shoreline jurisdiction.

*Shoreline restoration or ecological restoration.* The re-establishment or upgrading of impaired ecological shoreline processes or functions. This may be accomplished through measures including, but not limited to, revegetation, removal of intrusive shoreline structures, and removal or treatment of toxic materials. Shoreline restoration does not imply a requirement for returning the shoreline area to aboriginal or pre-European settlement conditions.

*Shoreline sub-unit.* An area of the shoreline that is defined by distinct beginning points and end points by parcel number or other legal description. These sub-units are assigned environment designations to recognize different conditions and resources along the shoreline.

*Shorelines.* All of the water areas of the state, including reservoirs, and their associated shorelands, together with the lands underlying them; except (i) shorelines of state-wide significance; (ii) shorelines on areas of streams upstream of a point where the mean annual flow is twenty cubic feet per second or less and the wetlands associated with such upstream areas; and (iii) shorelines on lakes less than twenty acres in size and wetlands associated with such small lakes. (RCW 90.58.030(2)(e))

*Shorelines of the state.* The total of all “shorelines” and “shorelines of state-wide significance” within the state.

*Shorelines Hearings Board (SHB).* A six member quasi-judicial body, created by the SMA, which hears appeals by any aggrieved party on the issuance of a shoreline permit, enforcement penalty and appeals by local government or Department of Ecology approval of shoreline master programs, rules, regulations, guidelines or designations under the SMA.

*Shorelines of state-wide significance.* A select category of shorelines of the state, defined in RCW 90.58.030(2)(e), where special policies apply.

*Should.* The particular action is required unless there is a demonstrated, compelling reason, based on policy of the Shoreline Management Act and this SMP, against taking the action.

*Sign.* A board or other display containing words and/or symbols used to identify or advertise a place of business or to convey information. Excluded from this definition are signs required by law and the flags of national and state governments.

*Significant ecological impact.* An effect or consequence of an action if any of the following apply:

- (a) The action measurably or noticeably reduces or harms an ecological function or ecosystem-wide process.
- (b) Scientific evidence or objective analysis indicates the action could cause reduction or harm to those ecological functions or ecosystem-wide processes described in (a) of this subsection under foreseeable conditions.
- (c) Scientific evidence indicates the action could contribute to a measurable or noticeable reduction or harm to ecological functions or ecosystem-wide processes described in (a) of this subsection as part of cumulative impacts, due to similar actions that are occurring or are likely to occur.

*Significant vegetation removal.* The removal or alteration of native trees, shrubs, or ground cover by clearing, grading, cutting, burning, chemical means, or other activity that causes significant ecological impacts to functions provided by such vegetation. The removal of invasive, non-native, or noxious weeds does not constitute significant vegetation removal. Tree pruning, not including tree topping, where it does not affect ecological functions, does not constitute significant vegetation removal.

*Single-family dwelling or residence.* A detached dwelling designed for and occupied by one family or duplex for two families including those structures and developments within a contiguous ownership which are a normal appurtenance.

*SMA.* The Shoreline Management Act of 1971, Chapter 90.58 RCW, as amended.

*Sphagnum.* Any of a large genus of mosses that grow only in wet acidic soils and whose remains become compacted with other plant debris to form peat.

*Stormwater.* That portion of precipitation that does not normally percolate into the ground or evaporate but flows via overland flow, interflow, channels, or pipes into a defined surface water channel or constructed infiltration facility.

*Stream.* A naturally occurring body of periodic or continuously flowing water where: a) the mean annual flow is greater than twenty cubic feet per second and b) the water is contained within a channel. See also "channel." Streams are classified according to a locally appropriate stream classification system based on WAC [222-16-030](#). Streams also include open natural watercourses modified by man. Streams do not include irrigation ditches, waste ways, drains, outfalls, operational spillways, channels, stormwater runoff facilities or other wholly artificial watercourses, except those that directly result from the modification to a natural watercourse.

*Structure.* That which is built or constructed, or an edifice or building of any kind or any piece of work composed of parts joined together in some definite manner, and includes posts for fences and signs, but does not include mounds of earth or debris.

*Subdivision.* The division or redivision of land, including short subdivision for the purpose of sale, lease or conveyance.

*Substantial development.* Any development which meets the criteria of RCW 90.58.030(3)(e). See also definition of "development" and "exemption".

*Substantially degrade.* To cause damage or harm to an area's ecological functions. An action is considered to substantially degrade the environment if:

- (a) The damaged ecological function or functions significantly affect other related functions or the viability of the larger ecosystem; or
- (b) The degrading action may cause damage or harm to shoreline ecological functions under foreseeable conditions; or
- (c) Scientific evidence indicates the action may contribute to damage or harm to ecological functions as part of cumulative impacts.

*Sub-unit.* For the purposes of this SMP, a sub-unit is defined as an area of the shoreline that is defined by distinct beginning points and end points by parcel number or other legal description. These sub-units are assigned environment designations to recognize different conditions and resources along the shoreline.

*Swamp.* A depressed area flooded most of the year to a depth greater than that of a marsh and characterized by areas of open water amid soft, wetland masses vegetated with trees and shrubs. Extensive grass vegetation is not characteristic.

*Temporary cabana.* A temporary fabric covered shelter that is less than 10' x 10'.

*Terrestrial.* Of or relating to land as distinct from air or water.

*Transportation facilities.* A structure or development(s), which aids in the movement of people, goods or cargo by land, water, air or rail. They include but are not limited to highways, bridges, causeways, bikeways, trails, railroad facilities, ferry terminals, float plane – airport or heliport terminals, and other related facilities.

*Unavoidable and necessary impacts.* Impacts that remain after a person proposing to alter critical areas has demonstrated that no practicable alternative exists for the proposed project.

*Upland.* Generally described as the dry land area above and landward of the ordinary high water mark.

*Utility.* A public or private agency which provides a service that is utilized or available to the general public (or a locationally specific population thereof). Such services may include, but are not limited to, stormwater detention and management, sewer, water, telecommunications, cable, electricity, and natural gas.

*Utilities (Accessory).* Accessory utilities are on-site utility features serving a primary use, such as a water, sewer or gas line connecting to a residence. Accessory utilities do not carry significant capacity to serve other users.

*Variance.* A means to grant relief from the specific bulk, dimensional, or performance standards set forth in this SMP and not a means to vary a use of a shoreline. Variance permits must be specifically approved, approved with conditions, or denied by the City's Hearing Examiner and the Department of Ecology.

*Vessel.* Ships, boats, barges, or any other floating craft which are designed and used for navigation and do not interfere with normal public use of the water.

*Visual access.* Access with improvements that provide a view of the shoreline or water, but do not allow physical access to the shoreline.

*WAC.* Washington Administrative Code.

*Water-dependent use.* A use or a portion of a use which cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operations. Examples of water-dependent uses may include fishing, boat launching, swimming, float planes, and stormwater discharges.

*Water-enjoyment use.* A recreational use or other use that facilitates public access to the shoreline as a primary characteristic of the use; or a use that provides for recreational use or aesthetic enjoyment of the shoreline for a substantial number of people as a general characteristic of the use and which through location, design, and operation ensures the public's ability to enjoy the physical and aesthetic qualities of the shoreline. In order to qualify as a water-enjoyment use, the use must be open to the general public and the shoreline-oriented space within the

project must be devoted to the specific aspects of the use that fosters shoreline enjoyment. Primary water-enjoyment uses may include, but are not limited to:

- Parks with activities enhanced by proximity to the water.
- Docks, trails, and other improvements that facilitate public access to shorelines of the state.
- Restaurants with water views and public access improvements.
- Museums with an orientation to shoreline topics.
- Scientific/ecological reserves.
- Resorts with uses open to the public and public access to the shoreline; and
- Any combination of those uses listed above.

*Water-oriented use.* A use that is water-dependent, water-related, or water-enjoyment, or a combination of such uses.

*Water quality.* The physical characteristics of water within shoreline jurisdiction, including water quantity, hydrological, physical, chemical, aesthetic, recreation-related, and biological characteristics. Where used in this SMP, the term "water quantity" refers only to development and uses regulated under SMA and affecting water quantity, such as impervious surfaces and stormwater handling practices. Water quantity, for purposes of this SMP, does not mean the withdrawal of groundwater or diversion of surface water pursuant to RCW 90.03.250 through 90.03.340.

*Water-related use.* A use or portion of a use which is not intrinsically dependent on a waterfront location but whose economic viability is dependent upon a waterfront location because:

- (a) The use has a functional requirement for a waterfront location such as the arrival or shipment of materials by water or the need for large quantities of water; or
- (b) The use provides a necessary service supportive of the water-dependent uses and the proximity of the use to its customers makes its services less expensive and/or more convenient.

*Watershed restoration plan.* A plan, developed or sponsored by the department of fish and wildlife, the department of ecology, the department of natural resources, the department of transportation, a federally recognized Indian tribe acting within and pursuant to its authority, a city, a county, or a conservation district that provides a general program and implementation measures or actions for the preservation, restoration, re-creation, or enhancement of the natural resources, character, and ecology of a stream, stream segment, drainage area, or watershed for which agency and public review has been conducted pursuant to chapter [43.21C](#) RCW, the State Environmental Policy Act. (WAC 173-27-040(o)(ii))

*Watershed restoration project.* A public or private project authorized by the sponsor of a watershed restoration plan that implements the plan or a part of the plan and consists of one or more of the following activities:

- (a) A project that involves less than ten miles of streamreach, in which less than twenty-five cubic yards of sand, gravel, or soil is removed, imported, disturbed or discharged, and in which no existing vegetation is removed except as minimally necessary to facilitate additional plantings;

- (b) A project for the restoration of an eroded or unstable stream bank that employs the principles of bioengineering, including limited use of rock as a stabilization only at the toe of the bank, and with primary emphasis on using native vegetation to control the erosive forces of flowing water; or
- (c) A project primarily designed to improve fish and wildlife habitat, remove or reduce impediments to migration of fish, or enhance the fishery resource available for use by all of the citizens of the state, provided that any structure, other than a bridge or culvert or instream habitat enhancement structure associated with the project, is less than two hundred square feet in floor area and is located above the ordinary high water mark of the stream. (WAC 173-27-040(o)(i))

*Weir:* A structure generally built perpendicular to the shoreline for the purpose of diverting water or trapping sediment or other moving objects transported by water.

