



## **City of Lake Stevens Vision Statement**

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

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### **CITY COUNCIL REGULAR MEETING AGENDA Lake Stevens School District Educational Service Center (Admin. Bldg.) 12309 – 22<sup>nd</sup> Street NE, Lake Stevens**

**Tuesday, June 11, 2019 – 7:00 p.m.**

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

<b>CALL TO ORDER</b>	7:00 p.m.	Mayor
<b>PLEDGE OF ALLEGIANCE</b>		Mayor
<b>ROLL CALL</b>		
<b>APPROVAL OF AGENDA</b>		Council President
<b>CITIZEN COMMENTS</b>		
<b>NEW EMPLOYEE INTRODUCTIONS</b>	Cia, Police Canine James Douglas, Crew Worker II Steven Peterson, Crew Worker I Jason Thomsen, Crew Worker I	John D. Eric
<b>COUNCIL BUSINESS</b>		Council President
<b>MAYOR'S BUSINESS</b>		
<b>CITY DEPARTMENT REPORT</b>	Update	
<b>CONSENT AGENDA</b>	<ul style="list-style-type: none"><li>*A 2019 Vouchers</li><li>*B City Council Regular Meeting Minutes of May 14, 2019</li><li>*C City Council Special Meeting Minutes of May 21, 2019</li><li>*D City Council Workshop Meeting Minutes of June 4, 2019</li><li>*E City Council Special Meeting Minutes of June 4, 2019</li><li>*F Civil Service Commission: Reappointment of Ray Mitchell</li></ul>	Barb Kathy Kathy Kathy Kathy Mayor

**Lake Stevens City Council Regular Meeting Agenda**

**June 11, 2019**

- |    |  |         |
|----|--|---------|
| *G | Ordinance 1058 Amending LSMC 9 to Add a New Section 9.80 Camping | John D. |
| *H | Real Estate Purchase and Sale Agreement re Powerline Property    | Gene    |

**PUBLIC HEARING:**

**ACTION ITEMS:**

- |    |   |       |
|----|---|-------|
| *I | Ordinance No. 1057 Approving Amendments to the Shoreline Master Program                                 | Josh  |
| *J | 2019 Pavement Overlay Bid Award and Contract  | Grace |
| *K | Resolution 2019-11 Declaring Portions of Real Property Commonly Known as the Ridgeline Property Surplus | Russ  |
| *L | North Cove Park Pavilion/Main Street Bid Award  |       |

**DISCUSSION ITEMS:**

**EXECUTIVE SESSION:**

**ADJOURN**

* ITEMS ATTACHED	** ITEMS PREVIOUSLY DISTRIBUTED	# ITEMS TO BE DISTRIBUTED
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**THE PUBLIC IS INVITED TO ATTEND**

***Special Needs***

*The City of Lake Stevens strives to provide accessible opportunities for individuals with disabilities. Please contact Human Resources, City of Lake Stevens ADA Coordinator, (425) 622-9400, at least five business days prior to any City meeting or event if any accommodations are needed. For TDD users, please use the state's toll-free relay service, (800) 833-6384, and ask the operator to dial the City of Lake Stevens City Hall number.*

**NOTICE: All proceedings of this meeting are audio recorded, except Executive Sessions.**

# THERMOPLASTIC INSPECTION REPORT



**Erik Mangold, Engineering Tech**  
Email: [emangold@lakestevenswa.gov](mailto:emangold@lakestevenswa.gov)



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# Inspection Report

## Summary

The 2017 pavement markings contract performed by Stripe Rite, Inc. was executed on 12/09/2017 with the work accepted date of 1/09/2018 with for a contract total amount of \$289,157.90

As of May 2019 The quality of product, as well the proficiency of installation was called into question. City of Lake Stevens Public Works performed an inspection of all applied markings from contract stated above. Inspection consisted of visual verification of application as well as, a physical impact testing in areas that appeared to be improperly installed or did not show normal wear pattern.



# INSPECTION AREAS

The Following streets were verified during this inspection:

- LUNDEEN PARKWAY
- GRADE ROAD
- LAKE VIEW DRIVE
- 113<sup>th</sup> AVE NE
- 20<sup>TH</sup> ST NE
- 91<sup>ST</sup> AVE SE
- 20<sup>TH</sup> ST SE
- SR-204
- SR-9
- SR-92

In Total 82 intersections were inspected and most were found to be in good condition with appropriate amount of wear through the higher trafficked areas.

Of the 82 intersections, 5 were found to have problem areas with stop bars crumbling, or cross walk stripes chipping and falling away.



## Grade Rd

Grade Road & 26<sup>th</sup> St NE

Stop Bar - Improper adhesion

This area seemed to have higher traffic wear than would be expected and was also chipping up and flaking off. Perhaps due to improper application, ie. Asphalt not heated properly before installation or not clean.



## 113<sup>th</sup> AVE NE

113<sup>th</sup> Ave NE & 32<sup>nd</sup> St NE

North Intersection Cross Walk -  
Improper adhesion/ defective  
thermoplastic

The majority of the crosswalk was in good condition, especially due to the high volume of traffic. There was one stripe however that seemed to be chipping up and could be broken apart with only a toe kick of the boot.





## 113<sup>th</sup> Ave NE

113<sup>th</sup> Ave NE & 30<sup>th</sup> St NE

West Intersection Cross Walk

Due to this being near the High School, this is a very heavily trafficked area and it shows. The road is in poor condition with numerous cracks and patches, also contributing to the early wearing. The thermoplastic was chipping and flaking very heavily and in some areas missing completely.



## 20<sup>th</sup> Street NE

20<sup>th</sup> St NE & 118<sup>th</sup> Ave NE

South Stop Bar | East Cross Walk -  
possible improper application /  
Defective Thermoplastic

This area seemed to have higher traffic wear than would be expected and was also chipping up and flaking off. Perhaps due to improper application, ie. Asphalt not heated properly before installation or not clean.



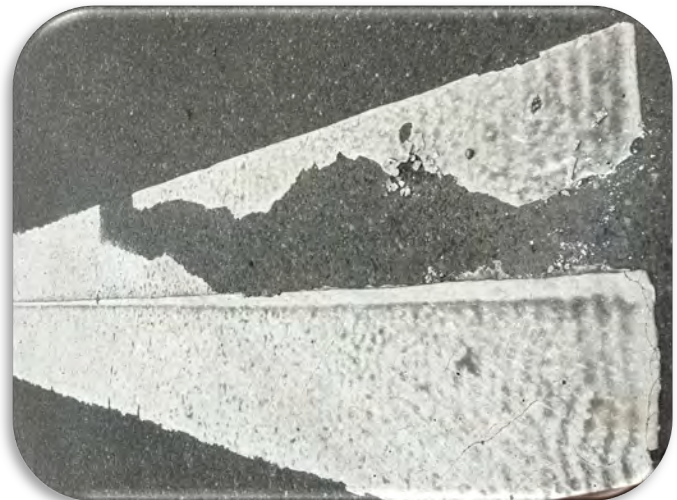


## Lundeen Parkway

Lundeen Pkwy & 12<sup>th</sup> PI NE

East Intersection Cross Walk -  
Improper adhesion / defective  
thermoplastic

5 of the 6 cross walk bars were in great condition. However the 6<sup>th</sup> bar was coming apart quite a lot, with it chipping and flaking very easily with little impact.



## Conclusion

Overall the thermoplastic markings applied during 2017 have held up very well. There are obvious signs of wear, but most of the wear is to be expected in the highly trafficked areas, with the less traveled routes being in very good condition. The ratio of failed installation or defective product is at 6%, leaving 94% of the product and installation being in good condition and wearing adequately. It may be necessary to repair or replace the few locations. However, overall the city can keep with its marking overlay schedule.





Priority	Application Road	Intersecting Road	Quadrant	Stop Bar (SF)	Crosswalk (SF)	LT Arrows (EA)	RT Arrows (EA)	ONLY (EA)	Merge Left Arrows (EA)	Yield Chevrons (EA)	YIELD (EA)	New?
School Zones												
1	113th Avenue NE	36th Street NE	E/W	60	280	0	0	0	0	0	0	
1	113th Avenue NE	34th Street NE	S/E	30	280	0	0	0	0	0	0	
1	113th Avenue NE	32nd Street NE	N/S/E	120	320	0	0	0	0	0	0	
1	113th Avenue NE	30th Street NE	N/S/W	100								
Priority	Application Road	Intersecting Road	Quadrant	Stop Bar (SF)	Crosswalk (SF)	LT Arrows (EA)	RT Arrows (EA)	ONLY (EA)	Merge Left Arrows (EA)	Yield Chevrons (EA)	YIELD (EA)	New?
1	Lake View Drive	Cedar Road	N	*See attach								
1	SR-204	Lundeen Parkway	NW/SE	140	448	4	2	0	0	0	0	
1	SR-204	91st Avenue NE	N/S	116	480	4	0	0	0	0	0	
1	SR-204	81st Avenue SE	N	100	0	0	0	0	0	0	0	
1	SR-204	10th Street SE	NW/SE	92	0	0	0	0	0	0	0	
1	SR-9	Lundeen Parkway	E/W	196	496	12	2	0	4	0	0	
1	SR-9	Market Place	E/W	132	500	4	0	0	0	0	0	
1	SR-9	4th Street SE	E/W	30	0	0	1	1	0	0	0	
1	SR-9	20th Street SE	E/W	80	500	8	0	0	0	0	0	
1	SR-92	Callow Road	S	50	0	0	0	0	0	0	0	
1	SR-92	Grade Road	S	50	0	0	0	0	0	0	0	
1	SR-92	127th Drive NE	S	30	0	0	1	0	0	0	0	
1	20th Street SE	91st Avenue SE	N/E/W	200	620	4	2	0	0	0	0	
1	20th Street SE	99th Avenue SE	N/S/E/W	272	860	7	0	0	0	0	0	
1	20th Street SE	S. Lake Stevens Road	N/S/E/W	350	1020	11	5	0	0	0	0	
1	91st Avenue SE	9th Place SE	W	40	0	0	0	0	0	0	0	
1	91st Avenue SE	8th Street SE	E/W	60	140	0	0	0	0	0	0	X
1	91st Avenue SE	4th Street SE	N/W	40	100	0	0	0	0	0	0	X
1	91st Avenue NE	Vernon Road	E/W	120	80	0	1	0	0	0	0	
1	Lundeen Parkway	Vernon Road	SW/NE/NW	100	280	0	0	0	2	0	0	X
1	Lundeen Parkway	10th Street NE	N/S/E/W	160	520	4	0	0	0	0	0	
1	Lundeen Parkway	15th Street NE	N/S/E/W	180	520	4	0	0	0	0	0	
1	Lundeen Parkway	99th Avenue SE	N/S/E/W	140	0	4	1	1	0	0	0	
1	Lundeen Parkway	101st Avenue SE	N/S/E/W	80	200	2	2	0	0	0	0	
1	Lundeen Parkway	Callow Road	N/S/E/W	0	480	0	0	0	0	20	4	
1	20th Street NE	114th Avenue NE	S/W	30	100	0	0	0	0	0	0	X
1	20th Street NE	118th Avenue NE	S/W	30	100	0	0	0	0	0	0	
1	20th Street NE	123rd Avenue NE	N/S/E/W	120	260	0	0	0	0	0	0	
1	20th Street NE	Main Street	N/S/E/W	150	300	0	0	0	0	0	0	
1	20th Street NE	131st Avenue NE	N/W	30	100	0	0	0	0	0	0	
2	SR-9	Soper Hill Road	E/W	74	420	0	2	0	0	0	0	
2	Lundeen Parkway	12th Street NE	E	30	100	0	0	0	0	0	0	X
2	Lundeen Parkway	12th Place NE	N/S/E/W	60	200	0	0	0	0	0	0	X
2	Lundeen Parkway	17th Street NE	SE	40	140	0	0	0	0	0	0	X
2	Lundeen Parkway	Lake Drive	N/S/E/W	0	560	0	0	0	2	24	4	
2	20th Street NE	116th Avenue NE	N	30	140	0	0	0	0	0	0	X
2	20th Street NE	117th Avenue NE	N	30	140	0	0	0	0	0	0	X
2	20th Street NE	125th Avenue NE	S	30	140	0	0	0	0	0	0	X
2	Grade Road	30th Street NE	N/S/E/W	90	620	0	0	0	0	0	0	X
2	Grade Road	36th Street NE	E	50	0	0	0	0	0	0	0	X

3	91st Avenue SE	17th Street SE	W	60	100	0	0	0	0	0	0	X
3	91st Avenue SE	16th Place SE	E/W	90	100	0	0	0	0	0	0	X
3	91st Avenue SE	15th Place SE	E/W	80	100	0	0	0	0	0	0	X
3	91st Avenue SE	12th Place SE	W	30	100	0	0	0	0	0	0	X
3	91st Avenue SE	11th Place SE	W	40	0	0	0	0	0	0	0	
3	91st Avenue SE	10th Place SE	W	40	0	0	0	0	0	0	0	
3	20th Street NE	Cedar Road	N	30	0	0	0	0	0	0	0	
3	Grade Road	22nd Street NE	W	50	140	0	0	0	0	0	0	X
3	Grade Road	32nd Street NE	W	40	0	0	0	0	0	0	0	X
4	SR-204	71st Avenue SE	SE	30	120	0	1	1	0	0	0	
4	20th Street SE	94th Drive SE	N	30	140	0	0	0	0	0	0	X
4	91st Avenue SE	19th Place SE	W	30	100	0	0	0	0	0	0	X
4	91st Avenue SE	7th Street SE	E	40	0	0	0	0	0	0	0	X
4	20th Street NE	112th Drive NE	N	40	140	0	0	0	0	0	0	X
4	20th Street NE	114th Drive NE	N/S	60	100	0	0	0	0	0	0	X
4	20th Street NE	130th Drive NE	N/W	30	100	0	0	0	0	0	0	
4	20th Street NE	131st Drive NE	S	30	100	0	0	0	0	0	0	X
4	Grade Road	Meadow Drive	W	50	140	0	0	0	0	0	0	X
4	Grade Road	26th Street NE	W	50	140	0	0	0	0	0	0	X
4	Grade Road	28th Place NE	W	50	140	0	0	0	0	0	0	X
4	Grade Road	29th Place NE	W	50	140	0	0	0	0	0	0	X
5	20th Street SE	75th Avenue SE	N/S/E/W	200	300	4	0	0	0	0	0	
5	20th Street SE	79th Avenue SE	N/S/E/W	256	580	8	4	0	0	0	0	
5	20th Street SE	83rd Avenue SE	N/S/E/W	190	660	4	0	0	0	0	0	
5	20th Street SE	85th Drive SE	N	30	0	0	0	0	0	0	0	X
5	20th Street SE	88th Drive SE	N	70	0	0	0	0	0	0	0	X
5	20th Street SE	88th Avenue SE	S	30	0	0	0	0	0	0	0	X
5	20th Street SE	92nd Drive SE	S	30	140	0	0	0	0	0	0	X
5	20th Street SE	93rd Drive SE	S	30	140	0	0	0	0	0	0	X
5	20th Street SE	97th Avenue SE	N	30	140	0	0	0	0	0	0	X
5	91st Avenue SE	2nd Place SE	W	30	100	0	0	0	0	0	0	X
5	91st Avenue SE	1st Place SE	W	30	100	0	0	0	0	0	0	X
5	91st Avenue NE	Meridian Place	E	30	0	0	0	0	0	0	0	X
5	91st Avenue NE	1st Place NE	E	30	0	0	0	0	0	0	0	X
5	Lundeen Parkway	8th Place NE	W	30	100	0	0	0	0	0	0	X
5	Lundeen Parkway	Sandy Beach Drive	S	30	140	0	0	0	0	0	0	X
5	20th Street NE	127th Avenue NE	N/S/E/W	60	620	0	0	0	0	0	0	
New				5918	16364	84	24	3	8	44	8	
Remove				4148	11724	84	24	3	6	44	8	



**CITY DEPARTMENT REPORT  
CITY COUNCIL REGULAR MEETING  
June 11, 2019**

**Public Works – Update**

Professional Services Agreement with Pacific Rim Environmental for asbestos and lead paint testing of structures at 12202 Vernon Road (Williams property) in the amount of \$12,100.00



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BLANKET VOUCHER APPROVAL  
**2019**

Payroll Direct Deposits	5/24/2019	\$219,214.94
Payroll Checks	47889-47892	\$3,727.17
Electronic Funds Transfers	ACH	\$143,406.13
Claims	47893-48014	\$1,325,011.79
Void Checks		
Total Vouchers Approved:		\$1,691,360.03

**This 11th day of June 2019**

I, the undersigned, do hereby certify under penalty of perjury that the materials have been furnished, the services rendered or the labor performed as described herein, that any advance payment is due and payable pursuant to a contract or is available as an option for full or partial fulfillment or a contractual obligation, and that the claim is a just, due and unpaid obligation against the City of Lake Stevens, and that I am authorized to authenticate and certify to said claim.

\_\_\_\_\_  
Finance Director/Auditing Officer

\_\_\_\_\_  
Mayor

We, the undersigned Council members of the City of Lake Stevens, Snohomish County, Washington, do hereby approve for payment of the above mentioned claims:

\_\_\_\_\_  
Councilmember

\_\_\_\_\_  
Councilmember

\_\_\_\_\_  
Councilmember

\_\_\_\_\_  
Councilmember

\_\_\_\_\_  
Councilmember

\_\_\_\_\_  
Councilmember

\_\_\_\_\_  
Councilmember

June 11th, 2019



**City Expenditures by Type on this voucher packet**

Personnel Costs	\$	222,942	13%
Payroll Federal Taxes	\$	80,893	5%
Retirement Benefits - Employer	\$	55,593	3%
Other Employer paid Benefits	\$	965	0%
Employee paid benefits - By Payroll	\$	10,616	1%
Supplies	\$	47,951	3%
Professional Services *	\$	132,866	8%
Intergovernmental	\$	57,520	3%
Capital **	\$	176,779	10%
Debt Payments	\$	905,234	54%
<b>Total</b>	<b>\$</b>	<b>1,691,360</b>	<b>100%</b>

\* LS Bridge Loading Analysis - \$17,657

\*\* North Cove Park Plaza Design - \$40,342



Vendor: Ace Hardware  
Check Number: 47900

Invoice No	Check Date	Account Number	Account Name	Description	Amount
62809	6/5/2019	410 016 531 10 35 00	SW-Small Tools	Angle Grinder	\$108.99
62811	6/5/2019	410 016 531 10 31 02	SW-Operating Costs	Rope Hook	\$29.86
62851	6/5/2019	001 010 576 80 31 00	PK-Operating Costs	Grade Stakes	\$50.12
62865	6/5/2019	410 016 531 10 31 02	SW-Operating Costs	Poly Rope	\$108.99
62907	6/5/2019	410 016 531 10 31 02	SW-Operating Costs	Quick Link/Chain Proof	\$111.08
62918	6/5/2019	001 013 518 20 48 00	GG-Repair & Maintenance	Bits	\$29.41
62919	6/5/2019	410 016 531 10 31 02	SW-Operating Costs	Liqtite Fit/Washer Reduce/Outlet Box	\$101.42
62931	6/5/2019	001 013 518 20 48 00	GG-Repair & Maintenance	Carabiner Hook/Batteries	\$11.97
62940	6/5/2019	001 013 518 20 48 00	GG-Repair & Maintenance	Carabiner Hook/Plugs/Bolt Eye/Connectors	\$58.75
62941	6/5/2019	410 016 531 10 31 02	SW-Operating Costs	Air Freshener	\$3.47
62958	6/5/2019	001 010 576 80 31 00	PK-Operating Costs	Pop Up Body Only	\$26.09
62963	6/5/2019	410 016 531 10 31 02	SW-Operating Costs	Plier Groove/Wrench	\$46.85
62964	6/5/2019	410 016 531 10 31 02	SW-Operating Costs	Claw Hammer/Utility Knife/Sharpis	\$103.04
63001	6/5/2019	410 016 531 10 31 02	SW-Operating Costs	Fasteners	\$19.98
63017	6/5/2019	101 016 544 90 31 02	ST-Operating Cost	Couple PVC	\$2.16
63021	6/5/2019	101 016 544 90 31 02	ST-Operating Cost	Conduit/PVC Supplies/Couplers	\$38.80
63030	6/5/2019	001 010 576 80 31 00	PK-Operating Costs	Conduit/PVC Strap/Ties	\$32.86
					883.84

Vendor: Active Excavator Rentals Inc  
Check Number: 47901

Invoice No	Check Date	Account Number	Account Name	Description	Amount
9739	6/5/2019	305 010 594 76 60 00	North Cove Park Cap-Local	Dozer Rental North Cove	\$5,499.45
9753	6/5/2019	305 010 594 76 60 00	North Cove Park Cap-Local	Roller Rental One Month North Cove	\$4,441.75
9805	6/5/2019	305 010 594 76 60 00	North Cove Park Cap-Local	Excavator Hauled from jobsite North Cove	\$442.27
9806	6/5/2019	305 010 594 76 60 00	North Cove Park Cap-Local	Excavator Rental One Month North Cove	\$7,114.98
					17,498.45

Vendor: AG Enterprise Supply Inc  
Check Number: 47902

Total for Period

**\$1,468,417.92**

**Checks to be Approved for Period Between 5/16/2019 - 6/5/2019**

Invoice No	Check Date	Account Number	Account Name	Description	Amount
INV035734	6/5/2019	101 016 544 90 31 02	ST-Operating Cost	Screen Mesh	\$69.97
					69.97

Vendor: Alco Pro

Check Number: 47903

Invoice No	Check Date	Account Number	Account Name	Description	Amount
0224211-IN	6/5/2019	001 008 521 20 31 01	LE-Fixed Minor Equipment	Alco-Sensor FST-Air Blank	\$561.00
					561.00

Vendor: Allred

Check Number: 47904

Invoice No	Check Date	Account Number	Account Name	Description	Amount
Dep Refund	6/5/2019	302 010 594 76 61 01	PM - North Cove Capital	Deposit refund for 12207 N Lake Shore Drive	\$500.00
					500.00

Vendor: Amazon Capital Services

Check Number: 47905

Invoice No	Check Date	Account Number	Account Name	Description	Amount
13MR-61JP-L79J	6/5/2019	001 008 521 20 31 02	LE-Minor Equipment	Ethernet Cable	\$21.77
16GN-9TRG-LFCH	6/5/2019	001 008 521 20 31 00	LE-Office Supplies	DVD Drive	\$42.16
1FMG-NWNM-R6V	6/5/2019	001 008 521 20 31 01	LE-Fixed Minor Equipment	Listen Only Surveillance Headset	\$34.84
1JQR-F1LR-QFTG	6/5/2019	001 008 521 20 31 02	LE-Minor Equipment	Neomarker Large Waterproof Marker	\$87.60
1MRW-JJQ3-NPJC	6/5/2019	001 008 521 20 31 01	LE-Fixed Minor Equipment	Wire Surveillance Earpiece	\$85.02
1NRW-FT6V-HWC	6/5/2019	001 008 521 20 31 01	LE-Fixed Minor Equipment	Pelican Foam Set	\$26.13
1VGF-X6TP-P744	6/5/2019	001 008 521 20 31 00	LE-Office Supplies	Office Document Scanner	\$973.54
					1,271.06

Check Number: 47906

Invoice No	Check Date	Account Number	Account Name	Description	Amount
16N7-9KQV-3WNY	6/5/2019	101 016 544 90 31 01	ST-Office Supplies	Long Wired Headphones	\$14.16
16N7-9KQV-3WNY	6/5/2019	410 016 531 10 31 01	SW-Office Supplies	Long Wired Headphones	\$14.16
1DHF-MG4J-VWM	6/5/2019	001 013 518 20 48 00	GG-Repair & Maintenance	Toilet Paper Holder with Shelf - City Hall	\$74.12
					102.44

Vendor: Amec Foster Wheeler Environmental Inc

Check Number: 47907

Invoice No	Check Date	Account Number	Account Name	Description	Amount
S51701333	6/5/2019	305 010 594 76 60 00	North Cove Park Cap-Local	Cultural Resources Survey North Cove	\$3,191.19
S51701334	6/5/2019	305 010 594 76 60 00	North Cove Park Cap-Local	North Cove Archaeological Monitoring Services	\$4,014.41
					7,205.60

Vendor: Anderson

Check Number: 47908



Invoice No	Check Date	Account Number	Account Name	Description	Amount
061919 ANDERSO	6/5/2019	001 008 521 20 43 00	LE-Travel & Per Diem	PerDiem - Meals ACCESS TAC Training Edmonds - Anderson	\$20.00
					20.00