*Wetland or wetlands.* Areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, bogs, marshes, and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. However, wetlands include those artificial wetlands intentionally created to mitigate conversion of wetlands. See the Washington State Wetlands Identification and Delineation Manual.

*Wetland category.* See Appendix C Critical Areas Regulations for Shoreline Jurisdiction.

*Wetland delineation.* See Appendix C Critical Areas Regulations for Shoreline Jurisdiction.

*Wetland mitigation bank.* A site where wetlands and buffers are restored, created, enhanced, or in exceptional circumstances, preserved expressly for the purpose of providing compensatory mitigation in advance of authorized impacts to similar resources.

*Wetlands rating system.* See Appendix C Critical Areas Regulations for Shoreline Jurisdiction.

*Zoning.* The system of land use and development regulations and related provisions of the Lake Stevens City Code, codified under Title 14 LSMC.

In addition, the definitions and concepts set forth in RCW 90.58.030, as amended, and implementing rules shall also apply as used herein.

## CHAPTER 7

# Administrative Provisions

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## A. Purpose and Applicability

1. The purpose of this chapter is to establish an administrative system designed to assign responsibilities for implementation of this SMP and to outline the process for review of proposals and project applications.
2. All proposed shoreline uses and development, including those that do not require a shoreline permit, must conform to the Shoreline Management Act (SMA) (Chapter 90.58 Revised Code of Washington (RCW)) and to the policies and regulations of this SMP. Where inconsistencies or conflicts with other sections of the Lake Stevens Municipal Code (LSMC) occur, this section shall apply.

When considering development proposals on properties within shoreline jurisdiction, the City shall use a process designed to ensure that proposed regulatory or administrative actions do not unconstitutionally infringe upon private property rights.

## B. Shoreline Permits

The procedures and requirements for development within specified areas implementing the Shoreline Management Act is summarized below including shoreline exemptions, shoreline substantial development permits, shoreline conditional use permits and shoreline variances. Supplemental application requirements for a shoreline substantial development permit are included in 7.C1 below. Hearing procedures, effective dates and permit expirations are also summarized below.

The following is a summary of the procedures for shoreline permits:

1. Applicants shall apply for shoreline substantial development, variance, and conditional use permits on forms provided by the City.
2. Shoreline substantial development permits are a Type II Administrative Decisions With Public Notice review process and shall be processed and subject to the applicable regulations. Shoreline conditional use permits and variances are classified as Type III Quasi-Judicial, Hearing Examiner Decision review process and shall be subject to the applicable regulations.

All applications, including exemptions, shall comply with WAC [173-27-140](#) Review Criteria for All Development, as amended:

- a. No authorization to undertake use or development on shorelines of the state shall be granted by the local government unless upon review the use or development is determined to be consistent with the policy and provisions of the Shoreline Management Act and the master program.

- b. No permit shall be issued for any new or expanded building or structure of more than thirty-five feet above average grade level on shorelines of the state that will obstruct the view of a substantial number of residences on areas adjoining such shorelines except where a master program does not prohibit the same and then only when overriding considerations of the public interest will be served.
3. Public notice. A notice of application shall be issued for all shoreline permit applications with a Type II or Type II review, excepting that the public comment period for the notice of application for a shoreline permit shall be not less than thirty (30) days, per WAC 173-27-1 10(2)(e).
4. Application review. The Administrator shall make decisions on applications for substantial development permits, and recommendations on applications for conditional use and variance permits based upon the policies and procedures of the Shoreline Management Act, and related sections of the Washington Administrative Code, and this SMP.
5. Hearing Examiner action. The Hearing Examiner shall review applications for a shoreline variance and shoreline conditional use permit and make decisions based upon:
  - a. This SMP;
  - b. The policies and procedures of the Shoreline Management Act and related sections of the Washington Administrative Code;
  - c. Written and oral comments from interested persons;
  - d. Reports from the Administrator; and
  - e. City regulations for the Hearing Examiner's Office.

6. Filing with Department of Ecology. All applications for a permit or permit revision shall be submitted to the Department of Ecology upon final decision by local government, as required by WAC 173-27-130 or as subsequently amended. Final decision by local government shall mean the order or ruling, whether it be an approval or denial, which is established after all local administrative appeals related to the permit have concluded or the opportunity to initiate such appeals have lapsed.

After City approval of a shoreline conditional use or variance permit, the City shall submit the permit to the Department of Ecology for the Department's approval, approval with conditions, or denial, as provided in WAC 173-27-200. The Department shall transmit its final decision to the City and the applicant within thirty (30) calendar days of the date of submittal by the City.

When a substantial development permit and a conditional use or variance permit are required for a development, the submittal on the permits shall be made concurrently.

7. Hold on construction. Each permit issued by the City shall contain a provision that construction pursuant to the permit shall not begin and is not authorized until twenty-one (21) days from the date of filing with the Department of Ecology, per WAC 173-27-190 or as subsequently amended. "Date of filing" of the City's final decision on substantial development permits differs from date of filing for a conditional use permit

or variance. In the case of a substantial development permit, the date of filing is the date the City transmits its decision on the permit to the Department of Ecology. In the case of a variance or conditional use permit, the “date of filing” means the date the Department of Ecology’s final order on the permit is transmitted to the City.

8. Duration of permits. Construction, or the use or activity, shall commence within two (2) years after approval of the permits. Authorization to conduct development activities shall terminate within five (5) years after the effective date of a shoreline permit. The Administrator may authorize a single extension before the end of either of these time periods, with prior notice to parties of record and the Department of Ecology, for up to one (1) year based on reasonable factors.
9. Compliance with permit conditions. When permit approval includes conditions, such conditions shall be satisfied prior to occupancy or use of a structure or prior to commencement of a nonstructural activity.

## C. Substantial Development Permits

### 1. Shoreline Substantial Development Permits

Any person wishing to undertake substantial development within the shoreline shall submit materials as required for a Type II review and specific supplemental materials described below and shall apply to the Administrator for a shoreline permit, as required in this chapter and Chapter 90.58 RCW.

#### Supplemental Application Requirements for a Shoreline Development Permit

In addition to the application requirements of the specified submittal checklist, any person applying for a shoreline development permit shall submit with their application the following information:

- a. The name and address of the applicant;
- b. The location and legal description of the proposed substantial development;
- c. The present use of the property.
- d. The general description of the property and the improvements;
- e. A description of the proposed substantial development and the intended use of the property. The following information will be provided on a site plan map:
  - 1) Land contours, using five foot contour intervals; if project includes grading, filling or other alteration of contours, then either:
    - (i) Show both existing and proposed contours on a single map, clearly indicating which is which, and include subsections (e)(2) through (10) of this section; or
    - (ii) Provide two maps, one showing existing contours, including subsection (e)(2) through (5) of this section, and the other showing

proposed contours, including subsections (e)(6) through (10) of this section;

- 2) Size and location of exiting improvements which will be retained;
  - 3) Existing utilities;
  - 4) Ordinary highwater mark;
  - 5) Beach type: sand, mud, gravel, etc.;
  - 6) Size and location of proposed structures;
  - 7) Maximum height of proposed structures;
  - 8) Width of setback, side yards;
  - 9) Proposed fill areas; state type, amount and treatment of fill;
  - 10) Proposed utilities;
- f. Vicinity plan, indicating relation of site to adjacent lands. Show adjacent lands for at least 400 feet in all directions from the project site, and owner of record within 300 feet of project site;
  - g. Total value of all construction and finishing work for which the permit will be issued, including all permanent equipment to be installed on the premises;
  - h. Approximate dates of construction initiation and completion;
  - i. Short statement explaining why this project needs a shoreline location and how the proposed development is consistent with the policies of the Shoreline Management Act of 1971;
  - j. Listing of any other permits for this project from State, Federal or local government agencies for which the applicant has applied or will apply;
  - k. Any additional material or comments concerning the application which the applicant wishes to submit may be attached to the application on additional sheets.

Substantial development permits require a Type II review Administrative Decision with Public Notice. The process begins with a complete application, followed by decision by the appropriate department. The administrative approval body is the department director. Appeals of the Director's decision on a Type II Shoreline permit are made to the State Shoreline Hearings Board. The department director action is the final City decision on a Type II application.

Decision criteria are pursuant to WAC [173-27-150](#) and the following shoreline policies:

- a. A permit shall be granted only when the proposed development is consistent with the Lake Stevens Shoreline Master Program.
- b. A permit shall be granted only when the proposed development is consistent with the policy of RCW [90.58.020](#).
- c. Surface drilling for oil and gas is prohibited in the waters of Lake Stevens from on all lands within 1,000 feet landward from the ordinary high water mark.

- d. A permit shall be denied if the proposed development is not consistent with the above enumerated policies.
- e. The granting of any shoreline development permit by the City shall be subject to the conditions imposed by the Shoreline Hearings Board.

For the purposes of this chapter, the terms “development” and “substantial development” are as defined in RCW 90.58.030 or as subsequently amended.

## 2. Exemptions from a Substantial Development Permit

Certain developments are exempt from the requirement to obtain a substantial development permit pursuant to WAC 173-27-040. The process for review of shoreline exemptions is a Type I review Administrative Review Without Public Notice. The process begins with a complete application, followed by decision by the appropriate department. The administrative approval body is the department director. Appeals of the Director’s decision on a Type I Shoreline permit are made to the State Shoreline Hearings Board. The department director action is the final City decision on a Type I application.

Such developments still may require a variance or conditional use permit, and all development within the shoreline is subject to the requirements of this SMP, regardless of whether a substantial development permit is required. Developments which are exempt from requirement for a substantial development permit are identified in WAC 173-27-040 or as subsequently amended.

The following is a short summary of the types of developments which do not require substantial development permits (see WAC 173-27-040 for detailed descriptions):

- a. Any development of which the total cost or fair market value, whichever is higher, does not exceed five thousand dollars, if such development does not materially interfere with the normal public use of the water or shorelines of the state. For purposes of determining whether or not a permit is required, the total cost or fair market value shall be based on the value of development that is occurring on shorelines of the state as defined in RCW [90.58.030](#) (2)(c). The total cost or fair market value of the development shall include the fair market value of any donated, contributed or found labor, equipment or materials;
- b. Normal maintenance or repair of existing structures or developments, including damage by accident, fire or elements. "Normal maintenance" includes those usual acts to prevent a decline, lapse, or cessation from a lawfully established condition. "Normal repair" means to restore a development to a state comparable to its original condition, including but not limited to its size, shape, configuration, location and external appearance, within a reasonable period after decay or partial destruction, except where repair causes substantial adverse effects to shoreline resource or environment;
- c. Construction of the normal protective bulkhead common to single-family residences. A "normal protective" bulkhead includes those structural and nonstructural developments installed at or near, and parallel to, the ordinary high water mark for the sole purpose of protecting an existing single-family residence

- and appurtenant structures from loss or damage by erosion. A normal protective bulkhead is not exempt if constructed for the purpose of creating dry land;
- d. Emergency construction necessary to protect property from damage by the elements. An "emergency" is an unanticipated and imminent threat to public health, safety, or the environment which requires immediate action within a time too short to allow full compliance with this chapter. Emergency construction does not include development of new permanent protective structures where none previously existed. As a general matter, flooding or other seasonal events that can be anticipated and may occur but that are not imminent are not an emergency;
  - e. Construction and practices normal or necessary for farming, irrigation, and ranching activities, including agricultural service roads and utilities on shorelands, construction of a barn or similar agricultural structure, and the construction and maintenance of irrigation structures including but not limited to head gates, pumping facilities, and irrigation channels;
  - f. Construction or modification of navigational aids such as channel markers and anchor buoys;
  - g. Construction on shorelands by an owner, lessee or contract purchaser of a single-family residence for their own use or for the use of their family, which residence does not exceed a height of thirty-five feet above average grade level and which meets all requirements of the state agency or local government having jurisdiction thereof, other than requirements imposed pursuant to chapter [90.58](#) RCW. Construction authorized under this exemption shall be located landward of the ordinary high water mark;
  - h. Construction of a dock, including a community dock, designed for pleasure craft only, for the private noncommercial use of the owner, lessee, or contract purchaser of single-family and multiple-family residences. A dock is a landing and moorage facility for watercraft and does not include recreational decks, storage facilities or other appurtenances. This exception in fresh waters the fair market value of the dock does not exceed ten thousand dollars, but if subsequent construction having a fair market value exceeding two thousand five hundred dollars occurs within five years of completion of the prior construction, the subsequent construction shall be considered a substantial development for the purpose of this chapter;
  - i. Operation, maintenance, or construction of canals, waterways, drains, reservoirs, or other facilities that now exist or are hereafter created or developed as a part of an irrigation system for the primary purpose of making use of system waters, including return flow and artificially stored groundwater from the irrigation of lands;
  - j. The marking of property lines or corners on state-owned lands, when such marking does not significantly interfere with normal public use of the surface of the water;
  - k. Operation and maintenance of any system of dikes, ditches, drains, or other facilities existing on September 8, 1975, which were created, developed or utilized primarily as a part of an agricultural drainage or diking system;

- l. Any project with a certification from the governor pursuant to Chapter [80.50](#) RCW;
- m. Site exploration and investigation activities that are prerequisite to preparation of an application for development authorization under this chapter, if specific provisions are met;
- n. The process of removing or controlling aquatic noxious weeds, as defined in RCW [17.26.020](#), through the use of an herbicide or other treatment methods applicable to weed control that are recommended by a final environmental impact statement published by the Department of Agriculture or the Department of Ecology jointly with other state agencies under chapter [43.21C](#) RCW;
- o. Watershed restoration projects as defined in WAC 173-27-040(o) and included in Chapter 6 of this SMP. Local government shall review the projects for consistency with the shoreline master program in an expeditious manner and shall issue its decision along with any conditions within forty-five days of receiving all materials necessary to review the request for exemption from the applicant. No fee may be charged for accepting and processing requests for exemption for watershed restoration projects as used in this section; or
- p. A public or private project that is designed to improve fish or wildlife habitat or fish passage, when specific provisions apply.

### 3. Substantial Development Permit Decision Criteria

Shoreline substantial development permit applications shall be reviewed pursuant to WAC [173-27-150](#) and the following shoreline policies:

- a. A permit shall be granted only when the proposed development is consistent with the Lake Stevens Shoreline Master Program.
- b. A permit shall be granted only when the proposed development is consistent with the policy of RCW [90.58.020](#).
- c. Surface drilling for oil and gas is prohibited in the waters of Lake Stevens on all lands within 1,000 feet landward from the ordinary high water mark.
- d. A permit shall be denied if the proposed development is not consistent with the above enumerated policies.
- e. The granting of any shoreline substantial development permit by the City shall be subject to the conditions imposed by the Shoreline Hearings Board.

The following is from WAC 173-27-150 Review Criteria for Substantial Development Permits.

- (1) A substantial development permit shall be granted only when the development proposed is consistent with:
  - (a) The policies and procedures of the act;
  - (b) The provisions of this regulation; and

- (c) The applicable master program adopted or approved for the area. Provided, that where no master program has been approved for an area, the development shall be reviewed for consistency with the provisions of chapter [173-26 WAC](#), and to the extent feasible, any draft or approved master program which can be reasonably ascertained as representing the policy of the local government.
- (2) Local government may attach conditions to the approval of permits as necessary to assure consistency of the project with the act and the local master program.

#### 4. Appeals - Shoreline Hearings Board

Any decision made by the Administrator on a substantial development permit or by the Hearing Examiner on a conditional use or variance permit shall be final unless an appeal is made. Persons aggrieved by the grant, denial, rescission or modification of a permit may file a request for review by the Shoreline Hearings Board in accordance with the review process established by RCW 90.58.180 or as subsequently amended, and with the regulations of the Shoreline Hearings Board contained in Chapter 461-08 WAC or as subsequently amended. The request for review must be filed with the Hearings Board within twenty-one (21) days of the date of filing pursuant to RCW 90.58.080.

### D. Conditional Use Permits

#### 1. Shoreline Conditional Use Permits

- a. Purpose. The purpose of a conditional use permit is to allow greater flexibility in varying the application of the use regulations of this SMP in a manner consistent with the policies of RCW 90.58.020. In authorizing a conditional use, special conditions may be attached to the permit by the City or the Department of Ecology to prevent undesirable effects of the proposed use and/or to assure consistency of the project with the Shoreline Management Act and this SMP. Uses which are specifically prohibited by this SMP may not be authorized pursuant to WAC 173-27-160.
- b. Process and Application. Shoreline conditional use permits are a Type III review Quasi-Judicial, Hearing Examiner Decision. This process begins with a complete application, followed by notice to the public of the application and a public comment period, during which time an informational meeting may be held. If required by the State Environmental Policy Act, a threshold determination will be issued by the SEPA Responsible Official. The threshold determination shall be issued prior to the issuance of staff's or Design Review Board's recommendation on the application. Following issuance of the Design Review Board recommendation, if applicable, a public hearing will be held before the city Hearing Examiner. The decision of the Hearing Examiner on a Type III Shoreline Permit application is appealable to the State Shoreline Hearings Board. The Hearing Examiner action deciding the appeal and approving, approving with modifications, or denying a project is the final City decision on a Type III application.

- c. Uses are classified as conditional uses if they are (1) specifically designated as conditional uses elsewhere in this SMP, or (2) are not specifically classified as a permitted or conditional use in this SMP but the applicant is able to demonstrate consistency with the requirements of WAC 173-27-160 and the requirements for conditional uses in section D.2 below.
- d. In the granting of all conditional use permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if conditional use permits were granted to other developments in the area where similar circumstances exist, the total of the conditional uses shall also remain consistent with the policies of the Shoreline Management Act and shall not produce substantial adverse effects to the shoreline environment.

## 2. Shoreline Conditional Use Permit Criteria

Shoreline conditional use permits may be granted, provided the applicant can satisfy the criteria for granting conditional use permits as set forth in WAC 173-27-160 or as subsequently amended.

The following is from WAC 173-27-160 Review Criteria for Conditional Use Permits.

The purpose of a conditional use permit is to provide a system within the master program which allows flexibility in the application of use regulations in a manner consistent with the policies of RCW 90.58.020. In authorizing a conditional use, special conditions may be attached to the permit by local government or the department to prevent undesirable effects of the proposed use and/or assure consistency of the project with the act and the local master program.

- a. Uses which are classified or set forth in the applicable master program as conditional uses may be authorized provided that the applicant demonstrates all of the following:
  - 1. That the proposed use is consistent with the policies of RCW 90.58.020 and the master program;
  - 2. That the proposed use will not interfere with the normal public use of public shorelines;
  - 3. That the proposed use of the site and design of the project is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and shoreline master program;
  - 4. That the proposed use will cause no significant adverse effects to the shoreline environment in which it is to be located; and
  - 5. That the public interest suffers no substantial detrimental effect.
- b. In the granting of all conditional use permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if conditional use permits were granted for other developments in the area where similar

circumstances exist, the total of the conditional uses shall also remain consistent with the policies of RCW 90.58.020 and shall not produce substantial adverse effects to the shoreline environment.