Check Number: 47909

Invoice No	Check Date	Account Number	Account Name	Description	Amount
051619 ANDERSO	6/5/2019	003 007 558 50 41 00	Developer Reimbursement	LUA2018-0137 Developer Refund	\$431.21
					431.21

Vendor: ARMA International

Check Number: 47910

Invoice No	Check Date	Account Number	Account Name	Description	Amount
PRO50655954	6/5/2019	001 008 521 20 49 00	LE-Dues & Memberships	ARMA International Professional Membership - Ubert	\$175.00
					175.00

Vendor: Aukerman

Check Number: 47911

Invoice No	Check Date	Account Number	Account Name	Description	Amount
062419 AUKERMA	6/5/2019	001 008 521 20 43 00	LE-Travel & Per Diem	PerDiem - Meals CDR Tech Training Everett - Aukerman	\$40.00
062619 AUKERMA	6/5/2019	001 008 521 20 43 00	LE-Travel & Per Diem	PerDiem - Meals PD Motorcycle Shelton - Aukerman	\$135.00
					175.00

Vendor: Barrett

Check Number: 47912

Invoice No	Check Date	Account Number	Account Name	Description	Amount
1762	6/5/2019	410 016 531 10 31 02	SW-Operating Costs	Dump Truck	\$375.00
1782	6/5/2019	001 010 576 80 31 00	PK-Operating Costs	Dump Truck - Boat Launch	\$2,962.50
1783	6/5/2019	305 010 594 76 60 00	North Cove Park Cap-Local	Dump Truck - Williams Property North Cove	\$675.00
1784	6/5/2019	410 016 531 10 31 02	SW-Operating Costs	Street Sweepings Disposal	\$540.00
1789	6/5/2019	305 010 594 76 60 00	North Cove Park Cap-Local	Dump Truck - Williams Property North Cove	\$540.00
1813	6/5/2019	302 010 594 76 61 01	PM - North Cove Capital	Dump Truck North Cove - Williams Property	\$712.50
					5,805.00

Vendor: Bernhard

Check Number: 47913

Invoice No	Check Date	Account Number	Account Name	Description	Amount
061919 BERNHAR	6/5/2019	001 008 521 20 43 00	LE-Travel & Per Diem	PerDiem - Meal Elder Financial Abuse Burien - Bernhard	\$23.00
					23.00

Vendor: Bickford Motors Inc

Check Number: 47914

Invoice No	Check Date	Account Number	Account Name	Description	Amount
1155884	6/5/2019	001 010 576 80 31 00	PK-Operating Costs	Gaskets/Thermostat/Seal PW5	\$25.67
1156412	6/5/2019	001 010 576 80 31 00	PK-Operating Costs	Step Asy PW74	\$648.55

674.22

Vendor: Bryant  
Check Number: 47915

Invoice No	Check Date	Account Number	Account Name	Description	Amount
061819 BRYANT	6/5/2019	001 008 521 20 43 00	LE-Travel & Per Diem	PerDiem - Meal CIT-Youth Training Burien - Bryant	\$23.00
					23.00

Vendor: Cadman Inc  
Check Number: 47916

Invoice No	Check Date	Account Number	Account Name	Description	Amount
1670457	6/5/2019	101 016 544 90 31 02	ST-Operating Cost	Flat Top Bin Blocks	\$295.11
1670457	6/5/2019	410 016 531 10 31 02	SW-Operating Costs	Flat Top Bin Blocks	\$295.11
					590.22

Vendor: Canon Financial Services Inc  
Check Number: 47917

Invoice No	Check Date	Account Number	Account Name	Description	Amount
20103622	6/5/2019	001 013 518 20 48 00	GG-Repair & Maintenance	Copier Maintenance - City Hall May 2019	\$285.26
20104528	6/5/2019	101 016 542 30 48 00	ST-Repair & Maintenance	Copier Maintenance - City Shop May 2019	\$17.08
20104528	6/5/2019	410 016 531 10 48 00	SW-Repairs & Maintenance	Copier Maintenance - City Shop May 2019	\$17.08
					319.42

Vendor: CDW Government Inc  
Check Number: 47918

Invoice No	Check Date	Account Number	Account Name	Description	Amount
SJD5265	6/5/2019	001 006 518 80 31 00	IT-Office Supplies	Fortinet Conterm Renewal	\$457.80
					457.80

Vendor: Cedar Grove Composting Inc  
Check Number: 47919

Invoice No	Check Date	Account Number	Account Name	Description	Amount
0000450421	6/5/2019	305 010 594 76 60 00	North Cove Park Cap-Local	Topsoil North Cove	\$381.50
0000450586	6/5/2019	305 010 594 76 60 00	North Cove Park Cap-Local	Topsoil North Cove	\$3,052.00
0000454164	6/5/2019	305 010 594 76 60 00	North Cove Park Cap-Local	Topsoil North Cove	\$3,052.00
0000454214	6/5/2019	305 010 594 76 60 00	North Cove Park Cap-Local	Topsoil North Cove	\$3,052.00
0000454271	6/5/2019	305 010 594 76 60 00	North Cove Park Cap-Local	Topsoil North Cove	\$3,052.00
0000455301	6/5/2019	305 010 594 76 60 00	North Cove Park Cap-Local	Topsoil North Cove	\$3,052.00
					15,641.50

Vendor: Chilwon Corporation  
Check Number: 47920

Invoice No	Check Date	Account Number	Account Name	Description	Amount
LSPD007	6/5/2019	001 008 521 20 41 01	LE-Professional Serv-Fixed	Uniform Cleaning - PD	\$454.39

454.39

Vendor: CHS Engineers LLC  
Check Number: 47921

Invoice No	Check Date	Account Number	Account Name	Description	Amount
371705-1904	6/5/2019	001 007 558 50 41 04	Permit Related Professional Sr	Nourse Development Civil Review	\$2,512.74
371814-1904	6/5/2019	001 007 558 50 41 00	PL-Professional Servic	LUA2018-0161 Lyons Gate I - Final Plat Review	\$630.88
371815-1904	6/5/2019	001 007 558 50 41 00	PL-Professional Servic	LUA2018-0160 Lyons Gate II - Final Plat Review	\$630.88
371906-1904	6/5/2019	001 007 558 50 41 04	Permit Related Professional Sr	LUA2019-0054/LUA2019-0055 2BR Development Review	\$1,281.76
371907-1904	6/5/2019	001 007 558 50 41 04	Permit Related Professional Sr	LUA2019-0048 Pellerin Ridge Construction Plan Review	\$1,118.27
371908-1904	6/5/2019	001 007 558 50 41 00	PL-Professional Servic	LUA2019-0062 J Kainzt Final Plan Review	\$561.06
371909-1904	6/5/2019	001 007 558 50 41 00	PL-Professional Servic	LUA2019-0059 Fairview Terrace Final Plan Review	\$1,072.24
37701-1904	6/5/2019	410 016 531 10 41 01	SW-Professional Services	General Engineering Services	\$846.45
					8,654.28

Vendor: City of Everett  
Check Number: 47922

Invoice No	Check Date	Account Number	Account Name	Description	Amount
I19001812	6/5/2019	001 008 554 30 41 00	LE - Animal Control	Animal Control Services April 2019	\$2,145.00
					2,145.00

Vendor: City of Marysville  
Check Number: 47923

Invoice No	Check Date	Account Number	Account Name	Description	Amount
19-007	6/5/2019	001 008 523 60 51 00	LE-Jail	Marysville Court Citations April 2019	\$14,882.21
					14,882.21

Vendor: Coast Gateway Hotel  
Check Number: 47924

Invoice No	Check Date	Account Number	Account Name	Description	Amount
533218	6/5/2019	001 008 521 20 43 00	LE-Travel & Per Diem	Hotel - Patrol Tactics Instructor Burien - Wells	\$510.20
533923	6/5/2019	001 008 521 20 43 00	LE-Travel & Per Diem	Hotel - Patrol Tactics Instructor Burien - Wells	\$510.20
535413	6/5/2019	001 008 521 20 43 00	LE-Travel & Per Diem	Hotel - DT Mast Inst Recert Burien - Holland	\$510.20
					1,530.60

Vendor: Code Publishing Co Inc  
Check Number: 47925

Invoice No	Check Date	Account Number	Account Name	Description	Amount
63601	6/5/2019	001 003 514 20 41 00	CC-Professional Services	Muni Code Update Ordinances 1036/1053-1056	\$272.94
					272.94

Vendor: Cornelius  
Check Number: 47926

Invoice No	Check Date	Account Number	Account Name	Description	Amount
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050619CORNELIU	6/5/2019	001 000 322 90 00 00	Weapon License Permit - Local	CPL Refund	\$14.00
050619CORNELIU	6/5/2019	633 000 389 30 00 02	Gun Permit Fees	CPL Refund	\$18.00
					32.00

Vendor: Crim

Check Number: 47927

Invoice No	Check Date	Account Number	Account Name	Description	Amount
060219 CRIM	6/5/2019	001 003 514 20 43 00	CC-Travel & Meetings	PerDiem - Mileage/Meals 2019 Clerks Institute Tacoma - Crim	\$120.63
					120.63

Vendor: Criteria Corporation

Check Number: 47893

Invoice No	Check Date	Account Number	Account Name	Description	Amount
20202	5/28/2019	001 005 518 10 41 00	HR-Professional Services	HireSelect subscription May2019-2020	\$2,520.00
					2,520.00

Vendor: Crystal Springs

Check Number: 47928

Invoice No	Check Date	Account Number	Account Name	Description	Amount
16015194 042719	6/5/2019	001 008 521 50 30 00	LE-Facilities Supplies	Bottled Water - Police Department	\$87.94
					87.94

Vendor: Daily Journal of Commerce Inc

Check Number: 47929

Invoice No	Check Date	Account Number	Account Name	Description	Amount
3348202	6/5/2019	305 010 594 76 60 00	North Cove Park Cap-Local	Advertisment North Cove Plaza/Pavillion Project 18012	\$474.60
					474.60

Vendor: Davido Consulting Group Inc

Check Number: 47930

Invoice No	Check Date	Account Number	Account Name	Description	Amount
23433	6/5/2019	410 016 531 10 41 01	SW-Professional Services	Callow Road Engineering Services	\$835.16
24019	6/5/2019	309 016 595 61 60 01	Safer Routes - 91st/4th St.SE	91st Ave Improvement Project	\$2,387.04
24774	6/5/2019	410 016 531 10 41 01	SW-Professional Services	Callow Road Engineering Services	\$345.25
					3,567.45

Vendor: Day Wireless Systems

Check Number: 47931

Invoice No	Check Date	Account Number	Account Name	Description	Amount
488080	6/5/2019	001 008 521 20 41 01	LE-Professional Serv-Fixed	Calibrate New SMD Unit	\$76.86
					76.86

Vendor: Dept of Commerce

Check Number: 47932

Invoice No	Check Date	Account Number	Account Name	Description	Amount
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PWTF-181165	6/5/2019	401 070 591 35 71 02	PWTF 2006 - Principal	PWTF LOAN # PW-06-962-020 - Principal	\$409,539.47
PWTF-181165	6/5/2019	401 070 592 35 83 02	PWTF 2006 - Interest	PWTF LOAN # PW-06-962-020 - Interest	\$16,381.58
PWTF-330582	6/5/2019	401 070 591 35 71 03	PWTF 2008 - Principal	PWTF LOAN # PC08-951-023 - Principal	\$301,734.45
PWTF-330582	6/5/2019	401 070 592 35 83 03	PWTF 2008 - Interest	PWTF LOAN # PC08-951-023 - Interest	\$30,173.44
PWTF-81242	6/5/2019	401 070 591 35 71 00	PWTF 2002 - Principal	PWTF LOAN # PW-02-691-029 - Principal	\$85,691.18
PWTF-81242	6/5/2019	401 070 592 35 83 00	PWTF 2002 - Interest	PWTF LOAN # PW-02-691-029 - Interest	\$1,713.82
PWTF-98981	6/5/2019	401 070 591 35 71 01	PWTF 2005 - Principal	PWTF LOAN # PW-05-691-PRE-137 - Principal	\$52,631.58
PWTF-98981	6/5/2019	401 070 592 35 83 01	PWTF 2005 - Interest	PWTF LOAN # PW-05-691-PRE-137 - Interest	\$7,368.42
					905,233.94

Vendor: Dept of Retirement (Deferred Comp)

Check Number: 0

Invoice No	Check Date	Account Number	Account Name	Description	Amount
052519	5/28/2019	001 000 282 00 00 00	Payroll Liability Retirement	Employee Portion-State Deferre	\$2,770.00
					2,770.00

Vendor: Dept of Retirement PERS LEOFF

Check Number: 0

Invoice No	Check Date	Account Number	Account Name	Description	Amount
052519	5/28/2019	001 000 282 00 00 00	Payroll Liability Retirement	PERS LEOFF Contributions	\$55,593.32
					55,593.32

Vendor: Design West Engineering Inc

Check Number: 47933

Invoice No	Check Date	Account Number	Account Name	Description	Amount
16703	6/5/2019	305 010 594 76 60 00	North Cove Park Cap-Local	Pavilion Design Services	\$23,400.00
					23,400.00

Vendor: Dicks Towing Inc

Check Number: 47934

Invoice No	Check Date	Account Number	Account Name	Description	Amount
180386	6/5/2019	001 008 521 20 41 00	LE-Professional Services	Evidence Towing 2019-08426	\$126.27
185243	6/5/2019	001 008 521 20 41 00	LE-Professional Services	Evidence Towing 2019-09255	\$82.35
					208.62

Vendor: Dunlap Industrial Hardware

Check Number: 47935

Invoice No	Check Date	Account Number	Account Name	Description	Amount
1428811-01	6/5/2019	101 016 542 30 26 00	ST-Boot - Clothing Allowance	Steel-Toe Boots/Waterproof Jacket/Shelter Blb	\$341.85
1428897-01	6/5/2019	101 016 542 30 26 00	ST-Boot - Clothing Allowance	T-Shirts/Hoodie	\$259.89
1428920-01	6/5/2019	001 010 576 80 31 00	PK-Operating Costs	Rubber Boots/Hi-Viz P/O SS	\$263.43
					865.17

Vendor: E&E Lumber Inc

Check Number: 47936

Invoice No	Check Date	Account Number	Account Name	Description	Amount
150557	6/5/2019	101 016 542 61 31 00	ST-Sidewalk Repair Supply	Douglas Fir Premium	\$2,054.34
150686	6/5/2019	101 016 542 61 31 00	ST-Sidewalk Repair Supply	Exterior Screw/Doug Fir/Stakes	\$425.05
150707	6/5/2019	101 016 542 61 31 00	ST-Sidewalk Repair Supply	Stakes	\$38.20
150737	6/5/2019	101 016 542 61 31 00	ST-Sidewalk Repair Supply	Tempered Hardboard/Doug Fir/Brt Duplex	\$369.37
150745	6/5/2019	101 016 542 61 31 00	ST-Sidewalk Repair Supply	Doug Fir/Stakes North Cove	\$566.84
151281	6/5/2019	101 016 542 61 31 00	ST-Sidewalk Repair Supply	Tempered Hardboard/Duplex Brite	\$325.36
					3,779.16

Vendor: EFTPS

Check Number: 0

Invoice No	Check Date	Account Number	Account Name	Description	Amount
052519	5/28/2019	001 000 281 00 00 00	Payroll Liability Taxes	Federal Payroll Taxes	\$80,892.64
					80,892.64

Vendor: Electronic Business Machines

Check Number: 47937

Invoice No	Check Date	Account Number	Account Name	Description	Amount
AR135261	6/5/2019	001 007 558 50 48 00	PL-Repairs & Maint.	Copier Repair & Maintenance PL	\$101.88
AR135261	6/5/2019	001 007 559 30 48 00	PB-Repair & Maintenance	Copier Repair & Maintenance PB	\$101.88
AR135261	6/5/2019	101 016 542 30 48 00	ST-Repair & Maintenance	Copier Repair & Maintenance PW	\$101.88
AR135261	6/5/2019	410 016 531 10 48 00	SW-Repairs & Maintenance	Copier Repair & Maintenance PW	\$101.89
AR135509	6/5/2019	001 008 521 20 48 00	LE-Repair & Maintenance Equip	Copier Repair & Maintenance PD	\$163.55
					571.08

Vendor: Epic Land Solutions Inc

Check Number: 47938

Invoice No	Check Date	Account Number	Account Name	Description	Amount
0519-0862	6/5/2019	302 010 594 76 61 01	PM - North Cove Capital	North Cove Tenant Relocation Consultant Services	\$1,137.98
					1,137.98

Vendor: Eshleman

Check Number: 47939

Invoice No	Check Date	Account Number	Account Name	Description	Amount
052219 ESHLEMAI	6/5/2019	001 010 576 80 31 00	PK-Operating Costs	Hems Parts for Tractor	\$349.75
					349.75

Vendor: Everett Hydraulics Inc

Check Number: 47940

Invoice No	Check Date	Account Number	Account Name	Description	Amount
0000027577	6/5/2019	101 016 544 90 31 02	ST-Operating Cost	Cylinders/Hone Barrels/Polish Parts/Reseal/Test	\$383.95
0000027577	6/5/2019	410 016 531 10 31 02	SW-Operating Costs	Cylinders/Hone Barrels/Polish Parts/Reseal/Test	\$383.95

767.90

Vendor: Everett Steel Inc  
Check Number: 47941

Invoice No	Check Date	Account Number	Account Name	Description	Amount
258558	6/5/2019	410 016 531 10 31 02	SW-Operating Costs	Tubes/Base Plates/Hinges/Steel Angles	\$1,181.45
					1,181.45

Vendor: Ewing Irrigation Products Inc  
Check Number: 47942

Invoice No	Check Date	Account Number	Account Name	Description	Amount
7376467	6/5/2019	305 010 594 76 60 00	North Cove Park Cap-Local	PVC Irrigation Supplies - North Cove	\$3,969.78
7405874	6/5/2019	305 010 594 76 60 00	North Cove Park Cap-Local	PVC Irrigation Supplies - North Cove	\$666.78
7405875	6/5/2019	305 010 594 76 60 00	North Cove Park Cap-Local	PVC Irrigation Supplies - North Cove	\$695.61
7440266	6/5/2019	001 010 576 80 31 00	PK-Operating Costs	Solenoid	\$15.90
					5,348.07

Vendor: Good  
Check Number: 47943

Invoice No	Check Date	Account Number	Account Name	Description	Amount
042619 GOOD	6/5/2019	001 005 518 10 43 00	HR-Travel & Meetings	Reimburse Baggage/Lyft NOVATime Conf - Good	\$43.39
					43.39

Vendor: Government Computer Sales  
Check Number: 47944

Invoice No	Check Date	Account Number	Account Name	Description	Amount
88021	6/5/2019	001 006 518 80 41 00	IT-Professional Services	Quest KACE Consulting	\$3,542.50
					3,542.50

Vendor: Grainger  
Check Number: 47945

Invoice No	Check Date	Account Number	Account Name	Description	Amount
9175597294	6/5/2019	101 016 544 90 31 02	ST-Operating Cost	Ear Plugs	\$37.97
9179612388	6/5/2019	410 016 531 10 31 02	SW-Operating Costs	Odor Eliminator	\$30.96
9185136638	6/5/2019	410 016 531 10 31 02	SW-Operating Costs	Warning Light	\$197.86
9185745115	6/5/2019	410 016 531 10 31 02	SW-Operating Costs	Gloves	\$30.08
9185836435	6/5/2019	410 016 531 10 31 02	SW-Operating Costs	Disinfecting Wipes	\$47.31
9186799319	6/5/2019	001 013 518 20 48 00	GG-Repair & Maintenance	Hard Carrying Case/Handle Assembly Flushometers	\$86.70
					430.88

Vendor: Green Dot Concrete LLC  
Check Number: 47946

Invoice No	Check Date	Account Number	Account Name	Description	Amount
2903	6/5/2019	101 016 544 90 31 02	ST-Operating Cost	Concrete	\$534.59

534.59

Vendor: Greenshields Industrial Supply Inc  
Check Number: 47947

Invoice No	Check Date	Account Number	Account Name	Description	Amount
1-75417	6/5/2019	410 016 531 10 31 02	SW-Operating Costs	5ft Chain with Slip Hook/Hook Weld	\$386.43
					386.43

Vendor: Griffen  
Check Number: 47948

Invoice No	Check Date	Account Number	Account Name	Description	Amount
8Z0957905	6/5/2019	001 011 515 91 41 00	LG-General Indigent Defense	Public Defender Services	\$225.00
					225.00

Vendor: Halverson  
Check Number: 47949

Invoice No	Check Date	Account Number	Account Name	Description	Amount
051019HALVERSC	6/5/2019	101 016 542 30 32 00	ST-Fuel	Reimburse Fuel - APWA Leadership Training - Halverson	\$12.57
051019HALVERSC	6/5/2019	410 016 531 10 32 00	SW-Fuel	Reimburse Fuel - APWA Leadership Training - Halverson	\$12.57
					25.14

Vendor: HB Jaeger Co LLC  
Check Number: 47950

Invoice No	Check Date	Account Number	Account Name	Description	Amount
213875/1	6/5/2019	305 010 594 76 60 00	North Cove Park Cap-Local	PVC Supplies North Cove	\$4,682.58
213885/1	6/5/2019	305 010 594 76 60 00	North Cove Park Cap-Local	PVC Supplies North Cove	\$562.87
214092/1	6/5/2019	305 010 594 76 60 00	North Cove Park Cap-Local	PVC Supplies North Cove	\$47.92
214093/1	6/5/2019	305 010 594 76 60 00	North Cove Park Cap-Local	PVC//Megatape/Sealant/Tubbing Cutter North Cove	\$896.53
214094/1	6/5/2019	410 016 531 10 31 02	SW-Operating Costs	Trash Rack/Locking Mrkd Drain	\$2,007.08
214095/1	6/5/2019	305 010 594 76 60 00	North Cove Park Cap-Local	Conduit/PVC Supplies - North Cove	\$726.23
214122/1	6/5/2019	305 010 594 76 60 00	North Cove Park Cap-Local	PVC Supplies North Cove	\$469.08
214450/1	6/5/2019	410 016 531 10 31 02	SW-Operating Costs	Lift Rod/Rod Couplers	\$284.90
					9,677.19

Vendor: HERC Rentals Inc  
Check Number: 47951

Invoice No	Check Date	Account Number	Account Name	Description	Amount
30614363-003	6/5/2019	101 016 544 90 31 02	ST-Operating Cost	Scissor Lift Rental	\$201.65
30614363-003	6/5/2019	410 016 531 10 31 02	SW-Operating Costs	Scissor Lift Rental	\$201.65
					403.30

Vendor: Holland  
Check Number: 47952

Invoice No	Check Date	Account Number	Account Name	Description	Amount
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062319 HOLLAND 6/5/2019 001 008 521 20 43 00 LE-Travel & Per Diem PerDiem - Meals GST LE Level 1 Inst Renton - Holland \$414.00  
414.00

Vendor: Home Depot  
Check Number: 47953

Invoice No	Check Date	Account Number	Account Name	Description	Amount
5012510	6/5/2019	305 010 594 76 60 00	North Cove Park Cap-Local	Deg Plain End/Bell End North Cove	\$50.93
					50.93

Vendor: Honey Bucket  
Check Number: 47954

Invoice No	Check Date	Account Number	Account Name	Description	Amount
0551059694	6/5/2019	305 010 594 76 60 00	North Cove Park Cap-Local	Fencing for North Cove Park Project	\$359.70
0551076085	6/5/2019	001 010 576 80 45 00	PK-Equipment Rental	Honey Bucket Rental - Community Garden	\$117.50
0551076086	6/5/2019	001 010 576 80 45 00	PK-Equipment Rental	Honey Bucket Rental - 2019 Rowing Regatta	\$766.40
0551083522	6/5/2019	001 010 576 80 45 00	PK-Equipment Rental	Honey Bucket Rental - Event Swim Beach	\$269.65
					1,513.25

Vendor: Horizon Distributors Inc  
Check Number: 47955

Invoice No	Check Date	Account Number	Account Name	Description	Amount
2M081166	6/5/2019	001 010 576 80 31 00	PK-Operating Costs	Credit Return/Exchange	(\$0.02)
2M082425	6/5/2019	305 010 594 76 60 00	North Cove Park Cap-Local	Turfgr/Couplings - North Cove Park	\$90.24
					90.22