- c. Other uses which are not classified or set forth in the applicable master program may be authorized as conditional uses provided the applicant can demonstrate consistency with the requirements of this section and the requirements for conditional uses contained in the master program.
- d. Uses which are specifically prohibited by the master program may not be authorized pursuant to either subsection (a) or (b) of this section.

## E. Variances

### 1. Shoreline Variances

- a. Purpose. The purpose of a variance permit is strictly limited to granting relief from specific bulk, dimensional, or performance standards set forth in this SMP and where there are extraordinary circumstances relating to the physical character or configuration of property such that the strict implementation of this SMP would impose unnecessary hardships on the applicant or thwart the Shoreline Management Act policies as stated in RCW 90.58.020. In all instances where a variance is granted, extraordinary circumstances shall be shown and the public interest shall suffer no substantial detrimental effect. Variances from the use regulations of this SMP are prohibited.
- b. Application. Shoreline variances are a Type III review Quasi-Judicial, Hearing Examiner Decision. This process begins with a complete application, followed by notice to the public of the application and a public comment period, during which time an informational meeting may be held. If required by the State Environmental Policy Act, a threshold determination will be issued by the SEPA Responsible Official. The threshold determination shall be issued prior to the issuance of staff's or Design Review Board's recommendation on the application. Following issuance of the Design Review Board recommendation, if applicable, a public hearing will be held before the city Hearing Examiner. The decision of the Hearing Examiner on a Type III Shoreline Permit application is appealable to the State Shoreline Hearings Board. The Hearing Examiner action deciding the appeal and approving, approving with modifications, or denying a project is the final City decision on a Type III application.

### 2. Shoreline Variance Criteria

Shoreline variance permits may be authorized, provided the applicant can demonstrate satisfaction of the criteria for granting shoreline variances as set forth in WAC 173-27-170 or as amended.

The following is from WAC 173-27-170 Review Criteria for Variance Permits.

The purpose of a variance permit is strictly limited to granting relief from specific bulk, dimensional or performance standards set forth in the applicable master program where there are extraordinary circumstances relating to the physical character or configuration of property such that the strict implementation of the master program will impose unnecessary hardships on the applicant or thwart the policies set forth in RCW 90.58.020.

- a. Variance permits should be granted in circumstances where denial of the permit would result in a thwarting of the policy enumerated in RCW 90.58.020. In all instances the applicant must demonstrate that extraordinary circumstances shall be shown and the public interest shall suffer no substantial detrimental effect.
- b. Variance permits for development and/or uses that will be located landward of the ordinary high water mark (OHWM), as defined in RCW 90.58.030(2)(b), and/or landward of any wetland as defined in RCW 90.58.030(2)(h), may be authorized provided the applicant can demonstrate all of the following:
  1. That the strict application of the bulk, dimensional or performance standards set forth in the applicable master program precludes, or significantly interferes with, reasonable use of the property;
  2. That the hardship described in (1) of this subsection is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size, or natural features and the application of the master program, and not for example, from deed restrictions or the applicants own actions;
  3. That the design of the project is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and shoreline master program and will not cause adverse impacts to the shoreline environment;
  4. That the variance will not constitute a grant of special privilege not enjoyed by the other properties in the area;
  5. That the variance requested is the minimum necessary to afford relief; and
  6. That the public interest will suffer no substantial detrimental effect.
- c. Variance permits for development and/or uses that will be located waterward of the ordinary high water mark (OHWM), as defined in RCW 90.58.030(2)(b), or within any wetland as defined in RCW 90.58.030(2)(h), may be authorized provided the applicant can demonstrate all of the following:
  1. That the strict application of the bulk, dimensional or performance standards set forth in the applicable master program precludes all reasonable use of the property;
  2. That the proposal is consistent with the criteria established under subsection (b)(2) through (6) of this section; and

3. That the public rights of navigation and use of the shorelines will not be adversely affected.
- d. In the granting of all variance permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if variances were granted to other developments and/or uses in the area where similar circumstances exist the total of the variances shall also remain consistent with the policies of RCW 90.58.020 and shall not cause substantial adverse effects to the shoreline environment.
- e. Variances from the use regulations of the master program are prohibited.

## F. Revisions to Permits

When an applicant seeks to revise a shoreline substantial development, conditional use, or variance permit, the City shall request from the applicant detailed plans and text describing the proposed changes in the permit. If the Administrator determines that the proposed changes are within the scope and intent of the original permit, the revision may be approved, provided it is consistent with Chapter 173-27 WAC, the Shoreline Management Act (SMA), and this SMP. “Within the scope and intent of the original permit” means the following:

1. No additional over-water construction will be involved except that pier, dock, or float construction may be increased by five hundred square feet or ten percent from the provisions of the original permit, whichever is less.
2. Lot coverage and height may be increased a maximum of 10 percent from provisions of the original permit, provided that revisions involving new structures not shown on the original site plan shall require a new permit.
3. Landscaping may be added to a project without necessitating an application for a new permit if consistent with the conditions attached to the original permit and with this SMP.
4. The use authorized pursuant to the original permit is not changed.
5. No additional significant adverse environmental impact will be caused by the project revision.
6. The revised permit shall not authorize development to exceed height, lot coverage, setback, or any other requirements of this SMP except as authorized under a variance granted as the original permit or a part thereof.

If the revision, or the sum of the revision and any previously approved revisions, will violate the criteria specified above, the City shall require the applicant to apply for a new substantial development, conditional use, or variance permit, as appropriate, in the manner provided for herein.

The following is from WAC 173-27-100 Revisions to Permits.

A permit revision is required whenever the applicant proposes substantive changes to the design, terms or conditions of a project from that which is approved in the permit. Changes are substantive if they materially alter the project in a manner that relates to its conformance to the terms and conditions of the permit, the master program and/or the policies and provisions of chapter [90.58](#) RCW. Changes which are not substantive in effect do not require approval of a revision.

When an applicant seeks to revise a permit, local government shall request from the applicant detailed plans and text describing the proposed changes.

(1) If local government determines that the proposed changes are within the scope and intent of the original permit, and are consistent with the applicable master program and the act, local government may approve a revision.

(2) "Within the scope and intent of the original permit" means all of the following:

(a) No additional over water construction is involved except that pier, dock, or float construction may be increased by five hundred square feet or ten percent from the provisions of the original permit, whichever is less;

(b) Ground area coverage and height may be increased a maximum of ten percent from the provisions of the original permit;

(c) The revised permit does not authorize development to exceed height, lot coverage, setback, or any other requirements of the applicable master program except as authorized under a variance granted as the original permit or a part thereof;

(d) Additional or revised landscaping is consistent with any conditions attached to the original permit and with the applicable master program;

(e) The use authorized pursuant to the original permit is not changed; and

(f) No adverse environmental impact will be caused by the project revision.

(3) Revisions to permits may be authorized after original permit authorization has expired under RCW [90.58.143](#). The purpose of such revisions shall be limited to authorization of changes which are consistent with this section and which would not require a permit for the development or change proposed under the terms of chapter [90.58](#) RCW, this regulation and the local master program. If the proposed change constitutes substantial development then a new permit is required. Provided, this subsection shall not be used to extend the time requirements or to authorize substantial development beyond the time limits of the original permit.

(4) If the sum of the revision and any previously approved revisions under former WAC [173-14-064](#) or this section violate the provisions in subsection (2) of this section, local government shall require that the applicant apply for a new permit.

(5) The revision approval, including the revised site plans and text consistent with the provisions of WAC [173-27-180](#) as necessary to clearly indicate the authorized changes, and the final ruling on consistency with this section shall be filed with the department. In addition, local government shall notify parties of record of their action.

(6) If the revision to the original permit involves a conditional use or variance, local government shall submit the revision to the department for the department's approval, approval with conditions, or denial, and shall indicate that the revision is being submitted

under the requirements of this subsection. The department shall render and transmit to local government and the applicant its final decision within fifteen days of the date of the department's receipt of the submittal from local government. Local government shall notify parties of record of the department's final decision.

(7) The revised permit is effective immediately upon final decision by local government or, when appropriate under subsection (6) of this section, upon final action by the department.

(8) Appeals shall be in accordance with RCW [90.58.180](#) and shall be filed within twenty-one days from the date of receipt of the local government's action by the department or, when appropriate under subsection (6) of this section, the date the department's final decision is transmitted to local government and the applicant. Appeals shall be based only upon contentions of noncompliance with the provisions of subsection (2) of this section. Construction undertaken pursuant to that portion of a revised permit not authorized under the original permit is at the applicant's own risk until the expiration of the appeals deadline. If an appeal is successful in proving that a revision is not within the scope and intent of the original permit, the decision shall have no bearing on the original permit.

## G. Nonconforming Uses

Nonconforming development shall be defined and regulated according to the provisions of WAC 173-27-080; excepting that if a nonconforming development is damaged to the extent of one hundred percent of the replacement cost of the original development, it may be reconstructed to those configurations existing immediately prior to the time the development was damaged. In order for this replacement to occur, application must be made for permits within six months of the date the damage occurred, and all restoration must be completed within two years of permit issuance.

The following is from WAC 173-27-080 Nonconforming Use and Development Standards.

When nonconforming use and development standards do not exist in the applicable master program, the following definitions and standards shall apply:

1. "Nonconforming use or development" means a shoreline use or development which was lawfully constructed or established prior to the effective date of the act or the applicable master program, or amendments thereto, but which does not conform to present regulations or standards of the program.
2. Structures that were legally established and are used for a conforming use but which are nonconforming with regard to setbacks, buffers or yards; area; bulk; height or density may be maintained and repaired and may be enlarged or expanded provided that said enlargement does not increase the extent of nonconformity by further encroaching upon or extending into areas where construction or use would not be allowed for new development or uses.

3. Uses and developments that were legally established and are nonconforming with regard to the use regulations of the master program may continue as legal nonconforming uses. Such uses shall not be enlarged or expanded, except that nonconforming single-family residences that are located landward of the ordinary high water mark may be enlarged or expanded in conformance with applicable bulk and dimensional standards by the addition of space to the main structure or by the addition of normal appurtenances as defined in WAC [173-27-040](#) (2)(g) upon approval of a conditional use permit.
4. A use which is listed as a conditional use but which existed prior to adoption of the master program or any relevant amendment and for which a conditional use permit has not been obtained shall be considered a nonconforming use. A use which is listed as a conditional use but which existed prior to the applicability of the master program to the site and for which a conditional use permit has not been obtained shall be considered a nonconforming use.
5. A structure for which a variance has been issued shall be considered a legal nonconforming structure and the requirements of this section shall apply as they apply to preexisting nonconformities.
6. A structure which is being or has been used for a nonconforming use may be used for a different nonconforming use only upon the approval of a conditional use permit. A conditional use permit may be approved only upon a finding that:
  - a. No reasonable alternative conforming use is practical; and
  - b. The proposed use will be at least as consistent with the policies and provisions of the act and the master program and as compatible with the uses in the area as the preexisting use.

In addition such conditions may be attached to the permit as are deemed necessary to assure compliance with the above findings, the requirements of the master program and the Shoreline Management Act and to assure that the use will not become a nuisance or a hazard.

7. A nonconforming structure which is moved any distance must be brought into conformance with the applicable master program and the act.
8. If a nonconforming development is damaged to an extent not exceeding seventy-five percent of the replacement cost of the original development, it may be reconstructed to those configurations existing immediately prior to the time the development was damaged, provided that application is made for the permits necessary to restore the development within six months of the date the damage occurred, all permits are obtained and the restoration is completed within two years of permit issuance.
9. If a nonconforming use is discontinued for twelve consecutive months or for twelve months during any two-year period, the nonconforming rights shall expire and any subsequent use shall be conforming. A use authorized pursuant to subsection (6) of this section shall be considered a conforming use for purposes of this section.
10. An undeveloped lot, tract, parcel, site, or division of land located landward of the ordinary high water mark which was established in accordance with local and state

subdivision requirements prior to the effective date of the act or the applicable master program but which does not conform to the present lot size standards may be developed if permitted by other land use regulations of the local government and so long as such development conforms to all other requirements of the applicable master program and the act.

## H. Documentation of Project Review Actions and Changing Conditions in Shoreline Areas

The City will keep on file documentation of all project review actions, including applicant submissions and records of decisions, relating to shoreline management provisions in this SMP. In addition, as stated in the Restoration Plan, the City will track information using the City's permit system or a separate spreadsheet as activities occur (development, conservation, restoration and mitigation). The information that will be tracked includes:

- New shoreline development
- Shoreline variances and the nature of the variance
- Compliance issues
- New impervious surface areas
- Number of pilings
- Removal of fill
- Vegetation retention/loss
- Bulkheads/armoring

The City may require project proponents to monitor as part of project mitigation, which may be incorporated into this process. This information will assist the City in monitoring shoreline conditions to determine whether both project specific and SMP overall goals are being achieved.

## I. Amendments to This Shoreline Master Program

If the City or Department of Ecology determines it necessary, the City will review shoreline conditions and update this SMP within seven years of its adoption.

## J. Severability

If any provision of this SMP, or its application to any person, legal entity, parcel of land, or circumstance is held invalid, the remainder of this SMP, or its application to other persons, legal entities, parcels of land, or circumstances shall not be affected.

## K. Enforcement

### 1. Violations

- a. It is a violation of this SMP for any person to initiate or maintain or cause to be initiated or maintained the use of any structure, land or property within the shorelines of the City without first obtaining the permits or authorizations required for the use by this Chapter.
- b. It is a violation of this SMP for any person to use, construct, locate, or demolish any structure, land or property within shorelines of the City in any manner that is not permitted by the terms of any permit or authorization issued pursuant to this SMP, provided that the terms or conditions are explicitly stated on the permit or the approved plans.
- c. It is a violation of this SMP to remove or deface any sign, notice, or order required by or posted in accordance with this SMP.
- d. It is a violation of this SMP to misrepresent any material fact in any application, plans or other information submitted to obtain any shoreline use or development authorization.
- e. It is a violation of this SMP for anyone to fail to comply with any other requirement of this SMP.

### 2. Duty to Enforce

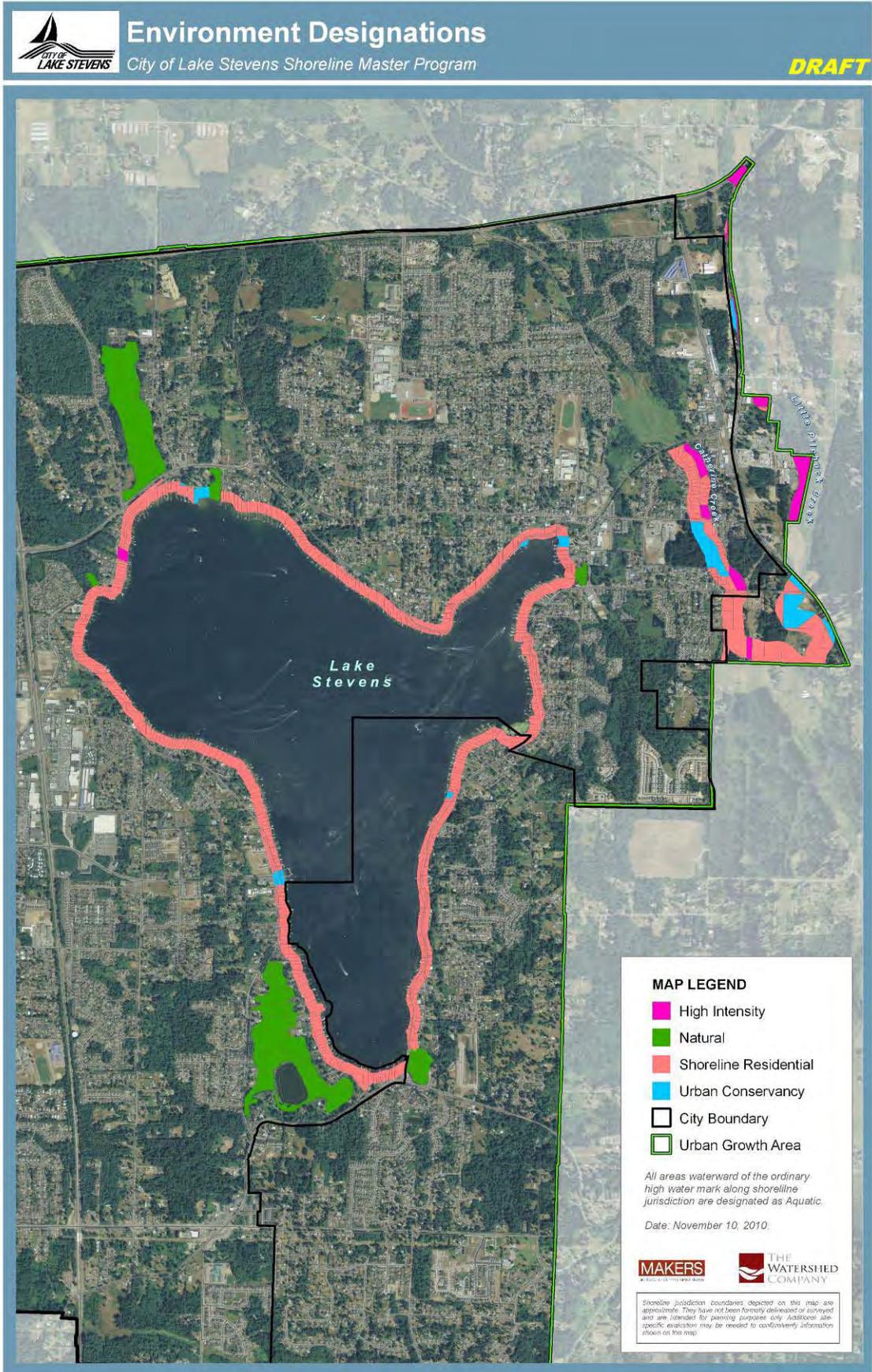
- a. It shall be the duty of the Administrator to enforce this Chapter. The Administrator may call upon the police, fire, health, or other appropriate City departments to assist in enforcement.
- b. Upon presentation of proper credentials, the Administrator or duly authorized representative of the Administrator may, with the consent of the owner or occupier of a building or premises, or pursuant to lawfully issued inspection warrant, enter at reasonable times any building or premises subject to the consent or warrant to perform the duties imposed by this SMP.
- c. This SMP shall be enforced for the benefit of the health, safety and welfare of the general public, and not for the benefit of any particular person or class of persons.
- d. It is the intent of this SMP to place the obligation of complying with its requirements upon the owner, occupier or other person responsible for the condition of the land and buildings within the scope of this SMP.
- e. No provision of or term used in the SMP is intended to impose any duty upon the City or any of its officers or employees which would subject them to damages in a civil action.

### 3. Investigation and Notice of Violation

- a. The Administrator or his/her representative shall investigate any structure, premises or use which the Administrator reasonably believes does not comply with the standards and requirements of this SMP.
- b. If after investigation the Administrator determines that the SMP's standards or requirements have been violated, the Administrator shall follow the procedures for enforcement action and penalties shall be as specified in WAC 173-27-240 through 173-27-310, which are hereby adopted by this reference.