Vendor: Hough Beck & Baird Inc  
Check Number: 47956

Invoice No	Check Date	Account Number	Account Name	Description	Amount
12636	6/5/2019	302 010 594 76 61 00	PM - Frontier Heights Capital	Frontier Heights Park Design April 2019	\$9,738.82
					9,738.82

Vendor: HSA Bank  
Check Number: 47894

Invoice No	Check Date	Account Number	Account Name	Description	Amount
052519	5/28/2019	001 000 284 00 00 00	Payroll Liability Other	Health Savings Account Employee Contriubutions	\$660.99
					660.99

Vendor: HW Lochner Inc  
Check Number: 47957

Invoice No	Check Date	Account Number	Account Name	Description	Amount
18	6/5/2019	301 016 544 40 41 02	T11 - 24th & 91st Ext Design	24th Street SE Extension Consulting	\$5,176.51
					5,176.51

Vendor: Iron Mountain Quarry LLC  
Check Number: 47958

Invoice No	Check Date	Account Number	Account Name	Description	Amount
0288741	6/5/2019	101 016 542 61 31 00	ST-Sidewalk Repair Supply	Rock - Sidewalk Base	\$594.93
0288833	6/5/2019	101 016 542 61 31 00	ST-Sidewalk Repair Supply	Rock - Sidewalk Base	\$283.04
0288984	6/5/2019	101 016 542 61 31 00	ST-Sidewalk Repair Supply	Rock - Sidewalk Base	\$150.62
0289068	6/5/2019	001 010 576 80 31 00	PK-Operating Costs	Chips	\$504.02
					1,532.61

Vendor: J Thayer Company Inc  
Check Number: 47959

Invoice No	Check Date	Account Number	Account Name	Description	Amount
1354668-0	6/5/2019	001 008 521 20 31 00	LE-Office Supplies	Paper/Pens	\$103.52
1356099-0	6/5/2019	001 008 521 20 31 00	LE-Office Supplies	Thermal Pouch	\$27.16
1357987-0	6/5/2019	001 013 518 20 31 00	GG-Operating Costs	Janitorial Supplies	\$682.77
1357987-1	6/5/2019	001 013 518 20 31 00	GG-Operating Costs	Toilet Paper Dispenser	\$99.95
1358047-0	6/5/2019	001 013 518 20 31 00	GG-Operating Costs	Janitorial Supplies	\$438.65
1358125-0	6/5/2019	001 003 514 20 31 00	CC-Office Supply	Tabs/Folders	\$60.68
1358125-0	6/5/2019	001 004 514 23 31 00	FI-Office Supplies	Toner	\$241.87
1358125-0	6/5/2019	001 007 558 50 31 00	PL-Office Supplies	Pens	\$8.70
1358125-0	6/5/2019	001 007 559 30 31 00	PB-Office Supplies	Folders/Pens	\$38.93
1358125-0	6/5/2019	001 013 518 20 31 00	GG-Operating Costs	Copy Paper/Tissue/Staples/Tabs/Paper Clips	\$296.16
1358210-0	6/5/2019	001 013 518 20 31 00	GG-Operating Costs	Color Copy Cover Paper	\$32.65
1358312-0	6/5/2019	001 008 521 20 31 00	LE-Office Supplies	Paper/Markers/Sanitizer/Batteries/Mousepad	\$392.74
1358500-0	6/5/2019	001 013 518 20 31 00	GG-Operating Costs	Janitorial Supplies	\$15.21
C1354207-0	6/5/2019	001 013 518 20 31 00	GG-Operating Costs	Credit Return Paper Clips	(\$9.78)
					2,429.21

Vendor: Kaintz  
Check Number: 47960

Invoice No	Check Date	Account Number	Account Name	Description	Amount
051719 KAINZ	6/5/2019	003 000 345 81 00 00	Zoning-Subdivision Fees	LUA2019-0046 EDDS Request Withdrawn	\$154.50
					154.50

Vendor: Lake Industries LLC  
Check Number: 47961

Invoice No	Check Date	Account Number	Account Name	Description	Amount
279869	6/5/2019	305 010 594 76 60 00	North Cove Park Cap-Local	Screened Pit Run - North Cove	\$3,016.58
279870	6/5/2019	305 010 594 76 60 00	North Cove Park Cap-Local	Drain Rock - North Cove	\$132.00
279900	6/5/2019	305 010 594 76 60 00	North Cove Park Cap-Local	Screened Bank Sand/Pit Run - North Cove	\$3,666.35
279901	6/5/2019	305 010 594 76 60 00	North Cove Park Cap-Local	Screened Bank Sand - North Cove	\$274.83
279919	6/5/2019	305 010 594 76 60 00	North Cove Park Cap-Local	Screened Bank Sand/Pit Run - North Cove	\$4,440.51
279920	6/5/2019	305 010 594 76 60 00	North Cove Park Cap-Local	Screened Bank Sand/Pit Run - North Cove	\$773.99

279955	6/5/2019	001 010 576 80 31 00	PK-Operating Costs	Drain Rock - Boat Launch Paving	\$2,447.01
280077	6/5/2019	305 010 594 76 60 00	North Cove Park Cap-Local	Washed Screened Sand - North Cove	\$88.28
280089	6/5/2019	305 010 594 76 60 00	North Cove Park Cap-Local	Screened Bank Sand - North Cove	\$273.69
37013	6/5/2019	305 010 594 76 60 00	North Cove Park Cap-Local	Asphalt Hauled In - North Cove	\$2,842.00
37039	6/5/2019	305 010 594 76 60 00	North Cove Park Cap-Local	Fill Hauled In - North Cove	\$450.00
37042	6/5/2019	305 010 594 76 60 00	North Cove Park Cap-Local	Fill Hauled In - North Cove	\$935.00
37046	6/5/2019	001 010 576 80 31 00	PK-Operating Costs	Drain Rock Hauled in - Boat Launch Paving	\$360.00
37077	6/5/2019	305 010 594 76 60 00	North Cove Park Cap-Local	Fill Hauled In - North Cove	\$150.00
					19,850.24

Vendor: Lake Stevens Chamber of Commerce  
Check Number: 47962

Invoice No	Check Date	Account Number	Account Name	Description	Amount
060119 CHAMBER	6/5/2019	001 013 518 90 49 01	GG-Chamber of Commerce	Contributions for VIC June 2019	\$1,500.00
					1,500.00

Vendor: Lake Stevens Police Guild  
Check Number: 47895

Invoice No	Check Date	Account Number	Account Name	Description	Amount
052519	5/28/2019	001 000 284 00 00 00	Payroll Liability Other	Employee Paid Union Dues	\$1,155.00
					1,155.00

Vendor: Lake Stevens School District  
Check Number: 47963

Invoice No	Check Date	Account Number	Account Name	Description	Amount
0018190124	6/5/2019	001 007 558 50 32 00	PL-Fuel	Fuel	\$44.51
0018190124	6/5/2019	001 007 559 30 32 00	PB-Fuel	Fuel	\$142.48
0018190124	6/5/2019	001 008 521 20 32 00	LE-Fuel	Fuel	\$6,091.77
0018190124	6/5/2019	001 010 576 80 32 00	PK-Fuel Costs	Fuel	\$98.56
0018190124	6/5/2019	001 013 518 20 32 00	GG-Fuel	Fuel	\$44.51
0018190124	6/5/2019	101 016 542 30 32 00	ST-Fuel	Fuel	\$3,038.63
0018190124	6/5/2019	410 016 531 10 32 00	SW-Fuel	Fuel	\$2,589.35
					12,049.81

Vendor: Lake Stevens Sewer District  
Check Number: 47964

Invoice No	Check Date	Account Number	Account Name	Description	Amount
20190603	6/5/2019	302 010 594 76 61 01	PM - North Cove Capital	Capping permits 12207 N Lane NE and 12202 Vernon Rd	\$250.00
					250.00

Vendor: Land Development Consultants Inc  
Check Number: 47965

Invoice No	Check Date	Account Number	Account Name	Description	Amount
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18331	6/5/2019	302 010 594 76 61 01	PM - North Cove Capital	North Cove Park Plaza Design/Mapping/Surveying	\$40,342.00
18371	6/5/2019	301 016 595 61 64 02	T1Z3 - S. Lake Stevens Rd	S Lake Stevens Rd Multi Use Path	\$12,778.90
					53,120.90

Vendor: Layton

Check Number: 47966

Invoice No	Check Date	Account Number	Account Name	Description	Amount
1953	6/5/2019	001 010 576 80 41 00	PK-Professional Services	Arborist Services 9209 15th PI SE	\$368.43
					368.43

Vendor: Lemay Mobile Shredding

Check Number: 47967

Invoice No	Check Date	Account Number	Account Name	Description	Amount
4611121	6/5/2019	001 008 521 20 41 01	LE-Professional Serv-Fixed	Shredding Services PD April 2019	\$13.43
					13.43

Vendor: LN Curtis & Sons

Check Number: 47968

Invoice No	Check Date	Account Number	Account Name	Description	Amount
INV280701	6/5/2019	001 008 521 20 31 02	LE-Minor Equipment	Heavyweight V-Neck Cardigan	\$115.37
INV281892	6/5/2019	001 008 521 20 31 02	LE-Minor Equipment	Short Sleeve Base Shirt	\$100.18
					215.55

Vendor: Marine Lumber Service Inc

Check Number: 47969

Invoice No	Check Date	Account Number	Account Name	Description	Amount
16280	6/5/2019	305 010 594 76 60 00	North Cove Park Cap-Local	Acza Chemonite North Cove	\$3,849.19
					3,849.19

Vendor: Miles Sand & Gravel

Check Number: 47970

Invoice No	Check Date	Account Number	Account Name	Description	Amount
1712143	6/5/2019	101 016 542 61 48 00	ST-Sidewalk R&M	Concrete	\$1,324.35
1713001	6/5/2019	101 016 542 61 48 00	ST-Sidewalk R&M	Concrete	\$1,501.48
1713971	6/5/2019	101 016 542 61 48 00	ST-Sidewalk R&M	Concrete	\$5,503.64
1715436	6/5/2019	101 016 542 61 48 00	ST-Sidewalk R&M	Concrete	\$4,752.78
					13,082.25

Vendor: Monroe Correctional Complex

Check Number: 47971

Invoice No	Check Date	Account Number	Account Name	Description	Amount
MCC1904.1004	6/5/2019	001 010 576 80 48 00	PK-Repair & Maintenance	DOC Work Crew - April 2019	\$87.83
MCC1904.1004	6/5/2019	101 016 542 30 48 00	ST-Repair & Maintenance	DOC Work Crew - April 2019	\$443.76
MCC1904.1004	6/5/2019	410 016 531 10 48 00	SW-Repairs & Maintenance	DOC Work Crew - April 2019	\$194.35

725.94

Vendor: NASRO

Check Number: 47972

Invoice No	Check Date	Account Number	Account Name	Description	Amount
052319 NASRO	6/5/2019	001 008 521 20 49 00	LE-Dues & Memberships	NASRO Membership - Irwin	\$40.00
					40.00

Vendor: Nationwide Retirement Solution

Check Number: 0

Invoice No	Check Date	Account Number	Account Name	Description	Amount
052519	5/28/2019	001 000 282 00 00 00	Payroll Liability Retirement	Employee Portion-Nationwide	\$3,986.67
					3,986.67

Vendor: Neofunds by Neopost

Check Number: 47973

Invoice No	Check Date	Account Number	Account Name	Description	Amount
80346335 0519	6/5/2019	001 008 521 20 42 00	LE-Communication	Postage PD	\$258.33
					258.33

Vendor: Northend Truck Equipment Inc

Check Number: 47974

Invoice No	Check Date	Account Number	Account Name	Description	Amount
1037341	6/5/2019	410 016 531 10 31 02	SW-Operating Costs	Hydraulic Oil Sight Glass PW66	\$89.51
					89.51

Vendor: O Reilly Auto Parts

Check Number: 47975

Invoice No	Check Date	Account Number	Account Name	Description	Amount
2960-109523	6/5/2019	101 015 543 30 31 00	ME - Operating Costs	Magnet Tray	\$9.25
2960-109532	6/5/2019	101 015 543 30 31 00	ME - Operating Costs	Purple Power to Clean Equipment	\$30.51
2960-109604	6/5/2019	410 016 531 10 31 02	SW-Operating Costs	Mobile Power PW1	\$108.99
2960-109833	6/5/2019	101 015 543 30 31 00	ME - Operating Costs	Drain Pan	\$11.98
2960-110643	6/5/2019	410 016 531 10 31 02	SW-Operating Costs	Wiper Blade PW42/Stock	\$39.02
2960-110784	6/5/2019	410 016 531 10 31 02	SW-Operating Costs	Mobile Power PW3	\$108.99
2960-111419	6/5/2019	410 016 531 10 31 02	SW-Operating Costs	Spray Paint PW1	\$26.13
2960-112510	6/5/2019	410 016 531 10 31 02	SW-Operating Costs	Battery Cable PW1/PW3	\$104.91
2960-112724	6/5/2019	410 016 531 10 31 02	SW-Operating Costs	Primer/Sealer PW1	\$7.40
2960-112948	6/5/2019	101 016 544 90 31 02	ST-Operating Cost	Blue DEF/Cargo Straps PW65/PW50/PW66/Stock	\$51.73
2960-112948	6/5/2019	410 016 531 10 31 02	SW-Operating Costs	Blue DEF/Cargo Straps PW65/PW50/PW66/Stock	\$51.74
					550.65

Vendor: Office of The State Treasurer

Check Number: 47976

Invoice No	Check Date	Account Number	Account Name	Description	Amount
040119 STATE	6/5/2019	633 000 589 30 00 03	State Building Permit Remit	State Court Fees April 2019	\$548.50
040119 STATE	6/5/2019	633 000 589 30 00 04	State Court Remittance	State Court Fees April 2019	\$19,887.46
					20,435.96

Vendor: Ogden Murphy Wallace PLLC  
Check Number: 47977

Invoice No	Check Date	Account Number	Account Name	Description	Amount
824222	6/5/2019	001 011 515 41 41 00	Ext Consultation - City Atty	Legal Services General Matters April 2019	\$22,080.15
824222	6/5/2019	001 011 515 41 41 01	Ext Consult - PRA	Legal Services Public Records April 2019	\$315.00
					22,395.15

Vendor: Petty Cash Account  
Check Number: 47978

Invoice No	Check Date	Account Number	Account Name	Description	Amount
050119 PETTY	6/5/2019	001 010 576 80 31 10	PK - Boat Launch Expenses	Boat Launch Parking Reimbursement 05/02 - 05/16/19	\$160.00
					160.00

Vendor: Pilchuck Equipment Rental and Sales  
Check Number: 47979

Invoice No	Check Date	Account Number	Account Name	Description	Amount
81206	6/5/2019	001 010 576 80 45 00	PK-Equipment Rental	Stump Grinder Rental Return	\$1,180.44
81686	6/5/2019	001 010 576 80 45 00	PK-Equipment Rental	Diamond Blade Rental	\$154.23
					1,334.67

Vendor: Pilchuck Veterinary Hospital  
Check Number: 47980

Invoice No	Check Date	Account Number	Account Name	Description	Amount
051519 PVH	6/5/2019	001 008 521 20 31 07	LE - Donation Canine Unit	Haro Exam & Treatment Services	\$325.24
					325.24

Vendor: PowerDMS Inc  
Check Number: 47981

Invoice No	Check Date	Account Number	Account Name	Description	Amount
27560	6/5/2019	001 008 521 20 41 01	LE-Professional Serv-Fixed	PowerStandards for WASPC LE Manual	\$1,253.50
					1,253.50

Vendor: Public Safety Selection PC  
Check Number: 47982

Invoice No	Check Date	Account Number	Account Name	Description	Amount
4399	6/5/2019	001 008 521 20 41 00	LE-Professional Services	New Hire Psychological Evaluation	\$400.00
					400.00

Vendor: Pugh  
Check Number: 47983

Invoice No	Check Date	Account Number	Account Name	Description	Amount
061019 PUGH	6/5/2019	001 003 514 20 43 00	CC-Travel & Meetings	PerDiem - Mileage/Meals 2019 Clerks Institue Tacoma - Pugh	\$117.16
					117.16

Vendor: Rexel USA Inc  
Check Number: 47984

Invoice No	Check Date	Account Number	Account Name	Description	Amount
V090407	6/5/2019	410 016 531 10 35 00	SW-Small Tools	Small Angle Grind/Recip Tool/Tripod Light	\$901.76
V119609	6/5/2019	410 016 531 10 35 00	SW-Small Tools	Small Angle Grind	\$184.72
V140245	6/5/2019	305 010 594 76 60 00	North Cove Park Cap-Local	Mtr Enclosure/Pipeclamps/PVC Supplies/Conduit North Cove	\$787.94
V146154	6/5/2019	410 016 531 10 31 02	SW-Operating Costs	Breaker Box	\$209.76
V150948	6/5/2019	410 016 531 10 31 02	SW-Operating Costs	PVC/Lighting/Pull Box	\$747.92
V176494	6/5/2019	410 016 531 10 31 02	SW-Operating Costs	Storm Maint Equipment	\$26.66
V179544	6/5/2019	410 016 531 10 31 02	SW-Operating Costs	Storm Water Monitoring Supplies	\$161.83
V220356	6/5/2019	410 016 531 10 31 02	SW-Operating Costs	Terminal Adapter/Conduits/Blank CVR/Misc	\$190.59
					3,211.18

Vendor: San Diego Police Equipment Co Inc  
Check Number: 47985

Invoice No	Check Date	Account Number	Account Name	Description	Amount
637050	6/5/2019	001 008 521 20 31 01	LE-Fixed Minor Equipment	Ammo	\$663.63
637504	6/5/2019	001 008 521 20 31 01	LE-Fixed Minor Equipment	Ammo	\$2,817.42
637528	6/5/2019	001 008 521 20 31 01	LE-Fixed Minor Equipment	Ammo	\$906.41
					4,387.46

Vendor: Six Robblees Inc  
Check Number: 47986

Invoice No	Check Date	Account Number	Account Name	Description	Amount
14-383919	6/5/2019	101 016 544 90 31 02	ST-Operating Cost	Ractchet/Tiedowns	\$276.32
					276.32

Vendor: Smernis Enterprises  
Check Number: 47987

Invoice No	Check Date	Account Number	Account Name	Description	Amount
47804	6/5/2019	001 008 521 20 48 00	LE-Repair & Maintenance Equip	Replace Motorcycle Battery	\$259.58
					259.58

Vendor: Smith  
Check Number: 47988

Invoice No	Check Date	Account Number	Account Name	Description	Amount
061119 DSMITH	6/5/2019	001 008 521 20 43 00	LE-Travel & Per Diem	PerDiem - Meal Evidence Collection Marysville - D Smith	\$20.00
					20.00

Check Number: 47989

Invoice No	Check Date	Account Number	Account Name	Description	Amount
042419 SMITH	6/5/2019	001 005 518 10 43 00	HR-Travel & Meetings	PerDiem - Lyft NOVATime Conf Las Vegas - Smith	\$43.85
					43.85

Vendor: Snohomish County  
Check Number: 47990

Invoice No	Check Date	Account Number	Account Name	Description	Amount
I000499641	6/5/2019	001 013 525 10 51 00	GG-Emergency	Q2 2019 Emergency Management Services	\$10,337.75
					10,337.75

Vendor: Snohomish County Auditor  
Check Number: 47896

Invoice No	Check Date	Account Number	Account Name	Description	Amount
Deed	5/28/2019	310 016 544 40 41 00	20th St SE - Professional Srv	20th Street SE ROW Acquisition LS School District	\$102.00
					102.00

Check Number: 47897

Invoice No	Check Date	Account Number	Account Name	Description	Amount
REET	5/28/2019	310 016 544 40 41 00	20th St SE - Professional Srv	20th Street SE ROW Acquisition LS School District	\$10.00
					10.00

Vendor: Snohomish County PUD  
Check Number: 47991

Invoice No	Check Date	Account Number	Account Name	Description	Amount
108435472	6/5/2019	001 010 576 80 47 00	PK-Utilities	200493443 Catherine Creek Park Electric	\$16.60
111732049	6/5/2019	001 012 575 50 47 00	CS-Community Center-Utilities	200860922 Community Center	\$53.18
115036059	6/5/2019	101 016 542 63 47 00	ST-Lighting - Utilities	200178218 Street Lights 8533 15th St NE	\$61.59
115036059	6/5/2019	101 016 542 63 47 00	ST-Lighting - Utilities	200178218 Traffic Signal 8718 17th St NE	\$130.20
134888001	6/5/2019	101 016 542 63 47 00	ST-Lighting - Utilities	202013249 Traffic Signal 1933 79th Ave SE	\$77.30
134888001	6/5/2019	101 016 542 64 47 00	ST-Traffic Control -Utility	202013249 Traffic Signal 7441 20th St SE	\$63.49
138097587	6/5/2019	001 010 576 80 47 00	PK-Utilities	202340527 Decant Yard	\$6.57
138097587	6/5/2019	101 016 543 50 47 00	ST-Utilities	202340527 Decant Yard	\$6.57
138097587	6/5/2019	410 016 531 10 47 00	SW-Utilities	202340527 Decant Yard	\$6.57
141402243	6/5/2019	001 010 576 80 47 00	PK-Utilities	203599006 City Shop Electric/Water	\$166.79
141402243	6/5/2019	101 016 543 50 47 00	ST-Utilities	203599006 City Shop Electric/Water	\$166.78
141402243	6/5/2019	410 016 531 10 47 00	SW-Utilities	203599006 City Shop Electric/Water	\$166.83
148028504	6/5/2019	001 008 521 50 47 00	LE-Facility Utilities	203033030 Police Dept Electric	\$524.59
148028504	6/5/2019	001 008 521 50 47 00	LE-Facility Utilities	203033030 Police Dept Water	\$122.28
151333171	6/5/2019	101 016 542 63 47 00	ST-Lighting - Utilities	203728159 Traffic Signal	\$49.61
154581172	6/5/2019	001 010 576 80 47 00	PK-Utilities	221908015 City Shop Mechanic	\$57.94
154581172	6/5/2019	101 016 543 50 47 00	ST-Utilities	221908015 City Shop Mechanic	\$57.93
154581172	6/5/2019	410 016 531 10 47 00	SW-Utilities	221908015 City Shop Mechanic	\$57.93



154585578	6/5/2019	001 010 576 80 47 00	PK-Utilities	203582010 Lundeen Restrooms Electric	\$104.79
154585578	6/5/2019	001 010 576 80 47 00	PK-Utilities	203582010 Lundeen Restrooms Water	\$689.57
154585578	6/5/2019	001 012 557 30 40 01	CS - VIC Utilities	203582010 Visitor Information Center Electric	\$77.90
154585578	6/5/2019	101 016 542 63 47 00	ST-Lighting - Utilities	203582010 Street Lights	\$48.84
					2,713.85

Vendor: Snohomish County PW S

Check Number: 47992

Invoice No	Check Date	Account Number	Account Name	Description	Amount
I000500288	6/5/2019	101 016 542 64 48 00	ST-Traffic Control - R&M	Signal/Sign Repair & Maint April 2019	\$165.09
					165.09

Vendor: Snohomish County Sheriffs Office

Check Number: 47993

Invoice No	Check Date	Account Number	Account Name	Description	Amount
2019-5000	6/5/2019	001 008 523 60 51 00	LE-Jail	Jail Services March 2019	\$32,300.08
					32,300.08

Vendor: Snohomish County Treasurer

Check Number: 47994

Invoice No	Check Date	Account Number	Account Name	Description	Amount
051619 SNOCO	6/5/2019	633 000 589 30 00 06	Crime Victims Compensation	April 2018 Crime Victims Compensation	\$306.97
					306.97