# Appendix A: Shoreline Environment Designation Maps

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# Appendix B:

## Critical Areas Regulations for Shoreline Jurisdiction

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The regulations in Appendix C: Critical Areas Regulations for Shoreline Jurisdiction are fully enforceable and considered part of the SMP regulations.

## SHORELINE ADMINISTRATOR AS REGULATOR

*All sections of the December 15, 2010 draft Shoreline Master Program giving the Shoreline Administrator authority are listed below. The term “Shoreline Administrator” is underlined to make it easier to identify.*

### **Chap 2 – Environment Designation Provisions**

#### **How the Shoreline Master Program is Used**

*(Page 11)*

In order to preserve and enhance the shorelines of the City of Lake Stevens, it is important that all development proposals relating to the shoreline are evaluated in terms of the City’s Shoreline Master Program, and the City Shoreline Administrator is consulted. The Shoreline Administrator for the City of Lake Stevens is the Planning Director or his/her designee.

*(Page 13)*

The City’s Shoreline Administrator can help determine if a project is classified as a substantial development, determine if a permit is necessary or if a project is exempt from permit requirements, and identify which regulations in the SMP may apply to the proposed project. The Administrator can also provide information on the permit application process and how the SMP process relates to, and can coordinate with, the State Environmental Policy Act (SEPA) process.

Requests for a Shoreline Substantial Development Permit are reviewed by the Shoreline Administrator. Requests for a Shoreline Variance or Shoreline Conditional Use Permit require review by the City of Lake Stevens Hearing Examiner. There may be instances where a Shoreline Conditional Use Permit or Shoreline Variance may be approved without the need for a Shoreline Substantial Development Permit. The Hearing Examiner will hold a public hearing on the proposal and approve, approve with conditions, or deny the application. The Hearing Examiner’s decision is final, unless an appeal is filed pursuant to the procedures described in Section 7.C.4. Requests for Shoreline Conditional Use Permits and Shoreline Variances require final approval by DOE.

#### **High-Intensity Environment**

*(Page 17)*

The City’s Shoreline Administrator will consider the provisions of this SMP and determine the applicability and extent of ecological restoration and/or public access required. The extent of ecological restoration shall be that which is reasonable given the specific circumstances of development in the “High-Intensity” environment.

### **Chap 3 – General Provisions**

#### **Environmental Impacts**

*(Page 28)*

4. The City will set mitigation requirements or permit conditions based on impacts identified per this SMP. In order to determine acceptable mitigation, the City Shoreline Administrator

## SHORELINE ADMINISTRATOR AS REGULATOR

may require the applicant to provide the necessary environmental information and analysis, including a description of existing conditions/ecological functions and anticipated shoreline impacts, along with a restoration plan outlining how proposed mitigation measures would result in no net loss of shoreline ecological functions.

### **Flood Hazard Reduction and River Corridor Management**

*(Page 32)*

6. Re-establishment of native vegetation waterward of a new structure on Catherine Creek and Little Pilchuck Creek is required where feasible. The City Shoreline Administrator may require re-establishment of vegetation on and landward of the structure if it determines such vegetation is necessary to protect and restore ecological functions.

### **Parking (Accessory)**

*(Page 33)*

3. Parking facilities shall be designed and landscaped to minimize adverse impacts upon the adjacent shoreline and abutting properties. A minimum of 15 feet of Type B landscaping, as defined below, shall be provided between the parking and the shoreline unless there is a building between the parking and the shoreline. Landscaping shall consist of native vegetation and plant materials approved by the City Shoreline Administrator and shall be planted before completion of the parking area in such a manner that plantings provide effective screening between parking and the water body within five years of project completion. The City Shoreline Administrator may modify landscaping requirements to account for reasonable safety and security concerns.

### **Public Access**

*(Page 37)*

9. Minimum width of public access easements shall be sufficient to provide clear, safe access to the shoreline. The Shoreline Administrator may require that the proposed public access improvements be modified to take advantage of special opportunities or to prevent impacts to adjacent sites (especially single-family residences).

### **Signage**

*(Page 40)*

- d. Signs placed on trees or other natural features, unless the City's Shoreline Administrator finds that these signs are necessary for public safety reasons.

### **Vegetation Conservation**

*(Pages 42 & 43)*

1. In order to create a new lot partially or wholly within shoreline jurisdiction, the applicant must demonstrate that development can be accomplished without significant vegetation removal within the required SMP setback area. The City's Shoreline Administrator may

## SHORELINE ADMINISTRATOR AS REGULATOR

make exceptions to this standard for water dependent development and for development in the High Intensity environment only.

2. New development, including clearing and grading, shall minimize significant vegetation removal in shoreline jurisdiction to the extent feasible. In order to implement this regulation, applicants proposing development that includes significant vegetation removal, clearing, or grading within shoreline jurisdiction must provide, as a part of a substantial development permit or a letter of exemption application, a site plan, drawn to scale, indicating the extent of proposed clearing and/or grading. The City's Shoreline Administrator may require that the proposed development or extent of clearing and grading be modified to reduce the impacts to ecological functions.
3. Vegetation restoration of any shoreline that has been disturbed or degraded shall use native plant materials with a diversity and type similar to that which originally occurred on-site unless the City's Shoreline Administrator finds that native plant materials are inappropriate or not hardy in the particular situation.
4. In addressing impacts from significant vegetation removal, the City's Shoreline Administrator will apply the mitigation sequence described in Chapter 3 Section B.4.
5. Where shoreline restoration is required, the vegetation plantings shall adhere to the following specifications, unless the City's Shoreline Administrator finds that another method is more appropriate:

Property owners must prepare, and agree to adhere to, a shoreline vegetation management plan prepared by a qualified professional and approved by the Shoreline Administrator that:

- a. Requires the preparation of a revegetation plan;
- b. Requires the native vegetation to consist of a mixture of trees, shrubs and groundcover and be designed to improve habitat functions;
- c. Includes appropriate limitations on the use of fertilizer, herbicides and pesticides as needed to protect water quality; and
- d. Includes a monitoring and maintenance program.

This plan shall be recorded with the Snohomish County Assessor's Office as a covenant against the real property and a copy shall be provided to the Shoreline Administrator.

Where new vegetation would block significant views from a public right-of-way or two residential properties, the Shoreline Administrator may allow the planting of trees and shrubs with a shorter mature height; provided the trees provide the applicable ecological functions.

## 5 DEVELOPMENT IMPLICATIONS

In addition to the general cumulative impacts analysis presented in the table in Section 4, this section will expand on several key areas of functions and impacts associated with new and redevelopment within the “Shoreline Residential” environment designation on Lake Stevens.

### 5.1 Residential Setbacks on Lake Stevens

With the possible exception of limited additional residential-zoned lands being acquired for public open space, planned land use in the Shoreline Residential environment is not expected to change over the next 20 years, although new residential development and substantial remodels are anticipated. Typically, development of vacant lots into residential uses would result in replacement of pervious, vegetated areas with impervious surfaces and a landscape management regime that often includes chemical treatments of lawn and landscaping. These actions can have multiple effects on shoreline ecological functions, including:

- Reduction in ability of site to improve quality of waters passing through the untreated vegetation and healthy soils.
- Potential contamination of surface water from chemical and nutrient applications.
- Increase in surface water runoff due to reduced infiltration area and increased impervious surfaces, which can lead to excessive soil erosion and subsequent in-water sediment deposition.
- Elimination of upland habitat occupied by wildlife that use riparian areas.

Under the City’s existing critical areas regulations, structures must be set back 50 feet from the Lake Stevens shoreline as part of the Fish and Wildlife Conservation Area Buffer (LSMC 14.88.430). Under the proposed SMP (SMP **Section 8.c**), the minimum standard residential shoreline setback will be 60 feet, while the minimum deck setback will be 50 feet. A setback of greater than 60 feet will apply to those parcels with adjacent properties that have setbacks greater than 60 feet. As per LSMC 14.88.430(f), setbacks to shorelines of state-wide significance are regulated under the SMP and the City’s Critical Areas regulations. Accordingly, the setbacks in LSMC 14.88.430(a) shall apply when no setbacks are specified in the SMP. If setbacks are specified in both Critical Areas regulations and SMP, the more restrictive setbacks shall apply.

According to a sampling of the City’s GIS data, the average residential setback for three areas of the lake are listed in Table 6.

**Table 6.** Breakdown of average building setbacks in the Shoreline Residential environment.

Location	# of parcels sampled	Average Setback
Western Shoreline	50	64-feet
Eastern Shoreline	50	103-feet
Northern Shoreline	50	98-feet

While the amount of space between the shoreline and a structure is an excellent quick evaluation of shoreline condition, for most urban residential shorelines, the condition of nearshore environments

(including extent of native vegetation, amount of impervious surfaces, and extent of chemical usage on lawns and landscaping) is a more precise indicator of shoreline health. For the case of Lake Stevens, shoreline conditions allow for waterward development up to 50 feet from shore with most of that space used as mowed lawn with some ornamental landscaping, much of it presumably treated routinely or occasionally with pesticides, herbicides or fertilizers. Shoreline setbacks in conjunction with impervious surface cover restrictions and revegetation standards are an excellent means to improve overall shoreline ecological functions in developed areas.

The significance of impervious surfaces on a shoreline environment where surface water quantity is not really a factor (as the lake is primarily fed by groundwater) is very diminished given the residential uses. Single-family or multi-family homes generally have clean roof and sidewalk runoff, and driveways, whether 50 square feet or 5,000 square feet, are typically pollution-generating surfaces only to the extent that vehicle-related pollutants are deposited on them. Most single-family homes have between two and four vehicles, regardless of the driveway area and thus the correlation between driveway area and amount of pollution is not strong. Garages and pavement for motorized vehicles are to be set back at least 75 feet from the lake (SMP **Section 5.8.c.4**). An impervious surface standard has been set at 40 percent (SMP **Section 5.8.c.2.b**) for single-family lots, with incentives for an increase up to 50 percent (SMP **Section 5.8.c.2.c**). On newly developed lots, vegetation shall be retained along the shoreline to 20 feet from the OHWM (SMP **Section 5.8.c.3**). Those properties with a 60-foot standard setback that choose to reduce their setback would be required to mitigate impacts through various shoreline enhancement mechanisms such as native revegetation, shoreline armoring removal or softening, impervious surface reductions, and stormwater controls.

Vegetation conservation standards for clearing and grading associated with residential development within shoreline jurisdiction include the implementation of a detailed landscape revegetation and monitoring plan (SMP **Section 5.8.c.3**).

Relative to the existing conditions in the Shoreline Residential environment along the Lake Stevens shoreline, the implementation of 60-foot setbacks, impervious surface restrictions, and revegetation standards will likely result in improvements to ecological functions over time (benefiting terrestrial and aquatic species). Although it would be possible, in some instances, for residences to be relocated closer to the shoreline than their existing condition, they would not be allowed further waterward than the greater of 60 feet or the average of their two adjacent structures. Presumably, this will continue to maintain an average setback greater than 60 feet, thereby minimizing the likelihood of additional degradation of ecological functions. Furthermore, in the case of properties requesting reduced setbacks due to site constraints, enhancement to nearshore ecological functions are likely to be proposed.

It is important that the impervious surfaces be separated from the waterbody to the extent that those surfaces replace vegetation, which can have a variety of ecological benefits. The setback provisions described above continue to maintain separation between the homes and the water, leaving the nearshore area available for vegetation.

In summary, new residences and substantial remodels/additions are expected in the Shoreline Residential environment over the next 20 years. The protective setbacks and other measures in the SMP, including a requirement for shoreline vegetation and impervious surface limits, will maintain or improve ecological functions of the shoreline over the long term, thereby resulting in no net loss of shoreline ecological function within the environment.

## 5.2 Overwater Structures

Overwater structures encompass a variety of uses, from in-water structures, such as fixed-pile piers, floating docks and platforms, to moorage covers, such as canopies and boathouses. Within the City, all overwater structures directly associated with a single-family residential use are located on Lake Stevens. It is difficult to determine exactly how many waterfront properties on Lake Stevens do not have a pier or pier access, particularly as many piers are located near property lines and thus it is possible that those may be shared with the adjacent property.

The proposed SMP prohibits docks, piers, and floats for single-family residential use outside of Lake Stevens. Therefore, it is not anticipated that new structures will be developed outside of this area.

Piers and docks can adversely affect ecological functions and habitat in the following ways:

- Alter patterns of light transmission to the water column, affecting macrophyte growth and altering habitat for and behavior of aquatic organisms, including juvenile salmon.
- Interfere with long-shore movement of sediments, altering substrate composition and development.
- Contribute to contamination of surface water from chemical treatments of structural materials.

The current SMP does not include specifications for the width or overall size of piers and docks. Under the proposed SMP, dimensional criteria for new, expansion, and replacement structures is included (Chapter 4.C.3) in order to reduce potential impacts.

Under the proposed SMP, these criteria will include: 1) pier width of 6 feet or less (exception to 8 feet with planting of significant trees); 2) grated decking at least in the first 30 feet from shore; 3) float/ell width of 8 feet or less; and 4) pier and float orientation designed to minimize light impacts.

Table 7 outlines some of the primary differences between the original and proposed SMP (see Draft SMP Chapter 4, Over-Water Structures) provisions for piers.

Under the proposed SMP, new piers will be smaller and narrower than piers approved under the original SMP. New and replacement piers will also include light-transmitting decking material for at least the first 30 feet from shore, which will reduce the effect of the overwater cover. Nevertheless, if new piers were the only pier-related activity in Lake Stevens, ecological function would still marginally decline. The decline would be due to an unavoidable net increase in in-water structures and overwater cover that cannot be mitigated.

However, pier repair and pier maintenance activities are more common, and it is anticipated that pier replacement proposals may become even more common as existing piers degrade or do not meet the property owner's needs in their current configuration or location. Under the proposed SMP, existing piers could be replaced at the same size as the existing pier, as long as the entire replacement pier contained light-transmitting decking material.

**Table 7.** Comparison of key differences between original and proposed SMP provisions for new over-water structures.

Pier Feature	Original SMP	Proposed SMP
Length	No longer than adjacent piers or 50-ft maximum	Length to reach a 5.5 foot water depth, maximum 200-ft
Width	No specification	4-ft walkway <sup>1</sup> 6-ft remainder of pier 8-ft ells/float 2-ft finger 4-ft ramp connecting to pier
Deck Material	No specification	All new and replacement piers must be grated at least the first 30 feet from shore
Size	No specification	1,200 sq. ft. (if maximum 200-ft length is necessary to reach a 5 ½-ft water depth)

<sup>1</sup>Exceptions: 1) 6 foot wide allowed if the dock remains entirely linear with no ell, float, or other configuration or if the dock is grated for the entire portion. 2) 8-foot wide if the items under (1) above are met AND two native, evergreen trees area planted along the shoreline within ten feet of the dock.

The Washington Department of Fish and Wildlife (WDFW) is typically requiring piers that are both smaller in overall size than average existing piers and also narrower in the nearshore area. However, WDFW will, on a case-by-case basis, consider replacement piers at the same size as the original pier if it can be thoroughly shown that the applicant has demonstrated a need for the pier, and that proper mitigation sequencing has been followed (avoidance, minimization, and mitigation). Grated decking is a mitigating factor that WDFW encourages. Any new or replacement pier would require a Hydraulic Project Approval (HPA) from WDFW, on whose guidelines the proposed SMP pier provisions are partially based. The combined effects of the City’s proposed SMP and permit approvals from WDFW will likely result in a reduction over time of the net amount of overwater coverage and an increase in the amount of light-transmitting decking.

A quantitative analysis is provided below (Table 8), based partially on Lake Stevens lake-wide trends and assumptions. This analysis assumes that 19 of the estimated 41 properties on Lake Stevens without piers will add piers within the next 20 years. Also assumed is that 15 percent of all existing piers will need replacement over the same time period. Assuming that all new and replacement pier structures will be grated at least in the first 30 feet from shore and that replacement pier structures can be replaced at the same size as the existing pier, the total area of overwater structure is not anticipated to significantly increase over this time period. Exceptions to the dimensional criteria provided for new piers, specifically the allowance for pier walkways to be 8 feet wide, are off-set by the requirement to plant at least two significant evergreen trees near the pier. Based on the evaluation of potential new piers, it is not likely that this exception will be utilized very often. Based on the calculations provided in Table 8, a net decrease of approximately 216 (0.0%) square feet of new cover is anticipated. As improvements will be made to nearshore conditions through the addition of grated decking within the first 30 feet from shore associated with most pier projects, net improvements in nearshore functions are anticipated.

**Table 8.** Comparison of build-out conditions for overwater structures.

	Existing	Build-Out	Net Change	% Change
Number of Piers	398	417 <sup>1</sup>	+19	+4.6
Average Area of piers (sq. ft.)	1,232	1,192 <sup>2</sup>	-40.0	-3.2
Total area of piers (sq. ft.)	490,215	489,999 <sup>3</sup>	-216	0.0

<sup>1</sup> Assumes that 19 of 41 existing properties without piers will construct a new pier over the next 20 years.

<sup>2</sup> Assumes 19 new piers at 436 ft<sup>2</sup> each (based upon proposed SMP width provisions and average length of existing piers – 64 ft) and 15 percent replacement of existing piers over 20 years (assumes replacement piers to be replaced at the same size – 1,231.7 ft<sup>2</sup> average).

<sup>3</sup> Assumes 19 new piers and 15 percent replacement piers are grated at least the first 30 feet from shore (grating is calculated to have 60 percent open space).

### 5.3 Shoreline Stabilization

New shoreline armoring typically has the following effects on ecological functions:

- Reduction in nearshore habitat quality for both aquatic and terrestrial species. Specifically, shoreline complexity and native emergent vegetation that provide forage and cover may be reduced or eliminated. Elimination of shallow-water habitat may also increase vulnerability of juvenile salmonids to aquatic predators.
- Reduction of natural sediment recruitment from the shoreline. This recruitment is necessary to replenish substrate and preserve shallow water conditions.
- Increase in wave energy at the shoreline if shallow water is eliminated, resulting in increased nearshore turbulence that can be disruptive to aquatic resources.

Under the proposed SMP (Chapter 4.C.2), new shoreline stabilization (using hard or soft methods) would only be allowed “to protect or support an existing or approved development, as necessary for human safety, for the restoration of ecological functions, or for hazardous substance remediation pursuant to Chapter 70.105D RCW.” It must be demonstrated in a study prepared by a qualified professional (e.g. geotechnical engineer) that the proposed stabilization is the least harmful method to the environment and the project will mitigate adverse impacts.

Proposals for hard stabilization methods (e.g. rock revetments, concrete walls, groins, etc.) must first demonstrate that softer methods using natural materials and non-structural solutions, including relocation or reconstruction of existing structures, are not feasible. Proposals for hard shoreline stabilization must show that the cumulative effect would have no net loss of shoreline ecological functions.

Replacement bulkheads may be permitted if there is a demonstrated need to protect principal uses or structures from erosion provided the proposed replacement structure does not encroach further waterward of the OHWM, all impacts are mitigated, and no net loss of shoreline ecological functions is assured.