Vendor: Sound Publishing Inc

Check Number: 47995

Invoice No	Check Date	Account Number	Account Name	Description	Amount
EDH853939	6/5/2019	001 013 518 30 41 01	GG-Advertising	Boards/Commission Volunteer Opportunity	\$249.06
EDH854876	6/5/2019	101 016 542 30 41 01	ST-Advertising	2019 Pavement Overlay Advertisment	\$198.62
EDH856684	6/5/2019	001 013 518 30 41 01	GG-Advertising	CC Council Meeting Change	\$34.15
EDH856921	6/5/2019	001 013 518 30 41 01	GG-Advertising	Arts Commission Special Meeting	\$23.29
EDH857071	6/5/2019	305 010 594 76 60 00	North Cove Park Cap-Local	North Cove Park Plaza/Pavilion Project 18012	\$220.34
EDH857073	6/5/2019	001 007 558 50 41 04	Permit Related Professional Sr	LUA2019-0072 Clements PN	\$84.83
EDH857516	6/5/2019	001 007 558 50 41 04	Permit Related Professional Sr	LUA 2019-0109 Development Review SEPA DNS	\$111.98
EDH857660	6/5/2019	001 013 518 30 41 01	GG-Advertising	CC Cancel Meeting	\$21.48
EDH857665	6/5/2019	001 007 558 50 41 03	PL-Advertising	Code Amendment Publication Streets/Sidewalks Ord	\$92.07
EDH857796	6/5/2019	001 007 558 50 41 04	Permit Related Professional Sr	LUA2019-0055 Land Pro Group LLC	\$79.40
					1,115.22

Vendor: Spencer

Check Number: 47996

Invoice No	Check Date	Account Number	Account Name	Description	Amount
030719 SPENCER	6/5/2019	001 001 513 10 43 00	Executive - Travel & Mtgs	PerDiem - Mileage/Parking NLC Conf - Spencer	\$164.95

164.95

Vendor: Springbrook Nursery  
Check Number: 47997

Invoice No	Check Date	Account Number	Account Name	Description	Amount
276241	6/5/2019	001 010 576 80 31 00	PK-Operating Costs	Topsoil	\$35.57
277090	6/5/2019	001 010 576 80 31 00	PK-Operating Costs	Topsoil	\$53.36
277100	6/5/2019	001 010 576 80 31 00	PK-Operating Costs	Topsoil	\$35.57
					124.50

Vendor: Stericycle Inc  
Check Number: 47998

Invoice No	Check Date	Account Number	Account Name	Description	Amount
3004674138	6/5/2019	001 008 521 20 41 01	LE-Professional Serv-Fixed	Hazardous Waste Disposal	\$10.36
					10.36

Vendor: Steuber Distributing Co  
Check Number: 47999

Invoice No	Check Date	Account Number	Account Name	Description	Amount
2872828	6/5/2019	410 016 531 10 31 02	SW-Operating Costs	Shade Tarp PW66	\$103.74
					103.74

Vendor: SVR Inc  
Check Number: 48000

Invoice No	Check Date	Account Number	Account Name	Description	Amount
21950	6/5/2019	302 010 594 76 61 01	PM - North Cove Capital	Dumpster Rental - Williams Clean Up North Cove	\$966.61
					966.61

Vendor: SWC Enterprises LLC  
Check Number: 48001

Invoice No	Check Date	Account Number	Account Name	Description	Amount
204024-1	6/5/2019	410 016 531 10 31 02	SW-Operating Costs	Flange Crown Aluminum Catch Basin Tube/Hose PW26	\$344.98
					344.98

Vendor: Tacoma Screw Products Inc  
Check Number: 48002

Invoice No	Check Date	Account Number	Account Name	Description	Amount
18240362	6/5/2019	410 016 531 10 31 02	SW-Operating Costs	Absorbent Spill Pads	\$85.47
18240363	6/5/2019	410 016 531 10 31 02	SW-Operating Costs	Cycle Engine Oil	\$166.41
18240364	6/5/2019	101 016 544 90 31 02	ST-Operating Cost	Cable Ties/Spring Snap Link/Caution Tape	\$44.01
18240364	6/5/2019	410 016 531 10 31 02	SW-Operating Costs	Cable Ties/Spring Snap Link/Caution Tape	\$44.02
18241235	6/5/2019	001 010 576 80 31 00	PK-Operating Costs	Toilet Paper/Orange Marking Paint	\$54.83
18241235	6/5/2019	101 016 544 90 31 02	ST-Operating Cost	Toilet Paper/Orange Marking Paint	\$54.83
18241235	6/5/2019	410 016 531 10 31 02	SW-Operating Costs	Toilet Paper/Orange Marking Paint	\$54.83

504.40

Vendor: Technological Services Inc  
Check Number: 48003

Invoice No	Check Date	Account Number	Account Name	Description	Amount
12682	6/5/2019	001 008 521 20 48 00	LE-Repair & Maintenance Equip	Tire Mount/Balance PT-18-79	\$183.21
12749	6/5/2019	001 008 521 20 48 00	LE-Repair & Maintenance Equip	Express Lub/Oil/Filter/Fluids/Brake Inspect I-15-69	\$206.12
12764	6/5/2019	001 008 521 20 48 00	LE-Repair & Maintenance Equip	Express Lub/Tire Mount/Filters/Misc Trans PT-16-64	\$933.70
12873	6/5/2019	001 008 521 20 48 00	LE-Repair & Maintenance Equip	Wiper Blades A-13-51	\$51.11
12884	6/5/2019	001 008 521 20 48 00	LE-Repair & Maintenance Equip	Express Lub/Oil/Fluid/Tire Rotation PT-19-81	\$81.14
12890	6/5/2019	001 008 521 20 48 00	LE-Repair & Maintenance Equip	Express Lub/Oil/Fluid/Tire Rotation PT-18-78	\$81.14
					1,536.42

Vendor: The Daily Herald  
Check Number: 48004

Invoice No	Check Date	Account Number	Account Name	Description	Amount
050319 HERALD	6/5/2019	001 013 518 20 31 00	GG-Operating Costs	The Daily Hearld Subscription 2019-2020	\$203.36
					203.36

Vendor: The Watershed Co  
Check Number: 48005

Invoice No	Check Date	Account Number	Account Name	Description	Amount
2019-0607	6/5/2019	001 007 558 50 41 00	PL-Professional Servic	Review Shoreline Master Program	\$1,007.50
					1,007.50

Vendor: Tom Astrof Construction Inc  
Check Number: 48006

Invoice No	Check Date	Account Number	Account Name	Description	Amount
190524-814	6/5/2019	101 016 542 61 31 00	ST-Sidewalk Repair Supply	Bar Steel/Roto Bits/Edger	\$664.61
					664.61

Vendor: TranTech Engineering LLC  
Check Number: 48007

Invoice No	Check Date	Account Number	Account Name	Description	Amount
2018033-04	6/5/2019	101 016 544 20 41 00	ST-Prof Srv - Engineering	LS Bridge Loading and Scouring Analysis April 2019	\$17,657.04
					17,657.04

Vendor: United Rentals Inc  
Check Number: 48008

Invoice No	Check Date	Account Number	Account Name	Description	Amount
167357874-002	6/5/2019	305 010 594 76 60 00	North Cove Park Cap-Local	4 Week Dozer Rental - North Cove Park	\$7,410.91
					7,410.91

Vendor: UPS  
Check Number: 48009

Invoice No	Check Date	Account Number	Account Name	Description	Amount
0000074Y42189	6/5/2019	001 008 521 20 42 00	LE-Communication	Evidence Shipping	\$20.26
0000074Y42199	6/5/2019	001 008 521 20 42 00	LE-Communication	Evidence Shipping	\$10.33
					30.59

Vendor: Vantagepoint Transfer Agents - 108991  
Check Number: 47898

Invoice No	Check Date	Account Number	Account Name	Description	Amount
052519	5/28/2019	001 000 282 00 00 00	Payroll Liability Retirement	ICMA Deferred Comp - Employer Contribution	\$363.39
					363.39

Vendor: Vantagepoint Transfer Agents - 307428  
Check Number: 47899

Invoice No	Check Date	Account Number	Account Name	Description	Amount
052519	5/28/2019	001 000 282 00 00 00	Payroll Liability Retirement	ICMA Deferred Comp - Employee Contribution	\$1,880.02
					1,880.02

Vendor: Washington City/County Management Assoc  
Check Number: 48010

Invoice No	Check Date	Account Number	Account Name	Description	Amount
2019 WCMA	6/5/2019	001 002 513 11 49 01	AD-Miscellaneous	WCMA Membership - Brazel	\$315.00
					315.00

Vendor: Washington State Patrol  
Check Number: 48011

Invoice No	Check Date	Account Number	Account Name	Description	Amount
I19007428	6/5/2019	633 000 589 30 00 10	Gun Permit - WSP Remittance	Weapons Permit Background Checks April 2019	\$384.25
					384.25

Vendor: Washington State Support Registry  
Check Number: 0

Invoice No	Check Date	Account Number	Account Name	Description	Amount
052519	5/28/2019	001 000 284 00 00 00	Payroll Liability Other	Employee Paid Child Support	\$163.50
					163.50

Vendor: Wave Broadband  
Check Number: 48012

Invoice No	Check Date	Account Number	Account Name	Description	Amount
08848033	6/5/2019	001 002 513 11 42 00	AD-Communications	Telephone Service	\$24.02
08848033	6/5/2019	001 003 514 20 42 00	CC-Communications	Telephone Service	\$48.05
08848033	6/5/2019	001 004 514 23 42 00	FI-Communications	Telephone Service	\$48.04
08848033	6/5/2019	001 005 518 10 42 00	HR-Communications	Telephone Service	\$24.02
08848033	6/5/2019	001 006 518 80 42 00	IT-Communications	Telephone Service	\$72.07
08848033	6/5/2019	001 007 558 50 42 00	PL-Communication	Telephone Service	\$156.23

08848033	6/5/2019	001 007 559 30 42 00	PB-Communication	Telephone Service	\$24.02
08848033	6/5/2019	001 008 521 20 42 00	LE-Communication	Telephone Service	\$817.09
08848033	6/5/2019	001 012 575 30 42 00	CS-Historical-Communications	Telephone Service Museum	\$24.02
08848033	6/5/2019	001 012 575 50 42 00	CS-Community Center - Comm	Telephone Service Senior Ctr	\$24.03
08848033	6/5/2019	001 013 518 20 42 00	GG-Communication	Telephone Service	\$96.09
08848033	6/5/2019	101 016 543 30 42 00	ST-Communications	Telephone Service Shop	\$138.26
08848033	6/5/2019	410 016 531 10 42 00	SW-Communications	Telephone Service Shop	\$138.25
08848033	6/5/2019	510 006 518 80 49 04	LR - WaveBroadband Fiber Lease	Fiber Leases	\$1,886.70
					3,520.89

Vendor: West Marine Pro

Check Number: 48013

Invoice No	Check Date	Account Number	Account Name	Description	Amount
001294	6/5/2019	001 010 576 80 31 06	PK - Lake Safety	Buoy-Fish Markers	\$14.24
009940	6/5/2019	001 008 521 21 48 00	LE-Boating Repair & Maint	Adhesive Goop	\$5.47
					19.71

Vendor: Zachor and Thomas Inc PS

Check Number: 48014

Invoice No	Check Date	Account Number	Account Name	Description	Amount
19-LKS0005	6/5/2019	001 011 515 41 41 02	Ext Consult - Prosecutor Fees	Prosecution Services May 2019	\$11,889.09
					11,889.09



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

Tuesday, May 14, 2019  
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 John Spencer

ELECTED OFFICIALS PRESENT: Councilmembers Kim Daughtry, Gary Petershagen, Kurt Hilt, Todd Welch, Rauchel McDaniel, Brett Gailey and Marcus Tageant

ELECTED OFFICIALS ABSENT: None

STAFF MEMBERS PRESENT: City Administrator Gene Brazel, Finance Director Barb Stevens, Community Development Director Russ Wright, Planner Dillion Roth, Public Works Director Eric Durpos, Police Chief John Dyer, Human Resources Director Teri Smith, City Clerk Kathy Pugh, City Attorney Greg Rubstello

OTHERS:

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**Pledge of Allegiance:** Mayor Spencer led the pledge of allegiance.

**Roll Call:** All present.

**Approval of Agenda:** Moved by Councilmember Daughtry, seconded by Councilmember Gailey, to approve the agenda. On vote the motion carried (7-0-0-0).

**Citizen Comments:**

Kristine Noel, Owner of Urban Pantry Catering, said they have experienced low sales due to food trucks blocking the sightline from the street and taking up parking spaces during events which deters regular customers. She wants her business to flourish and commented she contributes sales tax to the community.

Linda Ehmen, Chair of the Arts Commission, said the Arts Commission neglected to include interactive activities for the children in the permit application process for Music by the Lake, and requested Council support for ordering samples of activities for summer programming.

**Council Business:**

- Councilmember Daughtry: Veterans Commission, War Memorial Board, Community Transit Board.
- Councilmember Petershagen: Lake Stevens Food Bank and Joe Rantz Boathouse ribbon cuttings.
- Councilmember Hilt: Veterans Commission, Parks Board.
- Councilmember McDaniel: Upcoming Michael's Ribbon Cutting.
- Councilmember Welch: Arts Commission.

**Mayor's Business:** AWC Annual Conference in Spokane, June 25-26, 2019; Mayor Spencer recommended the city have representation at this conference. Mayor Spencer advised that Comcast has failed to pay to the city the utility tax over the past several years in the total approximate amount of \$250,000 update and said he has signed a tolling agreement to protect the City's rights. He and staff are working to resolve this with Comcast. Mayor Spencer said there is agreement with Marysville regarding the ILA for Soper Hill Road. Mayor Spencer then reminded of the upcoming retreat in July and requested Council input for retreat topics; current topics include a progress report on topics discussed at the January Retreat and a financial update.

Mayor Spencer requested a motion to endorse the city as Purple Heart City. He commented this is a recommendation by the Veterans Commission and the Veterans Foundation and that they will work with the Purple Heart organization to obtain Purple Heart signage for the city's entrances. Being a Purple Heart city signifies the city as a veteran friendly city.

**MOTION:** Moved by Councilmember Hilt, seconded by Councilmember Tageant, to endorse the proclamation of Lake Stevens as a Purple Heart City. On vote the motion carried (7-0-0-0).

Mayor Spencer then read the proclamation for the record.

**City Department Report:**

- City Administrator Gene Brazel: Grand opening of Blues Yogurt Shop; Marysville ILA regarding Soper Hill; need to consider another ILA with Marysville regarding a shared trail system; Sewer Utility Committee.
- Community Development Director Russ Wright: Park Board and park naming, survey results for park plan which is part of Comprehensive Plan.
- Public Works Director Eric Durpos: North Cove Park budget update, advertised for Pavilion building, will bring back budget details/accounting, 2019 overlay; thermoplasty.
- Chief of Police John Dyer: National Police Week this week, thanked men and women of Lake Stevens Police Department for service to the community and reviewed statistics.

**Consent Agenda:**

**MOTION:** Moved by Councilmember Welch, seconded by Councilmember Tageant, to approve (A) 2019 Vouchers [Payroll Direct Deposits of \$442,950.02, Payroll Check Nos. 47697-47698, 47706 totaling \$4,098.85, Tax Deposits of \$97,443.65, Electronic Funds Transfers (ACH) of \$79,774.17, Claims Check Nos. 47699-47705, 47707-47831 totaling \$400,201.81, Void Check Nos. 47533, 47703 and a payroll check totaling \$6,641.83, Total Vouchers Approved: \$1,017,826.67], (B) City Council Regular Meeting Minutes of April 23, 2019, (C) City Council Workshop Meeting Minutes of May 7, 2019, (D) Professional Services Agreement with OM Yoga Northwest for Yoga by the Lake, and (E) 2010 Public Works Trust Fund Loan Early Pay Off. On vote the motion carried (7-0-0-0).

**Public Hearing:**

**Ordinance 1055 Extending Design Review Regulations:** Mayor Spencer opened the public hearing.

Community Development Director Wright presented the staff report and summarized that this is before Council this evening for the required public hearing to extend the interim ordinance an additional six months to allow time to complete the zoning code updates that are being done in conjunction with this ordinance.

Mayor Spencer then opened the public comment portion of the public hearing. There was no public comment and Mayor Spencer closed the public comment portion of the hearing. He then invited questions of Council and there were none.

Mayor Spencer closed the public hearing.

**MOTION:** Moved by Councilmember Welch, seconded by Councilmember Petershagen, to extend interim Ordinance 1055 dissolving the Design Review Board and establishing an administrative review process an additional six months. On vote the motion carried (7-0-0-0).

**Action Items:**

**Interlocal Agreement with Snohomish Health District:** City Administrator Brazel presented the staff report and explained the Per Capita Funding for the Snohomish Health District was approved with the 2019 budget in the amount of \$32,570 based on an estimated population of 32,570 at a funding level of \$1 per capita. He said the Health District has provided detailed financial information previously requested by Council prior to approval of the ILA. Following review, some Councilmembers commented at last week's workshop that the provided information falls short of what was requested. Since that time Administrator Brazel has received additional information included a list of services provided throughout the county, the primary one being preventing disease, as well as other services and outreach.

Councilmember McDaniel commented it is important that the community know what they are receiving for this funding; she requested a list of administrative costs which has not been received and the Health District is not visible in the community, such as attending the Health and Safety Fair, which is an excellent opportunity.

Councilmember Tageant agreed with Councilmember McDaniel's comments.

Councilmember Welch disagreed, and said he has reviewed the budget online. Additionally he is concerned regarding the opioids epidemic and measles outbreak. He added as a Snohomish County leader, Lake Stevens needs to support this funding because a strong health district is important.

Councilmember Tageant responded he supports the concept of the Snohomish Health District, but he wants to see financial accountability.

Councilmember Hilt said that Snohomish County does support the Health District. Responding to the concerns expressed, Councilmember Hilt said much of what the Health District does is dissemination of public health information. He added that when the motor vehicle excise tax was removed the Health District lost one of its primary funding mechanisms. Councilmember Hilt reminded that the state was to create a new funding mechanism for the Health District and it has, beginning in 2020. The idea was to have cities fund the Health District in the three year interim. Councilmember Hilt reviewed the measles and outbreaks and said local health jurisdictions respond to these outbreaks. He added that Snohomish Health District is a leader in

various areas of public health including medicine takeback, provider reach back, the opioid epidemic and food safety.

Councilmember Daughtry agreed with Councilmembers Welch and Hilt and commented the city does need to help fund the Health District because, even though they cannot drill down to services provided to Lake Stevens, the city does receive benefits from the work they do.

Councilmember Petershagen believes there are valid concerns on both sides of the discussion; the difficulty is wanting to fund the Health District, but specific questions were asked, and they were not answered. He would like to fund the Health District but has concerns.

Councilmember Tageant suggested this topic can be revisited.

Mayor Spencer suggested Council table the conversation until everyone has an opportunity to fully review the new information.

**MOTION:** Moved by Councilmember Gailey, seconded by Councilmember Hilt, to authorize the Mayor to enter into an Interlocal Agreement for Per Capita Funding with the Snohomish Health District for calendar year 2019 in the amount of \$32,570. On vote the motion failed (3-4-0-0).

#### **Discussion Items:**

**Code Amendments to LSMC 14.56 regarding Streets and Sidewalks:** Planner Roth presented the staff report and explained that this is a city-initiated code amendment to update Chapter 14.56 LSMC which addresses right-of-way (ROW) issues, including how the city's street networks should be built out, what types of developments are required to build sidewalks and other frontage improvements and how deviations from the adopted Engineering Design and Development Standards (EDDS) are approved. Many of the city's goals for promoting low impact development, creating a connected street network and increasing the amount of pedestrian facilities can be addressed through this zoning code amendment. In general, the finer engineering details of road standards, like turning radius and dimensions, are addressed in the EDDS and the higher-level regulations on private property development are addressed through the City's municipal code. The purpose of this code amendment is generally to clean it up. He then commented that Lake Stevens' code differs from other city codes in that streets and sidewalks are in the Municipal Code rather than the Zoning Code. Planner Roth reviewed some of the proposed amendments regarding parking and driveway easements and said the International Fire Code requirements will be implemented through the EDDS. Planner Roth invited question from Council.

Councilmember Gailey suggested picture examples be included for better visualization in future updates.

Responding to Councilmember Petershagen's comment regarding the pedestrian separation or access point of 750 feet, Planner Roth said a phrase was added to include "unless deemed infeasible by the Planning Director."

Councilmember Tageant said he always looks for flexibility in code language to allow the city to look at more practicable solutions, especially when there is less and less developable land.

Councilmember Petershagen commented that "infeasible" may not address the need for more flexibility, and maybe there is a different choice of wording.

Planner Roth said he would add language for flexibility regarding street parking.

Councilmember Daughtry commented that the code as proposed allows only one vehicle access and does not provide for a circular driveway. Planner Roth responded the general school of thought is that with less access there is better safety.

Director Wright said that single access driveways are part of the adopted engineering policies and staff is trying to make the documents compliant with each other. He added that in the case of driveways in an HUR zoned area having two driveways is not practical, but with a larger single family lot it could be considered.

Councilmember Tageant commented it depends on who is interpreting the code whether the interpretation is friendly or unfriendly, and this creates frustration. He added that part of the frustration might be that the code is being interpreted very strictly in the field.

Councilmember Daughtry reiterated his concerns, and Director Wright said the code could be modified to identify when circular driveways would be considered.

Councilmember Welch commented there needs to be flexibility in the code because most of the buildable lands are on hillsides.

Mayor Spencer clarified concerns being expressed and commented that the engineering standards provide more flexibility than the zoning code because there is opportunity for the Public Works and Community Development Directors to do an independent review and allow some variance to the standards with a change to the engineering or design.

Planner Roth explained that code is inflexible and requires a Hearing Examiner process for a variance, whereas the EDDS provides flexibility and the Public Works and Community Development Director can allow modifications on a case-by-case basis.

Director Wright said the purpose of the amendments is to bring flexibility, and he appreciated Council's input and comments on flexibility.

Councilmember Petershagen asked about the pedestrian access, and Planner Roth said this would be used in the situation of very long blocks, which is not seen very often. The pedestrian path would be when the plat is developed. Councilmember Petershagen suggested also extending these accesses to developed neighborhoods.

**Food Truck Vendors:** Mayor Spencer said that this is before Council for further discussion at Councilmember McDaniel's request following the recent rowing regatta.

Administrator Brazel said he visited six restaurants in the downtown area and was able to speak with four owners, all of whom said food trucks are fine for special events but were concerned over having food trucks in the area on a daily or weekly basis. The business owners he spoke to also appreciated all of the improvements to further economic development. In response to Administrator Brazel's question regarding interest in the formation of a downtown association or newsletter, there was interest in a newsletter. Administrator Brazel said his goal is to meet with all of the business owners.

Councilmember McDaniel said she specifically asked if there would be food trucks and was told no. She is a supporter of events but is concerned that Council's decision to not allow food trucks is eroded because event organizers choose whether to have food trucks be part of their event. Also, they received a right of way permit that allowed them to block off parking in the downtown corridor, and this is disturbing as parking is very limited. Councilmember McDaniel said that event organizers need to plan on how to park 600 people for their events and plan traffic control so that increased traffic created by the event will not impact property and business owners. She urged there needs to be parameters in place to protect the people who live here and pay taxes here, and believes most of the events that come to town have a negative impact on businesses because residents stay away. Councilmember McDaniel also was concerned regarding an event-related unmarked platform left in the lake for several days which created a safety hazard. She would like to see the events spread out to other parks around the lake.

Councilmember Gailey suggested doing a study on how cities who do events in their downtown area protect their brick and mortar businesses to ensure their success. He also was concerned about vendors that were brought in with the event that competed with local businesses.

Mayor Spencer commented this is a challenge and that everyone wants events to come here because in the end it is good for the city.

Councilmember McDaniel suggested adding more parking at North Cove Park, and that it is important to remember that citizens want to enjoy the lake and surrounding area as well. She said the downtown area cannot always close for an event.

Mayor Spencer identified there are two separate concerns, first, the events and their management, boundaries, parking and pedestrian access and second is the food truck and mobile food vendors.

In response to Councilmember McDaniel's question regarding policing at events, Clerk Pugh said that as part of the permit process, event applicants enter into a contract for off duty police services if needed, which is invoiced at an hourly billable rate to the applicant and paid as part of the permit fee.

Administrator Brazel clarified there is a very extensive special event process that is approved by WCIA. The application is reviewed by all departments, and for example if the police department believes police support will be necessary that is included as part of the requirement for permit approval, and the applicant pays for those services. Other times the applicant requests police services and they pay for those services. After big events staff conducts a post event debrief to determine what went well and where improvements can be made in the future. He added that when events such as the regatta come to town they are requested as part of the permit approval to contact business and property owners and advise them of the upcoming event. Under the code food vendor trucks are allowed on public property for special events. They are not allowed on private property.

Councilmember Rauchel requested the notice to property owners be tightened up so that it is not at the last minute. Also she believes applicants should only be allowed to bring in their special event and not additional vendors.

Councilmember Tageant said, that while he understands the concerns being expressed, he does not want to see events coming through Council for approval.



Discussion ensued with Councilmember McDaniel saying there should be a separate permit for each element of an event and Councilmember Tageant saying this would make it too complicated. Councilmember Petershagen wondered where the line is drawn for an event such as Aquafest vs. one-off events, and Councilmember Welch suggested there could be a non-compete requirement with local businesses within the event area.

Mayor Spencer said staff will reach out to Snohomish, Oak Harbor and Monroe as to how they handle their events, and asked Council to suggest other communities, as well as event sponsors. He added it is incumbent on the city to be really good at this, especially having the largest lake in Snohomish County.

**Executive Session:** At 8:37 p.m. Mayor Spencer announced an executive session beginning in 5 minutes to last 5 minutes to discuss Real Property Purchase and Sale, with no action to follow.

At 8:47 p.m. the regular meeting of the City Council reconvened.

**Adjourn:**

Moved by Councilmember Tageant, seconded by Hilt, to adjourn the meeting at 8:47 p.m. On vote the motion carried (7-0-0-0).

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John Spencer, Mayor

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Kathy Pugh, City Clerk



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

Tuesday, May 21, 2019  
Lake Stevens Fire District Station 82 Conference Room  
9811 Chapel Hill Road, Lake Stevens

CALL TO ORDER: 7:00 p.m. by Mayor John Spencer

ELECTED OFFICIALS PRESENT: Councilmembers Gary Petershagen, Kim Daughtry, Kurt Hilt, Todd Welch, Brett Gailey and Marcus Tageant (7:03 p.m.)

ELECTED OFFICIALS ABSENT: Councilmembers Rauchel McDaniel

STAFF MEMBERS PRESENT: City Administrator Gene Brazel, Finance Director Barb Stevens, Community Development Director Russ Wright, Public Works Director Eric Durpos, Police Commander Ron Brooks, Human Resources Director Teri Smith, Human Resources Specialist/Executive Assistant Julie Good, City Clerk Kathy Pugh

OTHERS:

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**Pledge of Allegiance:** Mayor Spencer led the pledge of allegiance.

**Roll Call:** Moved by Councilmember Welch, seconded by Councilmember Hilt, to excuse Councilmembers Tageant and McDaniel. On vote the motion carried (5-0-0-2).

**Approval of Agenda:** Councilmember Petershagen requested that Consent Agenda Item (B) Interlocal Agreement with Marysville re Soper Hill and SR 9 be moved to Discussion Items.

Councilmember Tageant arrived at 7:03 p.m.

Councilmember Petershagen said there will be executive session for real property acquisition with action to follow and pending litigation with no action to follow.

**MOTION:** Moved by Councilmember Daughtry, seconded by Councilmember Welch, to approve the agenda as amended. On vote the motion carried (6-0-0-1).

**Guest Business:** Doug Levy, Outcomes by Levy, provided an update on the 2019 Legislative actions, and how they benefit or impact Lake Stevens. He also commented on an upcoming ballot issue regarding the motor vehicle excise tax and said he will be working with the Mayor and City Administrator to begin fleshing out 2020 legislative priorities. Mr. Levy then responded to Councilmember Welch's question regarding return of the revenue stream for Basic Law Enforcement Academy.

**Citizen Comments:** None.

**Council Business:**

- Councilmember Petershagen: Michael's grand opening, Sewer Utility Committee.
- Councilmember Daughtry: Michael's and Blues Yogurt grand openings.
- Councilmember Tageant: Sewer Utility Committee, Michael's grand opening.
- Councilmember Welch: Michael's grand and Blues Yogurt grand openings, upcoming Alliance for Affordable Housing meeting.
- Councilmember Gailey: Michael's grand opening.

**Mayor's Business:** Sno Isle Library District toured police station and it went well. WSDOT ground breaking for SR 9 project, which is a righthand turn lane from Market onto southbound SR 9. East County Mayors meeting.

**City Department Report:**

- City Administrator Gene Brazel: Pavilion is out to bid.
- Community Development Director Russ Wright: Request for Qualifications for Trail Master Plan resulted in five proposals that are being evaluated; Permit update, Everett Clinic expansion at Soper Hill; formal applications from Costco received.
- Public Works Director Eric Durpos: North Cove Park update.
- Human Resource Director Teri Smith: Snohomish County has the second lowest unemployment rate in the state; this is good but limits the applicant pool so staff will be utilizing a service, Criteria Corporation, to delve deeper into the applicant pool.

**Consent Agenda:**

**MOTION:** Moved by Councilmember Daughtry, seconded by Councilmember Welch, to approve the consent agenda as amended: (A) 2019 Vouchers [Electronic Funds Transfers (ACH) of \$292,360.18, Claims Check Nos. 47832-47888 totaling \$202,547.49, Void Check No. 47097 totaling (\$350.00), Total Vouchers Approved: \$494,557.67], (B) [Removed], and (C) Interlocal Agreement with Snohomish County re Building/Construction/Fire Plan Review and Code Inspection Services. On vote the motion carried (6-0-0-1).

**Public Hearing:** None.

**Action Items:** None.

**Discussion Items:**

**Interlocal Agreement with Marysville re Trails:** Director Wright said the cities of Lake Stevens and Marysville have been coordinating on planning and development in areas sharing a common city boundary line. Both cities share a boundary line along the Bonneville powerline easement, which is deemed an excellent area to develop a north-south recreational trail network that would connect at Soper Hill. He noted that Marysville has agreed to build the first trail head with parking and restrooms at the connection point on Soper Hill.

Responding to Councilmember Daughtry's question, Director Wright said currently this ILA and the one regarding the Soper Hill/SR 9 intersection are linked, but that they could probably be separated.

Responding to Councilmember Petershagen's questions, Administrator Brazel said there are two separate agreements, but they are linked, and Marysville will handle them as linked. In the road ILA there is a section that speaks to the trails. Councilmember Petershagen confirmed the ILAs could be separated and expressed concern about the requirement to construct a trail to 20<sup>th</sup> Street SE; he wondered what ensures this will happen by both parties.

Mayor Spencer responded this ILA is a plan that will eventually connect the two trail ends to the Centennial Trail. The agreement is the commitment between the two cities to build the trail. Each city is responsible for building its own portion of the trail and they will eventually meet at Soper Hill. He added this ILA does not make the Soper Hill road ILA any better or worse.

Discussion ensued and there was agreement that the two ILAs are two separate issues and should not be contingent on each other. There was direction to staff to tighten up the ILA on trails and bring it forward to the next meeting.

**ILA with Marysville re Soper Hill Road:** Mayor Spencer reviewed the background on this ILA and Marysville's initial proposal, and the City's concerns with the ILA as proposed. Mayor Spencer recommended moving forward with this agreement, but recognized Councilmember Petershagen's request to add more definition to the agreement and said this can be done and the ILA can be brought forward for consideration in the future.

Councilmember Tageant commented on the amount of housing being built in Marysville and said the impacts of that growth on Lake Stevens are not presently known.

Responding to Councilmember Daughtry's question regarding the development on the east side of Soper Hill, Director Wright said the new road will connect to the elementary school.

Councilmember Welch asked if Lake Stevens will receive any of the traffic impact fees from Marysville as new Marysville residents will be utilizing Soper Hill Roads and other city roads and businesses.

Director Wright commented there is language that requires Marysville to complete intersection improvements at 83<sup>rd</sup> if the level of service falls to a certain level, even if new development does not come in.

Councilmember Petershagen agreed with the Mayor's comments regarding reciprocating impact fees, but he does believe the greater impacts will fall on Lake Stevens. He reviewed what the City will receive from this ILA and wondered where the equity is. He believes the impacts on Lake Stevens will be huge, and encouraged the City continue to work on this ILA until everyone is comfortable with it.

Mayor Spencer shared his perspective, saying that Marysville believes they are mitigating and they are spending \$5 million dollars for the intersection improvement; he added Marysville is willing to build the park trailhead. He suggested the city does have leverage in that it reviews the EIS's for the housing development that is occurring in Marysville.

There was Council direction to continue working on the ILA and to bring it to a workshop for further discussion.

**Proposed Critical Areas Amendments:** Community Development Director Wright said that under the Growth Management Act cities are required to update their critical areas ordinances and reviewed the history of the proposed critical areas code amendments. He commented that Council previously requested staff research the feasibility of allowing additional stormwater features in critical area buffers. He then reviewed the proposed requirements for setbacks from the NGPA buffers and shared that other jurisdictions are all over the board on their requirements. Director Wright said this is being brought forward because Department of Ecology updated their wetland rating system manual. He also commented on how the Critical Areas Ordinance affects the buildable lands. Director Wright reviewed the goals and strategies in the draft Critical Areas ordinance and said the new regulations from the state do not affect the city's ability to meet its growth targets for 2035. Director Wright reminded that not moving forward with a Critical Areas ordinance affects the City's ability to be competitive in grant applications. Director Wright then responded to Councilmembers' question.

There was consensus to bring this forward for additional discussion on the either the June 4<sup>th</sup> or June 18<sup>th</sup> workshop meeting.

**Executive Session:** At 8:24 p.m. Mayor Spencer announced an executive session lasting 10 minutes to discuss pending litigation with no action to follow and real property acquisition, with possible action to follow, and noted for the record that the City Attorney will be participating by telephone.

The regular meeting of the City Council reconvened at 8:34 p.m.

**MOTION:** Moved by Councilmember Tageant, seconded by Councilmember Welch, to approve the acquisition of the Butler property for a price of \$520,000 and including a leaseback provision for the Butlers to remain in the house until May 2021 at approximately \$600 per month. On vote the motion carried (6-0-0-1).

**Adjourn:**

Moved by Councilmember Daughtry, seconded by Councilmember Welch, to adjourn the meeting at 8:36 p.m. On vote the motion carried (6-0-0-1).

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John Spencer, Mayor

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Kathy Pugh, City Clerk



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

Tuesday, June 4, 2019  
Lake Stevens School District Educational Services Center (ESC)  
12309 – 22<sup>nd</sup> Street NE, Lake Stevens

CALL TO ORDER: 7:00 p.m. by Mayor John Spencer

ELECTED OFFICIALS PRESENT: Councilmembers Kim Daughtry, Kurt Hilt, Gary Petershagen, Marcus Tageant, Brett Gailey and Todd Welch (7:03 p.m.)

ELECTED OFFICIALS ABSENT: Rauchel McDaniel

STAFF MEMBERS PRESENT: City Administrator Gene Brazel, Community Development Director Russ Wright, Public Works Director Eric Durpos, Human Resources Director Teri Smith, Human Resources/Executive Assistant Julie Good, City Clerk Kathy Pugh, Police Chief John Dyer, Police Commander Ron Brooks; City Attorney Greg Rubstello (7:19 p.m.), Police Officers David Carter and Dennis Irwin, Senior Engineer Grace Kane

OTHERS: Planning Commissioners Janice Huxford, Jennifer Davis, John Cronin, Linda Hault and Tracey Trout

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Mayor Spencer called the meeting to order at 7:00 p.m. and explained the workshop agenda and the following special meeting agenda.

Council President Petershagen welcomed the Planning Commission and turned the meeting over to the Police Department.

**ALICE Training (Joint Training with Planning Commission):** Officers David Carter and Dennis Irwin presented the ALICE training which was adopted by the Lake Stevens School District in 2014 for implementation in the case of an active shooter or other imminent threat. ALICE stands for Alert, Lockdown, Inform, Counter and Evacuate. Officer Carter reviewed each of these elements, including how they can be carried out and why they are effective. He explained that while an event can seem like a very long time, in reality most events are very short, a matter of minutes, and being mentally prepared for such an event can often mean the difference between surviving or not surviving. Officers Carter and Irwin then responded to questions from the Council and Planning Commission.

**Homeless Encampments on Public Lands:** Police Chief Dyer reminded of the earlier presentation on the Police Department's efforts with the homeless population, including review of the laws and recent legislation. Chief Dyer said the Police Department outreach tools now include working with Compass Health and the Snohomish County Outreach specialist as partners in working with the homeless and providing resources to address their needs. Chief Dyer also said Public Works has helped clean up several sites and will continue to do so, which

is very much appreciated by both the Police Department and citizens. Chief Dyer invited Council questions and requested Council direction.

Responding to Councilmember Daughtry's question, Chief Dyer said that recent case law has been reviewed and that both the City Attorney and WCIA have vetted recently adopted ordinances based on that case law and support those ordinances.

Councilmember Tageant supports moving forward with this ordinance.

Mayor Spencer commented the city cannot tell homeless people they cannot camp anywhere within the city, but the homeless can be redirected to available resources, and if these are refused, with legislation in place, police officers can enforce no camping regulations in the form of trespassing. He added that in the case of private property owners who are experiencing homeless encampments, those property owners need to be contacted and worked with.

Responding to Mayor Spencer's question, Commander Brooks said right now there are three homeless people that he is aware of, two who live under the powerlines and a third person who moves around. He shared an example of a homeless veteran who was recently contacted, and the Snohomish County social worker was able to connect that veteran with services.

Councilmember Gailey asked about the volume of cleanup from encampments, and Commander Brooks said there was a large dump truck load in addition to other material. He added that both Public Works and the Department of Corrections workers assist with cleanups.

Planning Commissioner Huxford believes there are more than three homeless people in the city limits and that most remain unseen or hidden. She said the occurrence of homelessness is ongoing and acute.

City Attorney Rubstello commented there are advantages to having an ordinance in place including having a known policy tool that both the officers and public know, and the ability to state in the ordinance those public places that cannot be utilized as encampments. These places are usually the most public places. Attorney Rubstello encouraged the Council to move forward with this ordinance.

Responding to Attorney Rubstello's question, Chief Dyer said the Redmond ordinance is still being used as the model and that it prohibits camping on both improved and unimproved publicly owned property, including portions of streets or sidewalks that are expressly reserved for pedestrian or vehicular traffic.

Mayor Spencer asked about properties that are privately owned rights-of-way that are leased for public purposes, such as the water line. Attorney Rubstello commented the city would need an agreement with the agency leasing the property.

There was Council consensus to move this ordinance forward.

**Interlocal Agreement with Marysville re Soper Hill Road:** City Administrator Brazel said this is brought forward to tonight's work session for Council discussion. He added that three recent traffic reports have been reviewed and City Engineer Kane will provide a briefing on traffic counts and answer any traffic-related questions Council might have.

Engineer Kane shared that she reviewed traffic reports that have been recently submitted with development projects in both Marysville and Lake Stevens, and that these reports include traffic forecasts. She noted the reports are dependent on which methodology is used, but with review of several reports, patterns emerge and demonstrate that during am/pm peak hours most traffic flows at Soper Hill flows west from Lake Stevens into Marysville. Discussion ensued, and Engineer Kane shared specific numbers for east and westbound traffic during am/pm peak hours.

Mayor Spencer commented he does not recommend Council move forward with the ILA at this time, but rather let Marysville know we think we have an agreement. He noted the Whiskey Ridge development is underway in Marysville, and the new rooftops are ones that will shop in Lake Stevens. He commented Marysville is prepared to spend approximately \$5 million to improve the Soper Hill/SR 9 intersection. Additionally Lake Stevens has development applications in for Soper Hill Road that will provide traffic improvements and mitigation fees that will be used to improve the safety on Soper Hill Road. Mayor Spencer recommended not entering into the ILA with Marysville until such time as Lake Stevens is firmly assured that Costco is moving forward with their Lake Stevens project.

Councilmember Petershagen commented this provides an opportunity to continue to work on the trail agreement with Marysville.

Council agreed with this approach.

**War Memorial Review:** Director Wright reported on his and Councilmember Daughtry's meeting with the War Memorial Board, members of the Veterans and Arts Commission and Councilmember Gailey. He reviewed the city's recommendations that the memorial be centralized in the park, adjacent to 18<sup>th</sup> Street and ADA accessible. The Board's recommendations for design of the new War Memorial include the imbedding of the seals of the different military branches into the memorial, the flags located on the outside of the memorial to provide easy access for volunteers, and on the inside the inscribed stones for the recognized veterans. Details were discussed including color, lettering and using signage to memorialize the old monument. Director Wright said the group was supportive of the concepts that are being presented tonight.

Discussion ensued, and Councilmember Daughtry said the use of bricks along the parkway was a secondary discussion and it is still intended that bricks be used, as well as including benches as part of the project. Councilmember Daughtry commented the conversation was generally focused and a good discussion, and that everyone seemed happy.

There was general Council consensus to continue with the concept presented this evening.

There being no further business the meeting was adjourned at 8:12 p.m.

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John Spencer, Mayor

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Kathy Pugh, City Clerk



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

Tuesday, June 4, 2019  
Lake Stevens School District Educational Service Center (Admin. Bldg.)  
12309 22<sup>nd</sup> Street N.E. Lake Stevens

CALL TO ORDER: 8:14 p.m. by Mayor John Spencer

ELECTED OFFICIALS PRESENT: Councilmembers Gary Petershagen, Kim Daughtry, Kurt Hilt, Todd Welch, Brett Gailey and Marcus Tageant

ELECTED OFFICIALS ABSENT: Councilmember Rauchel McDaniel

STAFF MEMBERS PRESENT: City Administrator Gene Brazel, Community Development Director Russ Wright, Public Works Director Eric Durpos, Police Chief John Dyer, Human Resources Director Teri Smith, City Clerk Kathy Pugh, City Attorney Greg Rubstello

OTHERS:

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**Pledge of Allegiance:** Mayor Spencer led the pledge of allegiance.

**Roll Call:** Moved by Councilmember Hilt, seconded by Councilmember Gailey, to excuse Councilmember McDaniel from the meeting. On vote the motion carried (6-0-0-1).

**Approval of Agenda:**

**MOTION:** Moved by Councilmember Hilt, seconded by Councilmember Daughtry, to approve the agenda. On vote the motion carried (6-0-0-1).

**Executive Session:** Mayor Spencer announced an executive session at 8:14 p.m. beginning in 5 minutes and lasting 10 minutes to discuss a real property sale, with no action to follow.

Councilmember Tageant recused himself and left the meeting at 8:16 p.m. due to a conflict of interest.

The Special Meeting of the City Council reconvened at 8:29 p.m.

**Adjourn:**

Moved by Councilmember Petershagen, seconded by Councilmember Welch, to adjourn the meeting at 8:29 p.m. On vote the motion carried (6-0-0-1).

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John Spencer, Mayor

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Kathy Pugh, City Clerk



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LAKE STEVENS CITY COUNCIL  
**STAFF REPORT**

**Council Agenda**

**Date:** June 11, 2019

**Subject:** Reappointment to Civil Service Commission

**Contact**

**Person/Department:** Mayor **Budget Impact:** 0

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**RECOMMENDATION(S)/ACTION REQUESTED OF COUNCIL:** Reappoint Ray Mitchell to the Civil Service Commission for a six-year appointment beginning July 1, 2019 and expiring June 30, 2025.

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**SUMMARY/BACKGROUND:** Per LSMC 2.68, the Police Civil Service Commission was created to accomplish the purposes of RCW 41.12 related to the selection, appointment and employment of police officers (except the Police Chief). The commission consists of three members who are appointed for six-year terms, with the appointments staggered. Unlike the city's other boards and commissions appointments which expire on December 31 of each year, Civil Service Commission appointments expire on July 1 of successive odd numbered years. LSMC 2.68.020 provides that commissioners may be reappointed.

Commissioner Mitchell has advised by email that he would be honored to be reappointed to the Civil Service Commission for a six-year term expiring on July 1, 2025.

It is the Mayor's recommendation that Ray Mitchell be reappointed to the Civil Service Commission for a six-year term as set out above.

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**APPLICABLE CITY POLICIES:** LSMC Title 2.68

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**BUDGET IMPACT:** N/A

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**ATTACHMENTS:** None



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LAKE STEVENS CITY COUNCIL  
**STAFF REPORT**

**Council Agenda**

**Date:** June 11, 2019

**Subject:** Ordinance 1058 Amending LSMC 9 to add a new Section 9.80 Camping

**Contact**

**Person/Department:** John Dyer, Police Chief **Budget Impact:** 0

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**RECOMMENDATION(S)/ACTION REQUESTED OF COUNCIL:** Approve Ordinance 1058, an Ordinance of the City of Lake Stevens, Washington amending LSMC 9 to add a new Section 9.80 Camping, providing for Severability, establishing an Effective Date and providing for Summary Publication by ordinance title only.

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**SUMMARY/BACKGROUND:** At the April 23, 2019 Council regular meeting Council was provided an overview of the need to establish tools to ensure that homeless camping is not able to take place on public lands and rights-of-way including streets and sidewalks. Staff presented the concerns, challenges and the legal concerns in working with homeless encampments on public lands, which also include the rights of homeless persons. Staff also shared that the Police Department is working with different social service organizations including Compass Health to provide resources to homeless persons while in the field.

This topic was again discussed at the June 4, 2019 Council workshop meeting, and Staff commented on the successful partnerships with Compass Health and the Snohomish County Outreach specialist to provide resources to homeless persons. Staff commented they are recommending legislations modelled after City of Redmond's ordinance which has both WCIA and the City Attorney's support, and requested direction from Council. Following discussion, Council supported moving forward with an ordinance similar to Redmond's, which will give officers useful tools in the field to help address homelessness in public rights -of-way. To ensure consistency with LSMC Title 10, a small addition was added at §9.80.080(A)(1), as follows:

(A) It is unlawful for any person to camp, occupy camp facilities or use camp paraphernalia in the following areas, except as provided in subsection (B) below:

(1) Any park, except as provided in LSMC 10.03.160; . . .

Title 10.03.160 Camping provides that "it is unlawful for any person or group of persons to camp out in any park except at such places set aside for such purposes by the Director and so designated by signs." The intent of this provision is to provide flexibility, i.e., in the case of a special event that requires vendors to stay overnight, such as in the case of Aquafest.

The attached ordinance has been reviewed and approved by the City Attorney.

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**APPLICABLE CITY POLICIES:**

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**BUDGET IMPACT:** N/A

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**ATTACHMENTS:** Ordinance 1058

CITY OF LAKE STEVENS  
LAKE STEVENS, WASHINGTON

ORDINANCE NO. 1058

AN ORDINANCE OF THE CITY OF LAKE STEVENS, WASHINGTON, AMENDING LSMC 9 TO ADD A NEW SECTION 9.80 CAMPING, PROVIDING FOR SEVERABILITY, ESTABLISHING AN EFFECTIVE DATE AND PROVIDING FOR SUMMARY PUBLICATION BY ORDINANCE TITLE ONLY.

WHEREAS, homelessness has been identified as an epidemic within the State of Washington and County of Snohomish; and

WHEREAS, Snohomish County is host to a population of homeless persons who create and live in makeshift and temporary shelters and tents on both public and private properties, including within the City of Lake Stevens, and often for long periods of times; and

WHEREAS, the City of Lake Stevens, strives to provide for the health, safety and welfare of both its residents and visitors to the city; and

WHEREAS, the City Council wishes to protect the public health, safety and welfare of its residents and visitors by identifying public areas and rights of way that are not suitable for temporary shelters

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

Section 1. Lake Stevens Municipal Code Title 9 is amended to add a new Section LSMC 9.80 Camping as follows:

Chapter 9.80  
CAMPING

Sections:

- 9.80.010 Purpose.
- 9.80.020 Definitions.
- 9.80.030 Unlawful camping.
- 9.80.040 Storage of personal property in public places.
- 9.80.050 Penalty for violations.
- 9.80.060 Parked recreational vehicles exempt.

9.80.010 Purpose.

The purpose of this chapter is to provide for the public health, safety and welfare of the residents and visitors to the City of Lake Stevens.

9.80.020 Definitions.

The following definitions are applicable in this chapter unless the context otherwise requires:

- (a) "Camp" means to pitch or occupy camp facilities, to use camp paraphernalia.

- (b) “Camp facilities” include, but are not limited to, tents, huts, or temporary shelters when used for sleeping or overnight shelter. “Camp facilities” does not include tents, huts, or temporary shelters when used temporarily in a park for recreation or play during daylight hours when the park is open to the public.
- (c) “Camp paraphernalia” includes, but is not limited to, tarpaulins, cots, beds, sleeping bags, hammocks or non-city-designated cooking facilities and similar equipment.
- (d) “Park” means those areas subject to the executive and administrative responsibility of the parks and recreation department established by Redmond Municipal Code, Chapter 9.31\*, including but not limited to parks, trails, playgrounds, athletic fields, and public open space.
- (e) “Store” means to put aside or accumulate for use when needed, to put for safekeeping, to place or leave in a location.
- (f) “Street” means any highway, lane, road, street, right-of-way, boulevard, alley and every way or place in Redmond open as a matter of right to public vehicular travel.