Independent of regulations by other regulatory agencies, the proposed SMP ensures that shoreline stabilization projects will not degrade the baseline condition.

ATTACHMENT 4

The Army Corps of Engineers and WDFW have jurisdiction over new shoreline stabilization projects, and repairs or modifications to existing shoreline stabilization. As part of their efforts to minimize and compensate for shoreline stabilization-related impacts, both agencies encourage implementation of native shoreline enhancement for new shoreline stabilization projects. Further, they also strongly promote shoreline restoration and additional impact compensation measures for many shoreline armoring modification projects, including placement of gravel at the toe of the armoring to create shallow-water habitat, angling the armored face landward to reduce wave turbulence, and shifting the armoring as far landward as feasible.

Based on an evaluation of the City's GIS data, approximately 80 percent of developed properties within the Shoreline Residential environment along the Lake Stevens shoreline currently contain shoreline armoring. Therefore, the need for new shoreline stabilization is expected to be limited. As mentioned above, it must be demonstrated that there is a need to protect a proposed development from damage due to erosion caused by natural processes, such as currents, waves, or boat wakes. The proposed SMP includes incentives for the removal of existing bulkheads under the residential setback reduction alternatives.

Over time, the combined effects of the City's proposed SMP, and permit approvals from the WDFW and the Corps will likely result in a reduction over time of the net amount of hardened shoreline at the ordinary high water mark, an increase in shallow-water habitat, and an increase in shoreline vegetation within the Shoreline Residential environment.



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LAKE STEVENS CITY COUNCIL  
**STAFF REPORT**

**Council Agenda Date:** February 14, 2011

**Subject:** 2011 Budget Amendment #1

**Contact Person/Department:** Barb Lowe/ Finance      **Budget Impact:** Yes

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**RECOMMENDATION(S)/ACTION REQUESTED OF COUNCIL:**

Review Ordinance No. 847 Amending Ordinance No. 841

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**SUMMARY/BACKGROUND:**

Throughout the year the City Council authorizes various purchase requests and agreements. At the time of authorization, the budget impact is presented to the Council as part of the information required in order for the Council to make an informed decision. The budget amendment follows to adjust the specific line items that will be affected by purchase or contract award.

Detailed explanations of the changes requested are described below:

General Fund - 001

The change in beginning fund balance reflects the actual 2010 ending fund balance. The increase in expenditures is partially due to a carry-forward of the remaining 2010 budgeted expenditure for Economic Development (\$16,288), and the remainder of the Arts Commission budget (\$386). The ending fund balance reflects these changes.

Street Fund - 101

The change in beginning fund balance reflects the actual 2010 ending fund balance. The increase in expenditures is partially due to a carry-forward of the remaining 2010 budgeted expenditures for repairs and additions to the new City Shop (\$43,946), repairs to the PW Shop (\$22,134), and the 36<sup>th</sup> Street Bridge repair (\$13,548). In addition, the Safer Routes funds will be rolled forward and transferred to the Sidewalk Capital Project fund (\$157,958). The ending fund balance reflects these changes.

Sidewalk Capital Project Fund - 309

This is a newly established fund to account for revenues and expenditures related to sidewalk projects. The increased revenue reflects the transfer-in of budgeted Sidewalk and Safer Routes funds from the Street fund in the amounts of \$157,958 and \$432,780 respectively. The increase in expenditures reflects the budgeting of these funds in the new fund.

Storm & Surface Water Fund – 410

The change in beginning fund balance reflects the actual 2010 ending fund balance. The increase in expenditures reflects the City's additional contribution to the Aerator Replacement Fund now at 89.3%. The ending fund balance reflects these changes.

Equipment Fund – Computer – 510

The change in beginning fund balance reflects the actual 2010 ending fund balance. The

increased revenues reflect the Fire District's portion of the email archive system. The increase in expenditures reflects the full cost of the archive system including the District's portion.

The following funds are being amended due to changes in beginning and ending fund balances only, which reflect the actual 2010 ending fund balances:

- Street Reserve – 103
- Capital Project – Developer Contributions – 301
- Capital Improvements – REET I – 303
- Capital Improvements – REET II – 304
- Sewer – 401
- Equipment Fund – Police – 520
- Equipment Fund – PW – 530
- Aerator Replacement Fund – 540
- Refundable Deposits Fund – 621

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**APPLICABLE CITY POLICIES:**

In accordance with the Financial Management Policies, Budget Themes and Policies, and the Revised Code of Washington, changes in the adopted budget must be brought before the City Council.

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**BUDGET IMPACT:**

The budget ordinance will amend the revenues and expenditures in the funds set forth in the ordinance.

**ATTACHMENTS:**

- ▶ Exhibit A: Ordinance No. 847

**CITY OF LAKE STEVENS  
LAKE STEVENS, WASHINGTON  
ORDINANCE NO. 847**

AN ORDINANCE AMENDING ORDINANCE **841**, THE BUDGET FOR THE CITY OF LAKE STEVENS, WASHINGTON, FOR THE CALENDAR YEAR ENDING DECEMBER 31, 2011

WHEREAS, the City of Lake Stevens adopted the 2011 budget pursuant to Ordinance 841; and

WHEREAS, the City of Lake Stevens will incur expenditures in categories and amounts other than anticipated in the adopted budget;

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

SECTION 1. The 2011 budget, as adopted in Ordinance 841 is hereby amended as follows:

<i>Fund</i>	<i>Description</i>	<i>Current Budget</i>	<i>Amended Budget</i>	<i>Amount of Inc/(Dec)</i>	<i>ExpRev</i>
001 - General	Beginning Fund Balance	\$755,676	\$1,233,432	\$477,756	BegBal.
001 - General	Expenditures	\$8,104,371	\$8,121,045	\$16,674	Exp.
001 - General	Ending Fund Balance	\$957,086	\$1,418,168	\$461,082	EndBal.
101 - Street	Beginning Fund Balance	\$1,277,468	\$1,937,737	\$660,269	BegBal.
101 - Street	Expenditures	\$1,973,364	\$2,250,735	\$277,371	Exp.
101 - Street	Ending Fund Balance	\$1,007,615	\$1,390,513	\$382,898	EndBal.
103 - Street Reserve	Beginning Fund Balance	\$1,310	\$1,515	\$205	BegBal.
103 - Street Reserve	Ending Fund Balance	\$1,320	\$1,525	\$205	EndBal.
301 - Cap. Proj - Dev. Contrib.	Beginning Fund Balance	\$1,188,300	\$1,189,014	\$714	BegBal.
301 - Cap. Proj - Dev. Contrib.	Ending Fund Balance	\$1,212,300	\$1,213,014	\$714	EndBal.
303 - Cap. Imp. - REET I	Beginning Fund Balance	\$916,668	\$912,648	(\$4,020)	BegBal.
303 - Cap. Imp. - REET I	Ending Fund Balance	\$730,596	\$726,576	(\$4,020)	EndBal.
304 - Cap. Imp. - REET II	Beginning Fund Balance	\$768,246	\$761,456	(\$6,790)	BegBal.
304 - Cap. Imp. - REET II	Ending Fund Balance	\$519,999	\$513,209	(\$6,790)	EndBal.
309 - Sidewalk Capital Projects	Revenue	\$0	\$590,738	\$590,738	Rev.
309 - Sidewalk Capital Projects	Expenditures	\$0	\$590,738	\$590,738	Exp.
401 - Sewer	Beginning Fund Balance	\$309,950	\$305,188	(\$4,762)	BegBal.
401 - Sewer	Ending Fund Balance	\$311,382	\$306,620	(\$4,762)	EndBal.
410 - Storm & Surface Water	Beginning Fund Balance	\$298,245	\$332,103	\$33,858	BegBal.
410 - Storm & Surface Water	Expenditures	\$1,329,241	\$1,330,841	\$1,600	Exp.
410 - Storm & Surface Water	Ending Fund Balance	\$196,102	\$228,360	\$32,258	EndBal.
510 - Equip Fund - Computer	Beginning Fund Balance	\$61,012	\$60,951	(\$61)	BegBal.
510 - Equip Fund - Computer	Revenue	\$47,160	\$53,160	\$6,000	Rev.
510 - Equip Fund - Computer	Expenditures	\$38,000	\$44,000	\$6,000	Exp.

510 - Equip Fund - Computer	Ending Fund Balance	\$70,172	\$70,111	(\$61)	EndBal.
520 - Equip Fund - Police	Beginning Fund Balance	\$32,718	\$75,589	\$42,871	BegBal.
520 - Equip Fund - Police	Ending Fund Balance	\$33,018	\$75,889	\$42,871	EndBal.
530 - Equip Fund - PW	Beginning Fund Balance	\$156,919	\$158,666	\$1,747	BegBal.
530 - Equip Fund - PW	Ending Fund Balance	\$96,744	\$98,491	\$1,747	EndBal.
540 - Aerator Replacement	Beginning Fund Balance	\$36,821	\$37,784	\$963	BegBal.
540 - Aerator Replacement	Ending Fund Balance	\$77,321	\$78,284	\$963	EndBal.
621 - Refundable Deposits	Beginning Fund Balance	\$128,581	\$126,227	(\$2,354)	BegBal.
621 - Refundable Deposits	Ending Fund Balance	\$108,581	\$106,227	(\$2,354)	EndBal.

SECTION 2. Except as set forth above, all other provisions of Ordinance 841 shall remain in full force, unchanged.

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

PASSED by the City Council of the City of Lake Stevens this 28th day of February, 2011.

\_\_\_\_\_  
 Vern Little, Mayor

ATTEST/AUTHENTICATION:

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

APPROVED AS TO FORM:

First and Final Reading:  
 Published:  
 Effective:

\_\_\_\_\_  
 Grant Weed, City Attorney