#### 9.80.030 Unlawful camping.

(A) It shall be unlawful for any person to camp, occupy camp facilities or use camp paraphernalia in the following areas, except as set forth in subsection B below:

- (1) Any park, except as provided in LSMC 10.03.160;
- (2) Any publicly-owned property to which the public is not ordinarily allowed access, including but not limited to, public buildings, water storage tank sites, well sites, storm water ponds and facilities, and other secured properties;
- (3) Any other publicly-owned parking lot or publicly-owned property, improved or unimproved;
- (4) That portion of any street or sidewalk that is expressly reserved for vehicular or pedestrian travel;
- (5) Portions of any street right-of-way that is not expressly reserved for vehicular or pedestrian travel.

(B) The prohibitions contained in subsections (A)(1), (A)(2), (A)(3), and (A)(4) above shall be enforced at all times. Law enforcement officers shall not enforce the prohibitions in subsection (A)(5) above when there is no available overnight shelter for individuals or family units experiencing homelessness on the date that camping occurs. “Available overnight shelter” means a public or private shelter, with an available overnight space, open to an individual or family unit experiencing homelessness at no charge. If an individual or family unit cannot use available space because of the individual or family member’s sex, familial or marital status, religious beliefs, disability, or a shelter’s length-of-stay restrictions, the space is not considered to be available. The space is also not considered to be available if an individual has attempted to secure a bed at the shelter by lining up in advance of the shelter opening for the day and has denied entry due to lack of available space. The space is considered available if the individual could not use the space due to voluntary actions such as intoxication, drug use or unruly behavior.

#### 9.80.040 Storage of personal property in public places.

(A) It shall be unlawful for any person to store personal property, including camp facilities and camp paraphernalia, in the following areas, except as set forth in subsection B below:

- (1) Any park;
- (2) Any publicly-owned property to which the public is not ordinarily allowed access, including but not limited to, public buildings, water storage tank sites, well sites, storm water ponds and facilities, and other secured properties;

- (3) Any other publicly-owned parking lot or publicly-owned property, improved or unimproved;
- (4) That portion of any street or sidewalk that is expressly reserved for vehicular or pedestrian travel;
- (5) Portions of any street right-of-way that is not expressly reserved for vehicular or pedestrian travel.

(B) The prohibitions contained in subsections (A)(1), (A)(2), (A)(3), and (A)(4) above shall be enforced at all times. Law enforcement officers shall not enforce the prohibitions in subsection (A)(5) above when there is no available overnight shelter for individuals or family units experiencing homelessness. "Available overnight shelter" means a public or private shelter, with an available overnight space, open to an individual or family unit experiencing homelessness at no charge. If an individual or family unit cannot use available space because of the individual or family member's sex, familial or marital status, religious beliefs, disability, or a shelter's length-of-stay restrictions, the space is not considered to be available. The space is also not considered to be available if an individual has attempted to secure a bed at the shelter by lining up in advance of the shelter opening for the day and has denied entry due to lack of available space. The space is considered available if the individual could not use the space due to voluntary actions such as intoxication, drug use or unruly behavior.

#### 9.80.050 Penalty for violations.

(A) Violation of any of the provisions of this chapter is a misdemeanor, and shall be punished as follows:

- (1) First Offense. Any person violating any of the provisions of this chapter shall, upon conviction of such violation, be punished by a fine of not more than \$1,000 or by imprisonment not to exceed 90 days, or by both such fine and imprisonment.
- (2) Second Offense. Every person who violates any of the provisions of this chapter, upon conviction of such violation, a second time within a five-year period shall be guilty of a misdemeanor, punishable by a fine of not more than \$1,000 or by imprisonment not to exceed 90 days, or by both such fine and imprisonment. One hundred dollars of the fine and one day of imprisonment shall not be suspended or deferred.
- (3) Third or Subsequent Offense. Every person who violates any of the provisions of this chapter, upon conviction of such violation, a third or more times within a five-year period shall be guilty of a misdemeanor, punishable by a fine of not more than \$1,000 or by imprisonment not to exceed 90 days, or by both such fine and imprisonment. Five hundred dollars of the fine and five days imprisonment shall not be suspended or deferred.
- (4) If a person is unable to pay the monetary penalty set forth in subsections (1), (2) or (3) of this section, the court may order performance of a number of hours of community service or work crew in lieu of a monetary penalty.

#### 9.80.060 Parked recreational vehicles exempt.

The provisions of this chapter shall not apply to recreational vehicles parked on any residential street for a period of not greater than 24 hours. For purposes of this chapter, "recreational vehicle" means a travel trailer, motor home, truck camper, or camping trailer that is primarily designed and used as temporary living quarters, is either self-propelled or mounted on or drawn by another vehicle, is transient, is not occupied as a primary residence, and is not immobilized or permanently affixed to a mobile home lot; provided, that recreational vehicles not owned by the owner or tenant of real property may park on the real property of another for a period not exceeding 14 consecutive days in a one-year period.

Section 2. Severability. If any section, subsection, sentence, clause, phrase, or word of this ordinance as now or hereafter amended, or its application to any person or circumstances, is held invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality thereof shall

not affect the validity or constitutionality of any other section, subsection, sentence, clause, phrase or word of this ordinance, and its application to other persons or circumstances shall not be affected.

Section 3. Effective Date and Summary Publication. This ordinance shall take effect and be in full force and effective five days after its summary publication by ordinance title only in the City's official newspaper.

PASSED by the City Council of the City of Lake Stevens, at its regular meeting thereof and APPROVED by the Mayor, this 25<sup>th</sup> day of June, 2019.

\_\_\_\_\_  
John Spencer, Mayor

ATTEST:

\_\_\_\_\_  
Kathy Pugh, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Greg Rubstello, City Attorney

First Reading and Adoption: June 25, 2019

Date of Publication:\_\_\_\_\_

Effective Date:\_\_\_\_\_



LAKE STEVENS CITY COUNCIL  
**STAFF REPORT**

**Council Agenda**

**Date:** June 11, 2019

**Subject:** Approve Real Estate Purchase and Sale Agreement with Dominic Heinzen

**Contact**

**Person/Department:** Gene Brazel, City Administrator

**Budget**

**Impact:** \$13,000

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**RECOMMENDATION(S)/ACTION REQUESTED OF COUNCIL:** **Approve the Real Estate Purchase and Sale Agreement with Dominic F. Heinzen for property generally known as the Powerline Property in the amount of \$13,000 and authorize the Mayor to make any necessary nonsubstantive changes to close the sale.**

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**SUMMARY/BACKGROUND:** The City Council previously authorized the City to enter into negotiations with Dominic Heinzen for the purchase of property generally known as the Powerline Property. The City plans to add this property as part of a trail plan to be developed under the powerlines. The City and Mr. Heinzen successfully negotiated a sale price of \$13,000, with additional consideration by the City to give recognition to the Seller's family by installation of three park benches, each with a plaque identifying the property as Heinzen Memorial Park in their honor, when the property is developed as a public park. Mr. Heinzen has agreed to the sale and signed the Real Estate Purchase and Sale Agreement.

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**APPLICABLE CITY POLICIES:**

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**BUDGET IMPACT: \$13,000**

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**ATTACHMENTS:**

- Exhibit A: Real Estate Purchase and Sale Agreement

## REAL ESTATE PURCHASE AND SALE AGREEMENT

**THIS REAL ESTATE PURCHASE AND SALE AGREEMENT** (this "Agreement") is by and between Dominic F. Heinzen ("Seller"), and the City of Lake Stevens, a municipal corporation of the State of Washington ("Buyer").

In consideration of the mutual covenants, conditions and promises contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Seller and Buyer agree as follows:

1. **Effective Date.** This Agreement is dated and effective as of the date of approval by the Lake Stevens City Council. The City Council shall have thirty (30) days from the execution of this Agreement by Seller to approve the Agreement, otherwise the Seller's signature shall be non-binding and this Agreement shall have no legal effect.

2. **Property to be Purchased.** Seller agrees to sell to Buyer, and Buyer agrees to purchase from Seller, the real property, together with any improvements thereon, located at Lake Stevens, Snohomish County, Washington (the "Property") legally described as follows:

SECTION 24, TOWNSHIP 29, RANGE 05 QUARTER SW – NE ¼ SW ¼ LESS N 660 FT THOF & LESS TH PTN LY E OF 300 FT ESE GRANT TO CITY OF SEATTLE & EXC ADDL R/W FOR RD (87<sup>TH</sup> AVE SE) TO SNO CO PER SWD REC UND AFN 200401070097.

Snohomish County Tax Parcel No.: 290524-003-022-00

Street Address: 12xx 87<sup>th</sup> Ave. SE, Lake Stevens

3. **Purchase Price.** The purchase price for the Property shall be THIRTEEN THOUSAND DOLLARS (\$13,000.00). The Purchase Price shall be paid to Seller in U.S. dollars or its equivalent at closing. As additional consideration to be received by the Seller, the Buyer agrees that it will give recognition to the Sellers parents and family, by installing on the Property, three park benches each with a plaque identifying the Property as Heinzen Memorial Park in their honor, when the Property is developed as a public park.

4. **Earnest Money Deposit.** No earnest money deposit is to be paid.

5. **Title to Property.**

5.1 **Conveyance.** On the Closing Date, Seller shall convey to Buyer fee simple title to the Property by a duly executed and acknowledged standard form Statutory Warranty Deed (the "Deed").

5.2 **Title Commitment.** Within seven (7) calendar days following the Buyer's approval of this Agreement, Seller, at its expense, shall furnish to Buyer a preliminary title insurance commitment (the "Commitment") covering the Property, issued by Chicago Title Insurance Company (the "Title Company"), together with copies of all recorded documents listed as special exceptions therein. Buyer shall have twenty (20) calendar days after receipt of the Title



Report and exceptions within which to notify Seller in writing of Buyer's disapproval of any exceptions shown in the Title Report; provided, however, Buyer shall not be required to object to any monetary liens or encumbrances. Subject to any monetary liens or encumbrances created by Buyer, Seller shall cause any such monetary liens or encumbrances to be removed on or before the Closing. Failure of Buyer to disapprove any exception within the twenty (20) calendar-day period shall be deemed an approval of the exceptions shown in the Title Report. As to any exceptions to title placed of record or first identified after issuance of the Title Report or revealed by any supplemental report, there shall be a thirty (30) day period after Buyer's receipt of the supplemental Title Report for Buyer to review and approve such exceptions on the same basis as provided above and the closing date shall be extended by such review period to accommodate such review.

5.3 **Right to Cure Title Defects.** If Buyer disapproves a title exception within the time period provided in Section 5.2, Seller shall have five (5) days following receipt of Buyer's objection to give Buyer written notice specifying which objectionable title exceptions, if any, Seller shall use commercially reasonable efforts to attempt to remove from title on or before the Closing. If Seller gives Buyer such notice, but Seller is unable, despite Seller's commercially reasonable efforts, to remove any such objectionable title defect on or before the Closing, Buyer may elect to either (i) terminate this Agreement, in which event all further rights and obligations of the parties shall cease; or (ii) waive Buyer's previous title objection and to proceed with the purchase of and take the Property subject to such exception, without any reduction in the Purchase Price and otherwise pursuant to the terms of this Agreement. If Seller either: (i) gives Buyer timely notice that Seller has elected not to attempt to remove all of the objected to title exceptions; or (ii) fails to give notice timely to Buyer, Buyer shall have five (5) calendar days after Buyer's receipt of Seller's notice or the expiration of the five (5) day time period, as applicable, to notify Seller in writing of Buyer's election to (a) proceed with the purchase of and take the Property subject to such previously disapproved exceptions without any reduction in the Purchase Price and otherwise pursuant to the terms of this Agreement; or (b) terminate this Agreement, in which event the parties thereafter shall be relieved of any further rights and obligations under this Agreement. If Buyer shall fail to notify Seller timely of its election to proceed under clause (a) above, Buyer shall be deemed to have elected to terminate this Agreement, in which event the parties thereafter shall be relieved of any further rights and obligations under this Agreement, and each party shall bear its own costs incurred under this Agreement.

5.4 **Title Policy.** The parties shall, at Seller's sole expense, cause Title Company to issue to Buyer at Closing a standard form coverage owner's policy of title insurance insuring Buyer's title to the Property in the full amount of the Purchase Price (the "Title Policy"). At Buyer's option and expense, Buyer may require that the title insurance policy to be issued to Buyer at Closing be an ALTA extended coverage owner's policy.

## 6. **Contingency and Permit Periods.**

6.1 **Buyer's Contingency Period.** Buyer shall have Sixty (60) calendar days from the Effective Date (the "Contingency Period") to satisfy itself concerning the condition of soils; the suitability and condition of the Property; public support for the purchase and the feasibility of developing the Property for Buyer's intended use; and in addition, to satisfy all legal requirements affecting Buyer's purchase of the Property, including any necessary public hearings, comprehensive plan and code amendment.. Buyer shall diligently and continuously work to resolve and satisfy itself with respect to the foregoing matters. If Buyer determines (in its sole and

complete discretion) that it is not satisfied with such matters, Buyer may, at any time on or before 5 p.m. (Pacific Time) on the last day of the Contingency Period, rescind this Agreement by giving written notice to Seller. In the event of such rescission, this Agreement thereafter shall be null and void and neither party shall have any obligation to the other. If Buyer does not notify Seller that it is rescinding this Agreement within the time period specified above, then the foregoing conditions shall be deemed waived. During the contingency period, Buyer may enter upon the property for purposes of inspection and testing. Buyer shall reimburse Seller for any damages it causes to the property during any inspection or testing and shall hold Seller harmless from any injuries to Buyer's officials, employees, consultant's or other representatives performing the testing or inspection, incurred on the property during such inspection or testing.

7. **Brokers and Commissions.** There are no Brokers and Commissions involved in this transaction.

8. **Closing.**

8.1 **Closing Date.** This purchase and sale will be closed at the Title Company's Everett, WA. Office or other location agreed to by the parties. The closing ("Closing") will occur no later than thirty (30) days following the conclusion of the Buyer's contingency period. If Closing does not occur on or before the Closing Date, or any later date mutually agreed to in writing by Seller and Buyer (which date shall then become the "Closing Date"), the escrow agent shall immediately terminate the escrow and return all documents to the party that deposited them.

8.2 **Real Property Prorations.** All revenues and expenses of the Property, including but not limited to, real property taxes, special assessments, rents, water, sewer and utility charges, and other expenses normal to the ownership, use, operation and maintenance of the Property shall be prorated as of 12:01 a.m. on the Closing Date. Seller and Buyer hereby agree that if any of the aforesaid prorations cannot be calculated accurately on the Closing Date, then the same shall be calculated within thirty (30) days after the Closing Date and either party owing the other party a sum of money based on subsequent prorations(s) shall promptly pay said sum to the other party. If payment is not made within ten (10) days after delivery of a bill therefore, the owing party shall pay interest on such amounts at the rate of eight percent (8%) per annum from the Closing Date to the date of payment.

8.3 **Seller's Escrow Deposits.** On or before the Closing Date, Seller shall deposit into escrow the following:

8.3.1 the duly executed and acknowledged Deed and if Seller elects, the duly executed Residential Lease Agreement;

8.3.2 a duly executed and completed Real Estate Excise Tax Affidavit;

8.3.3 a duly executed non-foreign affidavit pursuant to Section 1445 of the Internal Revenue Code of 1986, as amended; and

8.3.4 all documents and/or funds required to remove all monetary liens, encumbrances or assessments and to pay Seller's closing costs described in Section 8.6.1.

8.4 **Buyer's Escrow Deposits.** On or before the Closing Date, Buyer shall deposit into escrow the following:

8.4.1 Cash or its equivalent in an amount sufficient to pay the Purchase Price, plus the Buyer's closing costs described in Section 8.6.2; and

8.4.2 a duly executed and completed Real Estate Excise Tax Affidavit.

8.5 **Additional Instruments and Documents.** Seller and Buyer shall each deposit into escrow any other instruments and documents that are reasonably required by the escrow agent or otherwise required to close the escrow and consummate the purchase and sale of the Property in accordance with this Agreement.

8.6 **Closing Costs.**

8.6.1 **Seller's Costs.** At Closing, Seller shall pay (a) the premium for the title policy; (b) the real estate excise taxes applicable to the sale, if any; (c) one-half (1/2) of Title Company's escrow fee; and (d) one-half of the cost of recording the Deed.

8.6.2 **Buyer's Costs.** At Closing, Buyer shall pay (a) one-half (1/2) of the cost of recording the Deed; (b) one-half (1/2) of the Title Company's escrow fee; and (c) the premiums for any title policy endorsements or extended coverage requested by Buyer.

8.7 **Possession.** Buyer shall be entitled to possession upon Closing unless Seller the Residential Lease under section 5.1 of this Agreement is duly executed.

8.8 **Condition Precedent to Buyer's Obligations.** Buyer's obligation to close the purchase of the Property in accordance with the terms of this Agreement is expressly conditioned on, and subject to satisfaction of the following condition precedent, which is intended solely for the benefit of Buyer. If the foregoing condition is not satisfied, Buyer shall have the right, at its sole election, either to waive the condition and proceed with the purchase or in the alternative, to pursue any of the remedies set forth in Section 11.1 of this Agreement.

8.8.1 **Performance by Seller.** Seller shall have timely performed all obligations required by this Agreement to be performed by it. If this condition is not satisfied, Buyer shall have the right, at its sole discretion, either to waive the condition in question and proceed with the purchase or in the alternative, to pursue any of the remedies set forth in Section 11.1 of this Agreement.

8.8.2 **Representations and Warranties.** All of Seller's representations and warranties contained in or made pursuant to this Agreement shall have been true and correct when made and shall be true and correct as of the Closing Date, and Seller shall have complied with all of Seller's covenants and agreements contained in or made pursuant to this Agreement. If this condition is not satisfied, Buyer shall have the right, at its sole discretion, either to waive the condition in question and proceed with the purchase or in the alternative, to pursue any of the remedies set forth in Section 11.1 of this Agreement.

8.9 **Condition Precedent to Seller's Obligations.** Seller's obligation to sell the Property at Closing under this Agreement is expressly conditioned on, and subject to satisfaction of the following condition precedent, which is intended solely for the benefit of Seller. If the foregoing conditions are not satisfied, Seller shall have the right, at its sole election, to the remedy set forth in Section 11.2 of this Agreement.

8.9.1 **Performance by Buyer.** Buyer shall have timely performed all obligations required by this Agreement to be performed by it.

9. **Representations and Warranties.**

9.1 **Seller's Representations and Warranties.** Seller represents and warrants to Buyer that the following facts are true as of the parties' mutual execution of this Agreement and as of the Closing Date:

9.1.1 **No Litigation.** Except as disclosed in writing by Seller to Buyer, there is no pending or threatened litigation or administrative action with respect to the Property or to the Seller's interest in the Property.

9.1.2 **Authority of Seller.** This Agreement is a valid and binding obligation of the Seller, enforceable against Seller in accordance with its terms. No authorizations or approvals, whether of organizational bodies, governmental bodies, or otherwise, will be necessary in order for Seller to enter into this Agreement and to perform Seller's obligations as set forth herein. The consummation of the transactions contemplated hereunder will not conflict with or result in the breach of any law, regulation, writ, injunction or decree of any court or governmental instrumentality applicable to Seller or to the Property.

9.1.3 **Non-foreign Status/At-Source Withholding.** Seller represents and warrants none of the individuals constituting the "Seller" are a "foreign person" as defined in Section 1445 of the Internal Revenue Code of 1954, as amended. Seller shall deliver to Buyer at Closing a Certificate of Non-foreign Status setting forth Seller's address and certifying that it is not a foreign person as so defined.

9.1.4 **Other Agreements.** There are no other contracts or agreements in force or effect for the sale of, or a right of first refusal or option for, all or any portion of the Property, and Seller agrees: (a) not to enter into any such contracts or agreements between the date hereof and Closing and (b) to use its best efforts to terminate any such contracts that come to its attention between the date hereof and Closing. There are no contracts or other agreements affecting the Property that will not be terminated at or prior to Closing.

9.1.5 **Encumbrances.** Seller's execution, delivery and fulfillment of its obligations under this Agreement shall not result in any default or violation of any agreement by which Seller is bound or which will result in any lien, charge or encumbrance on the Property.

9.1.6 **Existing Leases.** There are no existing leases on the Property.

9.1.7 **Environmental.** Seller has not generated, stored, released or disposed of any substance or material on the Property, the generation, storage or disposal of which is regulated under the Comprehensive Response, Compensation and Liability Act, 42 U.S.C. Section 9601 et seq., the Model Toxics Control Act (Chapter 70.105D RCW), or any comparable law, regulation, ordinance or order of any governmental body, except in compliance with such laws, regulations, ordinance or orders. Seller has obtained (and is in compliance with) all permits, licenses and other authorizations that are required under all federal, state and local environmental requirements customarily known to and followed by owners and operators of land similar to the Property and located in the area in which the Property is located, including any such laws, regulations or ordinances relating to emissions, discharges, releases or threatened releases of materials into the environment or otherwise relating to the use, treatment, storage, disposal, transport or handling of such materials. Neither Seller, nor to the best of Seller's knowledge, any prior owner, occupant or user of the Property has received any notice or other communications concerning any alleged violation of any environmental requirements. To the best of Seller's knowledge, there is not constructed, placed, deposited, stored, disposed of or located on the Property (i) any PCBs or transformers, capacitors, ballasts or other equipment which contains dielectric fluid containing PCBs; or (ii) any underground storage tanks. Any breach of this warranty prior to the Closing Date shall entitle the Buyer to terminate this Agreement. Upon such termination, the escrow will be terminated, all documents and other funds will be returned to the party who deposited them, and neither party will have any further rights or obligations under this Agreement except as otherwise provided in this Agreement.

9.1.8 **Completeness of Statements.** To the best of Seller's knowledge, no representation or warranty by Seller in this Agreement or in any written material furnished by Seller to Buyer pursuant to or in connection with this Agreement, contains any untrue statement of a material fact or omits to state a material fact necessary to make any statement herein or therein not misleading.

9.2 **Buyer's Representations and Warranties.** Buyer represents and warrants to Seller that the following facts are true as of the date of the parties' mutual execution of this Agreement and as of the Closing Date:

9.2.1 **Pending Actions.** To Buyer's knowledge, there is no action, suit, arbitration, unsatisfied order or judgment, or proceeding pending against Buyer, which if adversely determined, could materially interfere with Buyer's consummation of the transactions contemplated by this Agreement.

9.2.2 **Authority of Buyer.** This Agreement is a valid and binding obligation of Buyer, enforceable against Buyer in accordance with its terms. No authorizations or approvals, whether of governmental bodies or otherwise, will be necessary in order for Buyer to enter into this Agreement and to perform its obligations as set forth herein. Neither the execution and delivery of this Agreement nor the consummation of the transactions contemplated hereunder will conflict with or result in the breach of any law, regulation, writ, injunction or decree of any court or governmental instrumentality applicable to Buyer or to the Property.

10. **Maintenance of Property Pending Closing.** At all times before the Closing, Seller shall manage and operate the Property in a manner consistent with Seller's past practices. Seller agrees: (a) to maintain all usual and necessary business records pertaining to the Property, consistent with Seller's past practices; (b) to maintain the Property in its current condition and state of repair (normal wear and tear and casualty loss excepted); and (c) to maintain its existing property and casualty insurance on the Property.

11. **Default.**

11.1 **By Seller.** If there is an event of default under this Agreement by Seller, including, without limitation, the failure by Seller to satisfy any condition precedent pursuant to Sections 8.8, Buyer will be entitled (a) to seek specific performance of Seller's obligations under this Agreement; (b) to terminate this Agreement by written notice to Seller and Escrow Agent; and (c) if Buyer elects either option (a) or (b), as hereinbefore set forth, Buyer may obtain payment from Seller of all damages incurred by Buyer as a result of such default. If Buyer terminates this Agreement pursuant to this Section 11.1 the escrow will be terminated all documents will be immediately returned to the party who deposited them, and neither party will have any further rights or obligations under this Agreement, except as otherwise provided in this Agreement other than that Seller shall pay (i) to Buyer those costs and expenses which Buyer notifies Seller that Buyer has incurred in connection with this Agreement; (ii) all damages incurred by Buyer; and (iii) any costs of terminating the escrow and any cancellation fee for the Commitment.

11.2 **By Buyer.** In the event Buyer fails, without legal excuse, to complete the purchase of the Property, then the escrow will be terminated all documents will be immediately returned to the party who deposited them, and neither party will have any further rights or obligations under this Agreement, except as otherwise provided in this Agreement other than that Buyer shall pay (i) to Seller those costs and expenses which Seller notifies Buyer that Seller has incurred in connection with this Agreement; (ii) all damages incurred by Seller; and (iii) any costs of terminating the escrow and any cancellation fee for the Commitment.

12. **Miscellaneous.**

12.1 **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the parties, and their respective heirs, personal representatives, successors, and assigns. No assignment of this Agreement by Buyer shall operate to relieve Buyer from any of its liabilities under this Agreement.

12.2 **Notices.** Any notice under this Agreement must be in writing and be personally delivered, delivered by recognized overnight courier service or given by mail or via facsimile. Any notice given by mail must be sent, postage prepaid, by first class, certified or registered mail, return receipt requested. All notices must be addressed to the parties at the following addresses or at such other addresses as the parties may from time to time direct in writing:

If to Seller, to:	Dominic F. (Nick) Heinzen
	506 79 <sup>th</sup> Ave SE
	Lake Stevens, WA 98258-4766
	Ph: 425-422-7899

If to Buyer, to: City of Lake Stevens  
Atten: City Administrator  
1812 Main Street  
PO Box 257  
Lake Stevens, WA 98258-0257  
Ph: 425-377-3230

Any notice will be deemed to have been given, if personally delivered, when delivered, and if delivered by courier service, one (1) business day after deposit with the courier service, and if mailed, two (2) business days after deposit at any post office in the United States of America, and if delivered via facsimile, the same day as transmission is verified; provided that any verification that occurs after 5 p.m. on a business day, or at any time on a Saturday, Sunday or holiday, will be deemed to have occurred as of 9 a.m. on the following business day.

12.3 **Authority.** The parties each represent and warrant that the persons signing below have the requisite authority to bind them.

12.4 **Amendments.** This Agreement may be amended or modified only by a written instrument executed by Seller and Buyer.

12.5 **Governing Law; Venue.** This Agreement will be governed by and construed exclusively in accordance with the laws of the State of Washington. Venue for any action arising out of this Agreement shall be in Snohomish County Superior Court.

12.6 **Entire Agreement.** This Agreement and the exhibit hereto constitute the entire agreement between the parties with respect to the purchase and sale of the Property and supersede all prior agreements and understandings between the parties relating to the subject matter of this Agreement.

12.7 **Attorneys' Fees.** In the event either party hereto finds it necessary to bring an action at law or other proceeding against the other party to enforce any of the terms, covenants or conditions hereof or any instrument executed pursuant to this Agreement, or by reason of any breach or default hereunder or thereunder, the party prevailing in any such action or proceeding shall be paid all costs and reasonable attorneys' fees by the other party and in the event any judgment is secured by such prevailing party, all such costs and attorneys' fees shall be included in any such judgment. The reasonableness of such costs and attorneys' fees shall be determined by the court and not a jury.

12.8 **Time of the Essence.** Time is of the essence of this Agreement.

12.9 **Waiver.** Neither Seller's nor Buyer's waiver of the breach of any covenant under this Agreement will be construed as a waiver of the breach of any other covenants or as a waiver of a subsequent breach of the same covenant.

12.10 **Negotiation and Construction.** This Agreement and each of its terms and provisions are deemed to have been explicitly negotiated between the parties, and the language in

all parts of this Agreement will, in all cases, be construed according to its fair meaning and not strictly for or against either party.

12.11 **Tax Effect.** No party has made or is making any representations to the other concerning any of the tax effects of the transactions provided for in this Agreement. No party shall be liable for or in any way responsible to any other party because of any tax effect resulting from the transactions provided for in this Agreement.

12.12 **Representation.** It is agreed and acknowledged that the firm of Ogden Murphy Wallace P.L.L.C. represented only the Buyer in the drafting of this Agreement, and Seller acknowledges that it is entitled to seek separate legal counsel regarding this Agreement.

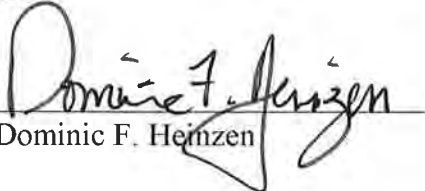
12.13 **Survival.** Sections 3, 9.1, 9.2, 12.1, 12.4, 12.5, 12.7, 12.9, 12.11, 12.12 and 12.13 shall survive the Closing of this Agreement.

12.14 **Counterparts; Scanned or Facsimile Signatures.** This Agreement may be executed in any number of counterparts, and all counterparts shall be deemed to constitute a single agreement. The execution and delivery of one counterpart by any party shall have the same force and effect as if the party had signed all other counterparts. Delivery by facsimile or by e-mail of a .PDF of an executed counterpart shall have the same effect as physical delivery of an original.

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed as of the last date set forth below.

**SELLER:**

Dominic F. Heinzen

By:   
Dominic F. Heinzen

Date: 6 JUNE 2019

**BUYER:**

CITY OF LAKE STEVENS (following City Council approval and authorization for Mayor to sign.)

By: \_\_\_\_\_  
Mayor

Date: \_\_\_\_\_



*Attest:*

By: \_\_\_\_\_  
City Clerk

Date: \_\_\_\_\_

*Approved as to Form:*

City Attorney

By: \_\_\_\_\_

Date: \_\_\_\_\_



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LAKE STEVENS CITY COUNCIL  
Department of Ecology  
**STAFF REPORT**

**Council Agenda Date:** June 11, 2019

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**Subject:** LUA2018-0157- City of Lake Stevens Shoreline Master Program - Periodic Review Update

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<b>Contact</b>	Josh Machen, Planning Manager	<b>Budget</b>	none
<b>Person/Department:</b>	Russ Wright, Community Development Director	<b>Impact:</b>	

---

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

The Washington State Department of Ecology reviewed the draft SMP amendments for initial adequacy has not recommended any changes. Based on the Planning Commission's recommendations public support, staff recommends that the City Council pass Ordinance #1057 adopting the 2019 Shoreline Master Program Periodic Review Update Amendments.

Attachment A Ordinance 1057

**BACKGROUND:**

Washington State law requires that jurisdictions develop and administer Shoreline Master Programs for shorelines within their jurisdictions. State law further requires that those master programs be periodically reviewed for compliance with new state laws and consistency with adopted comprehensive plans and regulations. Periodic reviews are to occur every 8-years. Since the Lake Stevens is within Snohomish County, the Lake Stevens Shoreline Master Program is to be reviewed and updated as necessary on or before June 30, 2019.

The city is working with a consultant to update our Shoreline Master Program (SMP). The Planning Commission reviewed the draft regulations over the past several months and held a public hearing at their February 20, 2019 meeting. At that meeting the Planning Commission recommended approval of the draft SMP amendments with consideration of comments and changes proposed by the State Department of Ecology. Staff then presented the City Council the draft amendments in their meeting on March 5, 2019, no comments on the draft were received. A joint public hearing was then held on March 26, 2019 with the City Council and the Department of Ecology

**PROPOSED CHANGES TO THE LAKE STEVENS SMP:**

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- 1) Amendments to ensure the Lake Stevens SMP is consistent with rule changes in State Law. The attached Final SMP Periodic Update Report provides a matrix of changes which are mandated by the state and which those initiated by staff (Exhibit B to Attachment A).

- 2) To create consistency with the downtown subarea plan there four properties for which the shoreline designation is changing. One is the property on which City Hall is currently located and is slated for park development, which is changing to urban concurrency and the others are on the north side of Lakeshore Drive and are zoned commercial, which are changing to High Intensity.

The re-designation of these parcels from Shoreline Residential to high intensity are justified because the existing development pattern in the downtown area is either high density residential, which is permitted in the Shoreline Residential designation or a mix of residential and commercial, which will be allowed in the High Intensity designation. The properties where the designation is increasing in intensity, is separated from the shoreline by a collector road that functionally separates the shoreline from the upland uses. The mixed-uses allowed in the high intensity designation are consistent with the recently adopted downtown subarea plan which is part of the City of Lake Stevens Comprehensive plan.

The other re-designation is of a couple of parcels from Shoreline Residential to Urban Conservancy which is a less intensive designation and recognizes the City owned parcels being developed as a park and has the current City Hall offices. This change in designation promotes public access to the shoreline and further protects natural shoreline processes, recognizing exiting development patterns and is consistent with the City's comprehensive plan and long-term goals for public parks.

- 3) The new Master Plan also creates new flexibilities for the following elements:
- **Shoreline Stabilization (Including Bulkheads)**  
Regulations were deleted that prohibited any type of maintenance, repair or replacement of shoreline armoring. In accordance with state law, provisions were added to allow for normal maintenance and repair of hard structures and allowance for hybrid or soft structural shoreline stabilization.
  - **Over-Water Structures- Including Piers and Docks, Floats, and Boardwalks**  
The provisions were amended to allow for the use of treated lumber, as long as the wood meets standards of the Western Wood Preservers Institute Best Management Practices for Use of Treated Wood in the Aquatic and Sensitive Areas. The allowance for dock was widened from 4-feet to six feet for the entire length if fully grated. Greater flexibility was incorporated for normal maintenance and repair of docks and reconfiguration of nonconformities.
  - **Residential Development**  
Clarification was added to this section ensuring greater flexibility with shoreline setback area. Specifically paths to the beach are now explicitly permitted as well as landscaping walls and limited grading.

## ATTACHMENTS

- A. Ordinance #1057

**Attachment A**

CITY OF LAKE STEVENS  
LAKE STEVENS, WASHINGTON

**ORDINANCE NO. 1057**

AN ORDINANCE OF THE CITY OF LAKE STEVENS, WASHINGTON, APPROVING AMENDMENTS TO THE CITY OF LAKE STEVENS SHORELINE MASTER PROGRAM AS REQUIRED BY RCW 90.58.080(4), PERIODIC REVIEW; PROVIDING FOR SEVERABILITY, SUMMARY PUBLICATION BY ORDINANCE TITLE, AND AN EFFECTIVE DATE.

WHEREAS, the State of Washington Shoreline Management Act of 1971 (Chapter 90.58 RCW), recognizes that the shorelines are among the most valuable and fragile resources of the state and that the state and local government must establish a coordinated planning program to address the types and effects of development occurring along shorelines of state-wide significance; and

WHEREAS, the Shoreline Management Act (SMA) requires City of Lake Stevens to develop and administer a Shoreline Master Program (SMP); and

WHEREAS, the City of Lake Stevens adopted a comprehensive SMP update as required by RCW 90.58.080(2), which was effective as of June 14, 2013; and

WHEREAS, RCW 90.58.080(4) requires City of Lake Stevens to periodically review and, if necessary, revise the master program on or before June 30, 2019; and

WHEREAS, the review process is intended to bring the SMP into compliance with requirements of the act or state rules that have been added or changed since the last SMP amendment, ensure the SMP remains consistent with amended comprehensive plans and regulations, and incorporate amendments deemed necessary to reflect changed circumstances, new information, or improved data; and

WHEREAS, City of Lake Stevens developed a public participation program for this periodic review in accordance with WAC 173-26-090(3)(a) to inform, involve and encourage participation of interested persons and private entities, tribes, and applicable agencies having interests and responsibilities relating to shorelines; and

WHEREAS, City of Lake Stevens has implemented its adopted public participation program, including a public open house, regular postings on the website, multiple public meetings with the Planning Commission, notices published mailed to interested parties and affected jurisdictions, etc.; and

WHEREAS, the City of Lake Stevens used Ecology's checklist of legislative and rule amendments to review amendments to chapter 90.58 RCW and department guidelines that have occurred since the master program was last amended, and determine if local amendments are needed to maintain compliance in accordance with WAC 173-26-090(3)(b)(i); and

WHEREAS, the City of Lake Stevens reviewed changes to the comprehensive plan and development regulations to determine if the shoreline master program policies and regulations remain consistent with them in accordance with WAC 173-26-090(3)(b)(ii); and

WHEREAS, the City of Lake Stevens incorporated amendments needed to reflect changed circumstances, new information or improved data in accordance with WAC 173- 26-090(3)(b)(iii); and

WHEREAS, the City of Lake Stevens Planning Commission completed a review of staff recommendations and prepared initial amendments; and

WHEREAS, the City of Lake Stevens consulted with the Department of Ecology early and often during the drafting of the amendments. The City of Lake Stevens worked collaboratively with the Department of Ecology to address local interests while ensuring proposed amendments are consistent with the policy of RCW 90.58.020 and applicable guidelines in accordance with WAC 173-26-104; and

WHEREAS, the City of Lake Stevens together with their consultants, The Watershed Company, prepared a Final SMP Periodic Update Report that describes all the substantive changes to the SMP, including compliance with changes to state law and proposed changes due to local circumstances **(Exhibit 1)**;

WHEREAS, the City of Lake Stevens conducted a formal public comment period in compliance with requirements of WAC 173-26-104; and

WHEREAS, the City published a legal notice in the Everett Daily Herald on February 6 and 13, 2019 for a public hearing on the proposed Planning Commission recommendation(s), including a statement that the hearings were intended to address the periodic review in accordance with WAC 173-26- 090(3)(c)(ii); and

WHEREAS, a State Environmental Policy Act (SEPA) environmental checklist was prepared and the City of Lake Stevens SEPA responsible official issued and circulated a copy of the checklist and a Determination of Non- Significance (DNS) on February 19, 2019; and

WHEREAS, the Planning Commission took public testimony on the proposed amend Lake Stevens's Shoreline Master Program at a public hearing on February 20, 2019; and

WHEREAS, the Planning Commission recommended approval of the proposed amendments and forwarded it to the City Council for review;

WHEREAS, the City provided Notice of Intent to Adopt to the Washington State Department of Commerce in accordance with WAC 173-26-100(5); and

WHEREAS, the City published a legal notice in the Everett Daily Herald on March 5 and 12, 2019 for a joint public hearing with the Washington State Department of Ecology on March 26, 2019; and

WHEREAS, after considering all public comments and evidence, the City Council determined that the proposed amendments comply with all applicable laws and rules; and

WHEREAS, this completes the City's required process for periodic review in accordance with RCW 90.58.080(4) and applicable state guidelines (WAC 173-26).

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

Section 1. The Lake Stevens City Council hereby approves the proposed City of Lake Stevens Shoreline Master Program as set forth in **Exhibit 2**, which is attached hereto and incorporated herein by reference.

- A. Section 2. Severability. Should any section, subsection, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances. These proposed regulations were properly sent to the Washington State Department of Commerce for review on February 14, 2019 as required by the Growth Management Act and received approval on February 14, 2019.
- B. The requirements of Chapter 14.16C.040 LSMC for comprehensive plan amendments have been met.
- C. As required by LSMC 14.16C.040(c), the adoption and amendment to the comprehensive plan/shoreline master program is in conformance with the Lake Stevens vision.

**SECTION 2.** The Lake Stevens 2013 Shoreline Master Program is hereby amended as set forth in **Exhibit 2 which is incorporated herein by this reference.**

SECTION 3. Severability. If any section, subsection, sentence, clause, phrase or word of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality thereof shall not affect the validity or constitutionality of any other section, subsection, sentence, clause, phrase or word of this ordinance.

SECTION 4. Effective Date and Publication. The summary of this ordinance consisting of its title shall be published in the official newspaper of the City. This ordinance shall take effect five (5) days after the date of publication, PROVIDED, HOWEVER, the amendments approved in Section 2. of this ordinance shall not apply to applications submitted to the City until fourteen days following the City's receipt of written notice from the Washington State Department of Ecology stating the department has approved the amendments and shall apply to all applications submitted thereafter.

PASSED by the City Council of the City of Lake Stevens this 11<sup>th</sup> day of June 2019.

---

John Spencer, Mayor

ATTEST/AUTHENTICATION:

By: \_\_\_\_\_  
Kathy Pugh, City Clerk

APPROVED AS TO FORM:

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Greg A. Rubstello, City Attorney

First Reading and Final Reading: June 11, 2019  
Published:  
Effective Date:

DRAFT



## City of Lake Stevens SMP Periodic Update

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### Final SMP Update Report

Prepared on behalf of:



City of Lake Stevens  
Planning and Community Development Department  
1812 Main Street  
Lake Stevens, WA 98258

Prepared by:



750 Sixth Street South  
Kirkland, WA 98033

p 425.822.5242

f 425.827.8136

[watershedco.com](http://watershedco.com)

May 2019

The Watershed Company Reference Number:  
180713



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## Attachments

Attachment A: Periodic Review Checklist



## 1. Introduction

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In accordance with the Washington State Shoreline Management Act (SMA), local jurisdictions with “Shorelines of the State” are required to conduct a periodic review of their Shoreline Master Programs (SMPs) (WAC 173-26-090). The periodic review is intended to keep SMPs current with amendments to state laws, changes to local plans and regulations, changes in local circumstances, and new or improved data and information.

Shorelines of the State in the City of Lake Stevens (City) include Lake Stevens, Catherine Creek, and Little Pilchuck Creek. The City adopted its current SMP in 2013 (Ordinances No. 856 & 889). The SMP includes goals and policies, shoreline environment designations, and development regulations that guide the development and protection of these shorelines.

As a first step in the periodic review process, the current SMP was reviewed to better understand what aspects may require updates. The purpose of the previously issued Draft SMP Update Report was to provide a summary of the review and inform updates to the SMP.

Based on the Draft SMP Update Report, the City has developed an updated draft SMP for submittal to the Washington State Department of Ecology (Ecology) for initial review. This Final SMP Update Report documents how the updated draft SMP addresses the issues identified in the Draft SMP Update Report. The report generally follows the same structure of the Draft SMP Update Report, which was organized into the following sections according to the content of the review.

- **Section 2** identifies gaps in consistency with state laws, rules and implementation guidance. This analysis is based on the Ecology’s Periodic Review Checklist.
- **Section 3** addresses critical areas regulations in shoreline jurisdiction. The City is in the process of updating its Critical Areas Ordinance (CAO), which applies to critical areas outside of shoreline jurisdiction, and expects to adopt an updated CAO later this year. The SMP, in Appendix B, contains its own distinct set of regulations that apply to critical areas within shoreline jurisdiction. Section 3 identifies gaps in consistency between the draft CAO (dated November 20, 2018) and SMA implementation.
- **Section 4** identifies gaps in consistency with the City’s Comprehensive Plan (adopted 2015) and with implementing City development regulations other than those in the CAO. Specifically, the review includes Lake Stevens Municipal Code (LSMC) Title 14, Land Use Code.
- **Section 5** identifies City staff-recommended amendments for the SMP update.

In addition, a new section has been added to this report that was not included the Draft SMP Update Report.

- **Section 6** addresses additional amendments identified since issuance of the Draft SMP Update Report.

Each section of this report presents in a table the review findings set forth in the Draft SMP Update Report along with any associated actions taken for the updated draft SMP. Where actions are identified, they are classified as follows:

- **“Mandatory”** indicates revisions that are required for consistency with state laws.
- **“Recommended”** indicates revisions that improve consistency with state laws, but are not strictly required.
- **“Optional”** indicates revisions that amend the SMP in accordance with state laws, but that are not required or recommended for consistency with state laws.

This document attempts to minimize the use of abbreviations; however, a select few are used to keep the document concise. These abbreviations are compiled below in Table 1-1.

Table 1-1. Abbreviations used in this document.

Abbreviation	Meaning
CAO	Critical Areas Ordinance
City	City of Lake Stevens
Ecology	Washington State Department of Ecology
FEMA	Federal Emergency Management Agency
LSMC	Lake Stevens Municipal Code
RCW	Revised Code of Washington
SMA	Shoreline Management Act
SMP	Shoreline Master Program
WAC	Washington Administrative Code

## 2. Consistency with Recent State Amendments

---

As noted above, this section identifies gaps in consistency with state laws, rules and implementation guidance. This analysis is based on a list of recent amendments as summarized by Ecology in its Periodic Review Checklist. A completed version of the Periodic Review Checklist is appended to this report (Attachment A).

Overall, few mandatory amendments are identified, with several more indicated as recommended or optional amendments. In general, the amendments identified in the Periodic Review Checklist are minor in nature. They primarily concern amendments to exemptions, definitions, and administrative procedures.

### 3. Consistency with Critical Areas Ordinance

The City is currently working towards adoption of an updated CAO later this year. The SMP currently contains a distinct set of critical areas regulations in Appendix B, and does not adopt the City's CAO by reference. The City is retaining this approach, using the updated CAO as the basis for an updated SMP Appendix B.

However, the updated CAO contains several provisions that are modified for consistency with the SMA included as the updated SMP Appendix B. Table 3-1 identifies the gaps in consistency between the updated CAO and SMA implementation that were addressed when developing the updated Appendix B. The version of the draft CAO dated November 20, 2018 is reviewed.

Table 3-1. Summary of gaps in consistency with the updated CAO and SMA implementation.

No.	Topic	Review and Relevant Location(s) (from Draft SMP Update Report)	Action
1	Code sections inconsistent with the SMA or Ecology guidance	<p><b>Review:</b> The updated CAO includes several code provisions that are inconsistent with the SMA or Ecology guidance and should be excluded from SMP Appendix B.</p> <p><b>Relevant Location(s):</b></p> <ul style="list-style-type: none"> <li>• <b>Updated CAO</b> <ul style="list-style-type: none"> <li>○ LSMC 14.88.210(a)(1) &amp; (3)</li> <li>○ LSMC 14.88.310</li> <li>○ LSMC 14.88.320</li> <li>○ LSMC 14.88.330</li> <li>○ LSMC 14.88.330(f)</li> </ul> </li> </ul>	<p><b>Mandatory:</b> Excluded the following provisions of the updated CAO from SMP Appendix B:</p> <ul style="list-style-type: none"> <li>• LSMC 14.88.210(a)(1) &amp; (3) (references to exemptions and reasonable use)</li> <li>• LSMC 14.88.230 (compliance)</li> <li>• LSMC 14.88.235 (best available science)</li> <li>• LSMC 14.88.250 (procedures)</li> <li>• LSMC 14.88.310 (reasonable use)</li> <li>• LSMC 14.88.320 (reasonable use)</li> <li>• LSMC 14.88.330 (nonconforming activities)</li> <li>• LSMC 14.88.825 (wetland exemptions)</li> <li>• LSMC 14.88.830(f) (wetland buffer reduction)</li> </ul>

No.	Topic	Review and Relevant Location(s) (from Draft SMP Update Report)	Action
2	Definition of "Qualified Professional"	<p><b><u>Review:</u></b>  The proposed update includes the addition of a definition for "Qualified Professional" in LSMC 14.08, as LSMC 14.88 does not include a distinct set of definitions.</p> <p><b><u>Relevant Location(s):</u></b></p> <ul style="list-style-type: none"> <li>• <b>Updated CAO</b> <ul style="list-style-type: none"> <li>○ LSMC 14.88.100 Definitions (reference to LSMC 14.08 Definitions)</li> </ul> </li> <li>• <b>SMP</b> <ul style="list-style-type: none"> <li>○ Chapter 6 Definitions</li> </ul> </li> </ul>	<p><b><i>Recommended:</i></b> Added the new definition for "Qualified Professional" to SMP Chapter 6 Definitions to carry this definition over to the SMP.</p>
3	Formatting and consistency	<p><b><u>Review:</u></b>  The updated CAO includes internal references to other sections in LSMC 14.88, makes several references to the "Planning and Community Development Director," and makes references to zones/zoning. In many cases these references should be changed in order to adopt the updated CAO as the updated SMP Appendix B.</p> <p><b><u>Relevant Location(s):</u></b></p> <ul style="list-style-type: none"> <li>• <b>Updated CAO</b> <ul style="list-style-type: none"> <li>○ Various locations</li> </ul> </li> </ul>	<p><b><i>Recommended:</i></b> Replaced internal code references with appropriate references within the SMP and/or Appendix B. Replaced references to the "Planning and Community Development Director" with references to the "Shoreline Administrator." Replaced references to zones or zoning with references to environment designations, where appropriate.</p>
4	Applicability to critical areas within shoreline jurisdiction	<p><b><u>Review:</u></b>  The updated CAO properly asserts its applicability to critical areas in Lake Stevens. In order to amend this document for adoption as SMP Appendix B, the sections on purpose and intent and applicability should be modified to clearly establish that the provisions of Appendix B apply to critical areas within shoreline jurisdiction.</p> <p><b><u>Relevant Location(s):</u></b></p> <ul style="list-style-type: none"> <li>• <b>Updated CAO</b></li> </ul>	<p><b><i>Recommended:</i></b> Modified the text in LSMC 14.88.010 to clearly establish the goal of no net loss of acreage or function of shoreline critical areas. Modified the text in LSMC 14.88.200 to clarify that the provisions of SMP Appendix B apply to shoreline critical areas within Lake Stevens.</p>



No.	Topic	Review and Relevant Location(s) (from Draft SMP Update Report)	Action
		<ul style="list-style-type: none"> <li>○ LSMC 14.88.010</li> <li>○ LSMC 14.88.200</li> </ul>	
5	Geologically hazardous areas	<p><b>Review:</b> The updated CAO does not include certain SMA provisions for geologically hazardous areas in WAC 173-26-221. These provisions are included in Appendix B of the existing SMP.</p> <p><b>Relevant Location(s):</b></p> <ul style="list-style-type: none"> <li>• <b>Existing SMP Appendix B</b> <ul style="list-style-type: none"> <li>○ 5.C(c)</li> <li>○ 5.C(d)</li> </ul> </li> <li>• <b>Updated CAO</b> <ul style="list-style-type: none"> <li>○ LSMC 14.88.620</li> </ul> </li> </ul>	<b>Mandatory:</b> Carried over existing SMP Appendix B regulations 5.C(c) and 5.C(d) to the updated CAO for consistency with WAC 173-26-221.
6	Wetland mitigation requirements	<p><b>Review:</b> The updated CAO does not include language requiring the submittal of a watershed plan if off-site wetland mitigation is proposed as indicated by WAC 173-26-201(2)(e)(ii)(B). This language is included in the existing SMP Appendix B.</p> <p><b>Relevant Location(s):</b></p> <ul style="list-style-type: none"> <li>• <b>Existing SMP Appendix B</b> <ul style="list-style-type: none"> <li>○ 6.E(a)(1)</li> </ul> </li> <li>• <b>Updated CAO</b> <ul style="list-style-type: none"> <li>○ LSMC 14.88.840(a)(1)</li> </ul> </li> </ul>	<b>Recommended:</b> Added language from current SMP Appendix B (at 6.E(a)(1)) that states “A watershed plan must be submitted if off-site mitigation is proposed;” to the updated SMP Appendix B.
7	Buffers for Fish and Wildlife Habitat Conservation Areas	<p><b>Review:</b> The updated CAO does not include a preamble that exists in the existing SMP Appendix B that clarifies the applicability of shoreline buffers and Fish and Wildlife Habitat Conservation Areas buffers.</p> <p><b>Relevant Location(s):</b></p> <ul style="list-style-type: none"> <li>• <b>Existing SMP Appendix B</b> <ul style="list-style-type: none"> <li>○ Part 3</li> </ul> </li> <li>• <b>Updated CAO</b> <ul style="list-style-type: none"> <li>○ LSMC 14.88 Part IV</li> </ul> </li> </ul>	<b>Recommended:</b> Added preamble from existing SMP Appendix B Part 3 to updated CAO for clarity in SMP implementation.

## 4. Consistency with Comprehensive Plan and Other Development Regulations

Table 4-1 identifies gaps in consistency with the City's Comprehensive Plan and development regulations, including LSMC Title 14, Land Use Code. In general, the review found that cross-references and consistency between these documents could be strengthened to improve clarity and application of the SMP.

Table 4-1. Summary of gaps in consistency with LSMC Title 14, Land Use Code, and the Lake Stevens Comprehensive Plan.

No.	Topic	Review and Relevant Location(s) (from Draft SMP Update Report)	Action
<b>Comprehensive Plan</b>			
1	Shoreline Element	<p><b>Review:</b> Under state law, the goals and policies of an SMP are considered an element of a jurisdiction's Comprehensive Plan. The Lake Stevens SMP indicates that its policies constitute the Shoreline Element of the City's Comprehensive Plan. While the Environmental and Natural Resources Element of the Comprehensive Plan includes a discussion of the SMP, as well as a goal (4.2) and associated policies related to implementing the SMA; it does not explicitly establish the policies of the SMP as an element of the plan.</p> <p><b>Relevant Location(s):</b></p> <ul style="list-style-type: none"> <li>• <b>Comprehensive Plan</b> <ul style="list-style-type: none"> <li>○ Chapter 4</li> </ul> </li> <li>• <b>SMP</b> <ul style="list-style-type: none"> <li>○ 3.B.1.c</li> </ul> </li> </ul>	<p><b>Recommended:</b> During the next update of the Comprehensive Plan, the City will explicitly indicate in the Comprehensive Plan that the policies in the SMP constitute the Shoreline Element of the City's Comprehensive Plan.</p>
<b>Development Regulations</b>			
2	Permit filing procedures	<p><b>Review:</b> Title 14 Land Use Code, indicates that the shoreline permit appeal comment period is 21 days from</p>	<p><b>Mandatory:</b> The City will update LSMC 14.16B for consistency with legislative amendments during a</p>

No.	Topic	Review and Relevant Location(s) (from Draft SMP Update Report)	Action
		<p>the date of receipt, as defined in RCW 90.58.180. Section 2 of this report recommends updating the SMP to reference the date of filing, as defined by RCW 90.58.140(6), in accordance with legislative updates made since adoption of the SMP. The associated language in Title 14 should also be updated.</p> <p><b>Relevant Location(s):</b></p> <ul style="list-style-type: none"> <li>• <b>LSMC</b> <ul style="list-style-type: none"> <li>○ 14.16B.710(h)</li> <li>○ 14.16B.720(b)</li> </ul> </li> </ul>	code cleanup process planned for the future.
3	Definitions	<p><b>Review:</b></p> <p>The relationship between the definitions in LSMC 14.08.010 and SMP Chapter 6 could be made more explicit.</p> <p><b>Relevant Location(s):</b></p> <ul style="list-style-type: none"> <li>• <b>LSMC</b> <ul style="list-style-type: none"> <li>○ 14.08.010 Definitions</li> </ul> </li> <li>• <b>SMP</b> <ul style="list-style-type: none"> <li>○ Chapter 6 Definitions</li> </ul> </li> </ul>	<b>Recommended:</b> Introduced SMP Chapter 6 with the following text: "Unless otherwise defined in this chapter, the definitions provided in LSMC 14.08.010 shall apply. If there is a conflict, the definitions in this chapter shall govern."

## 5. Staff-recommended Amendments

City planning staff proposed several amendments to the SMP. Table 5-1 discusses the more significant amendments. Other minor staff-recommended amendments are not included in the table.

Table 5-1. Staff recommendations.

No.	Topic	Review and Relevant Location(s) (from Draft SMP Update Report)	Action
1	Shoreline environment designations	<p><b>Review:</b></p> <p>The SMP includes tables of parcel numbers to indicate the extents of shoreline environment</p>	<b>Recommended:</b> Removed parcel number tables from the SMP. Updated shoreline environment designation maps to address the

No.	Topic	Review and Relevant Location(s) (from Draft SMP Update Report)	Action
		<p>designations. These tables are not required. The City can rely solely on maps to indicate shoreline environment designation boundaries. City staff have also noted that the shoreline environment designation maps will need to be updated based on the Downtown Plan and Rhodora annexation.</p> <p><b>Relevant Location(s):</b></p> <ul style="list-style-type: none"> <li>• <b>SMP</b> <ul style="list-style-type: none"> <li>○ Chapter 2</li> <li>○ Appendix A</li> </ul> </li> </ul>	<p>Downtown Plan (after further review, no changes were needed to address the completed Rhodora annexation). The redesignation of several parcels from Shoreline Residential to high intensity are justified because the existing development pattern in the downtown area is either high density residential, which was permitted in the Shoreline Residential designation or a mix of residential and commercial, which will be allowed in the High Intensity designation. The properties where the designation is increasing in intensity, is separated from the shoreline by a collector road that functionally separates the shoreline from the upland uses. The mixed-uses allowed in the high intensity designation are consistent with the recently adopted downtown subarea plan which is part of the City of Lake Stevens Comprehensive plan. The other redesignation is of a couple of parcels from Shoreline Residential to Urban Conservancy which is a less intensive designation and recognizes the City owned parcels being developed as a park and has the current City Hall offices. This change in designation promotes public access to the shoreline and further protects natural shoreline processes, recognizing exiting development patterns and is consistent with the City's comprehensive plan and long-term goals for public parks.</p>

No.	Topic	Review and Relevant Location(s) (from Draft SMP Update Report)	Action
2	Shoreline stabilization	<p><b>Review:</b> Shoreline stabilization section could better distinguish maintenance versus replacement of shoreline stabilization and related regulations. Additional flexibility for replacing bulkheads should be considered if consistent with the SMA. Section should be reviewed for overall consistency with WAC 173-26-231.</p> <p><b>Relevant Location(s):</b></p> <ul style="list-style-type: none"> <li>• <b>SMP</b> <ul style="list-style-type: none"> <li>○ 4.C.2</li> </ul> </li> </ul>	<p><b>Recommended:</b> Revised shoreline stabilization provisions to clarify what constitutes maintenance and what constitutes replacement, and what regulations are applicable. Provided more flexible approaches for replacing bulkheads if consistent with the SMA. Reviewed the shoreline stabilization section for overall consistency with WAC 173-26-231 and revised as needed.</p>
3	Development standards for new docks	<p><b>Review:</b> City staff have noted inconsistencies between the text and the figures that are included in the SMP Chapter 4.</p> <p><b>Relevant Location(s):</b></p> <ul style="list-style-type: none"> <li>• <b>SMP</b> <ul style="list-style-type: none"> <li>○ 4.C.3.c.24.c</li> <li>○ 4.C.3.d.24.i</li> </ul> </li> </ul>	<p><b>Recommended:</b> Updated the text and figures in SMP Chapter 4 for consistency with each other.</p>
4	Stormwater manual	<p><b>Review:</b> Chapter 5 of the SMP contains a reference to the 2005 Stormwater Manual, as amended. This manual has been updated since the adoption of the SMP.</p> <p><b>Relevant Location(s):</b></p> <ul style="list-style-type: none"> <li>• <b>SMP</b> <ul style="list-style-type: none"> <li>○ 5.C.8.c.3.b</li> </ul> </li> </ul>	<p><b>Recommended:</b> Updated section to reference the 2012 Stormwater Management Manual for Western Washington, as amended in 2014.</p>
5	Waterfront deck or patio provisions	<p><b>Review:</b> SMP could be simpler if sections related to residential decks and patios were combined.</p> <p><b>Relevant Location(s):</b></p> <ul style="list-style-type: none"> <li>• <b>SMP</b> <ul style="list-style-type: none"> <li>○ 5.C.8.c.3.d &amp; e</li> </ul> </li> </ul>	<p><b>Recommended:</b> Combined sections 5.C.8.c.3.d and 5.C.8.c.3.e for increased simplicity and clarity.</p>

No.	Topic	Review and Relevant Location(s) (from Draft SMP Update Report)	Action
6	Nonconforming overwater structures	<p><b>Review:</b> Current regulations tend to preserve the existing configurations of nonconforming structures, even when alternative configurations might be preferable for both the applicant and the environment. Consider opportunities for more flexibility with regards to nonconforming overwater structures if consistent with the SMA.</p> <p><b>Relevant Location(s):</b></p> <ul style="list-style-type: none"> <li>• <b>SMP</b> <ul style="list-style-type: none"> <li>o 4.C.3</li> </ul> </li> </ul>	<b>Recommended:</b> Amended overwater structures regulations to provide more flexibility as applied to nonconforming structures if consistent with the SMA.
7	Repair and replacement of piers/docks	<p><b>Review:</b> SMP currently has separate sections for replacement or repair of existing piers/docks.</p> <p><b>Relevant Location(s):</b></p> <ul style="list-style-type: none"> <li>• <b>SMP</b> <ul style="list-style-type: none"> <li>o 4.C.3.c.25 &amp; 28-32</li> </ul> </li> </ul>	<b>Recommended:</b> Integrated pier/dock repair and replacement sections for consistency and clarity.
8	Existing uses	<p><b>Review:</b> Existing Structures and Development section of Chapter 7 includes provisions related to existing uses, which would be more appropriately located in the Nonconforming Uses and Lots section.</p> <p><b>Relevant Location(s):</b></p> <ul style="list-style-type: none"> <li>• <b>SMP</b> <ul style="list-style-type: none"> <li>o 7.G &amp; H</li> </ul> </li> </ul>	<b>Recommended:</b> Removed provisions related to existing uses from the Existing Structures and Development section of Chapter 7. Provisions were not relocated to the Nonconforming Uses and Lots section as existing provisions in that section adequately addressed the content.
9	Residential shoreline access	<p><b>Review:</b> SMP lacks specifics regarding access paths for shoreline residences.</p> <p><b>Relevant Location(s):</b></p> <ul style="list-style-type: none"> <li>• <b>SMP</b> <ul style="list-style-type: none"> <li>o 5.C.8.</li> </ul> </li> </ul>	<b>Recommended:</b> In the Residential Development section of Chapter 5, added language specifying the allowance for access paths for shoreline residences and associated standards. Ensured the standards allow for ADA access when needed.
10	Residential landscaping	<p><b>Review:</b></p>	<b>Recommended:</b> In the Residential Development section of Chapter 5,

No.	Topic	Review and Relevant Location(s) (from Draft SMP Update Report)	Action
		SMP lacks specificity regarding allowances for common types of residential landscaping work.  <b>Relevant Location(s):</b> • <i>SMP</i> ○ 5.C.8.	added language clarifying allowed landscaping work, such as grading and landscape walls.
11	Maintenance of residential development	<b>Review:</b> Management policies for the Shoreline Residential environment do not currently mention maintenance.  <b>Relevant Location(s):</b> • <i>SMP</i> ○ 2.C.4.c	<b>Recommended:</b> Clarified the allowance for maintenance in the management policies for the Shoreline Residential environment.

## 6. Additional Amendments

Since the issuance of the Draft SMP Update Report, a few additional aspects of the SMP that merit revision have been identified. These aspects are identified in Table 6-1.

Table 6-1. Additional amendments identified since issuance of the Draft SMP Update Report.

No.	Topic	Review and Relevant Location(s)	Action
1	Stormwater management	<b>Review:</b> Several sections of the SMP feature outdated references to the “City of Lake Stevens Surface Water Management Plan.”  <b>Relevant Location(s):</b> • <i>SMP</i> ○ Various locations	<b>Recommended:</b> Changed outdated references to the “City of Lake Stevens Surface Water Management Plan” to refer to the 2014 Stormwater Management Program.
2	Wood treatment	<b>Review:</b> Provisions related to wood treatment should be reviewed for clarity and to ensure consistency with recent agency guidance.  <b>Relevant Location(s):</b> • <i>SMP</i> ○ Various locations	<b>Recommended:</b> Revised provisions related to wood treatment for clarity and consistency with recent agency guidance.

No.	Topic	Review and Relevant Location(s)	Action
3	Shoreline variance	<p><b><u>Review:</u></b>  SMP contains some language that could better distinguish between the applicability of variances and shoreline variances.</p> <p><b><u>Relevant Location(s):</u></b></p> <ul style="list-style-type: none"> <li>• <b><i>SMP</i></b> <ul style="list-style-type: none"> <li>○ 3.B.1.a.2</li> </ul> </li> </ul>	<p><b><i>Recommended:</i></b> Amended the language in 3.B.1.a.2 to better distinguish between the applicability of variances and shoreline variances.</p>



## Exhibit 2

# Lake Stevens 2013 Shoreline Master Program

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***ECOLOGY APPROVED – May 31, 2013***

***(Effective Date: June 14, 2013)***

***Amended 2019***

***Prepared by:***



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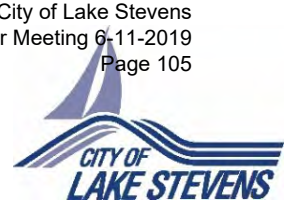
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Washington Department of  
Ecology.



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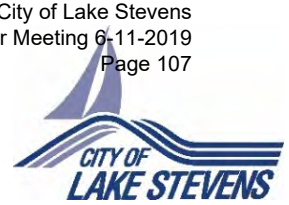


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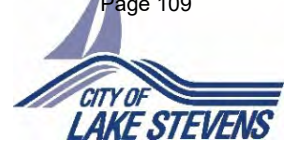
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- A. Shoreline Environment Designation Maps
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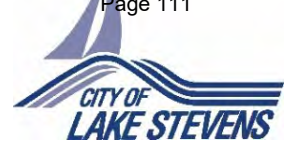
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## CHAPTER 1

# Introduction to the SMP

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The Shoreline Master Program Update (SMP) replaces the 1974 Shoreline Master Program. This document regulates new, repaired, replaced and modified shoreline uses and development. Shoreline uses and structures legally existing at the time of adoption of the SMP are not affected by the new regulations. If a use or structure does not meet all the new regulations, it is considered an existing use or development and conforming to the SMP. Existing uses and structures may be maintained, repaired and replaced without meeting all new regulations pursuant to Chapter 7, Section G. However, some restrictions may occur based on the existing conditions of a site, the type of proposed action, or whether a use or structure was legally created.

Lake Stevens is an urban lake with the main land use on the shore of single-family residential. The City's vision is to retain the residential use around the lake. The SMP does not modify the existing land use and will not be used to remove existing single-family homes. The SMP provides a guide for future uses and development on the lake whether new or existing to retain the current character and ecological functions of the lake and shoreline. Structures or uses not legally permitted could be required to be removed or brought into compliance with new regulations if a change to the structure or use is requested.

The conclusion of the Cumulative Impacts Analysis is that implementation of this SMP is anticipated to achieve no net loss of ecological functions in the City of Lake Stevens' shorelines. Therefore, development and uses meeting the provisions of this SMP are expected to achieve no net loss of ecological functions when cumulatively viewed across the City's entire shoreline.

In implementation of the SMP, the terms "shall," "must," and "are required" and the imperative voice, mean a mandate; the action is required; the term "should" means that the particular action is required unless there is a demonstrated, compelling reason, based on a policy of the Shoreline Management Act and this chapter, for not taking the action; and the term "may" indicates that the action is within discretion and authority, provided it satisfies all other provisions in this chapter. (WAC 173-26-191(2))

## A. What is the Shoreline Master Program?

The City of Lake Stevens Shoreline Master Program (SMP) is a planning document that outlines goals and policies for the shorelines of the City, and also establishes regulations for development occurring within shoreline jurisdiction.

### 1. Applicable Documents

The Shoreline Master Program includes the SMP and related documents. The following documents are considered part of the SMP:

- Shoreline Master Program (SMP);
- Shoreline Environment Designations Map (Appendix A); and
- Critical Areas Regulations Within Shoreline Jurisdiction (Appendix B).



## 2. Related Documents

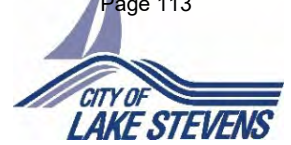
There are many documents adopted by the City of Lake Stevens that are not a part of the SMP but should be consulted when developing or making a land use action within shoreline jurisdiction. The SMP is the document regulating properties within shoreline jurisdiction, however, more general development regulations on the overall project application process, drainage requirements, roads, etc., are found in the Lake Stevens Municipal Code or adopted plans, policies, or programs. If there is a conflict between the SMP and a related document, the more restrictive requirements should be followed.

The following list of related documents is not exhaustive, but a guide to the users of the SMP:

- Shoreline Analysis Report for the City of Lake Stevens Shorelines: Lake Stevens, Catherine Creek and Little Pilchuck Creek (The Watershed Company and Makers 2010)
- Cumulative Impacts Analysis for the City of Lake Stevens Shorelines: Lake Stevens, Catherine Creek and Little Pilchuck Creek (The Watershed Company and Makers 2011)
- Shoreline Restoration Plan for the City of Lake Stevens Shorelines: Lake Stevens, Catherine Creek and Little Pilchuck Creek (The Watershed Company and Makers 2010)
- No Net Loss Report (The Watershed Company and Makers 2011)
- City of Lake Stevens Comprehensive Plan (Adopted July 2006, as amended)
- Title 14 of the Lake Stevens Municipal Code, in particular, the following topics:
  - Administration and Procedures
  - Types of Land Use Review
  - Land Use Actions, Permits and Determinations – Decision Criteria and Standards
  - Density and Dimensional Regulations
  - Streets and Sidewalks
  - Utilities
  - Parking
  - Screening and Trees
  - Floodways, Floodplains, Drainage and Erosion
  - Signs
  - Building and Construction
  - Fire Code
- City's Lake Level Management Plan
- City's Surface Water Management Program
- City's Stormwater Management Plan
- National Flood Insurance Program and adopted Flood Insurance Rate Maps

## B. History of the SMA

In 1969, the Washington State Supreme Court decided in the case of *Wilbour v. Gallagher* (77 Wn.2d 306), commonly known as the "Lake Chelan Case," that certain activities along shorelines were contrary to the public interest. The court findings required that the public interest be



represented in the proper forum for determining the use of shoreline properties. The ramifications of this decision were significant in that developers, environmentalists, and other interested parties began to recognize—although probably for different reasons—the need for a comprehensive planning and regulatory program for shorelines.

*Wilbour v. Gallagher* was a case primarily involving navigable waters. It was decided at a time of heightened environmental awareness. At the same time, Congress was considering environmental legislation and subsequently passed a number of laws relating to protection of the environment including the National Environmental Policy Act (1969) and the Coastal Zone Management Act (1972). Voters of the state, seeing the failure of the Seacoast Management Bill in the state legislature, validated an initiative petition commonly titled the "Shoreline Protection Act." The state legislature, choosing between adoption of the people's initiative petition or its own alternative, passed into law the "Shoreline Management Act of 1971" (SMA) effective June 1, 1971, which contained the provision for both statutes to be deferred to the electorate in the November 1972 election. The election issue required that voters respond to two questions: (1) Did they favor shoreline management? and (2) Which alternative management program did they prefer? Most Washington voters favored both shoreline management and the legislature's alternative (providing greater local control), by an approximately 2-to-1 margin. It is important to keep in mind that the SMA was a response to a people's initiative and was ratified by the voters, giving the SMA a populist foundation as well as an environmental justification.

The SMA's paramount objectives are to protect and restore the valuable natural resources that shorelines represent and to plan for and foster all "reasonable and appropriate uses" that are dependent upon a waterfront location or that offer opportunities for the public to enjoy the state's shorelines. With this clear mandate, the SMA established a planning and regulatory program to be initiated at the local level under State guidance.

This cooperative effort balances local and state-wide interests in the management and development of shoreline areas by requiring local governments to plan (via shoreline master programs) and regulate (via permits) shoreline development within SMA jurisdiction. (See "Geographic Applications of the SMA" below.) Local government actions are monitored by the Washington Department of Ecology (Ecology), which approves new or amended shoreline master programs (SMPs), reviews substantial development permits, and approves conditional use permits and variances.

After the SMA's passage in 1971, Ecology adopted Chapter 173-18 WAC to serve as a standard for the implementation of the SMA and to provide direction to local governments and Ecology in preparing SMPs. Two hundred forty-seven cities and counties have prepared SMPs based on that WAC chapter. Over the years, local governments, with the help of Ecology, developed a set of practices and methodologies, the best of which were collected and described in the 1994 *Shoreline Management Guidebook*.

In 1995, the state legislature passed Engrossed Substitute House Bill 1724, which included several statutory amendments to better integrate the Growth Management Act (GMA), the Shoreline Management Act, and the State Environmental Policy Act (SEPA). The bill also directed Ecology to review and update the state SMA guidelines every five years. In response, Ecology undertook a primarily in-house process to prepare a new WAC chapter (also referred to in this *SMP* as the "Guidelines"). After meeting with a series of advisory committees and producing a number of



informal drafts, Ecology formally proposed a new WAC rule for the SMA in April 1999. Subsequently, in 2003, the Legislature further clarified the integration of the SMA and GMA.

The rule was appealed and then-Governor Gary Locke and former Attorney General Christine Gregoire cosponsored a year-long mediation effort in 2002 that culminated in a third draft, which was issued for public comment in July 2002. That proposal had the endorsement of the Association of Washington Business, the Washington Aggregates & Concrete Association, the Washington Environmental Council (WEC) and other environmental organizations – all of whom were parties to the lawsuit.

Ecology received about 300 comments on the version proposed in 2003. Seventeen changes were made in response to those comments, to clarify language and to delete obsolete or duplicative references. The final version was adopted December 17, 2003.

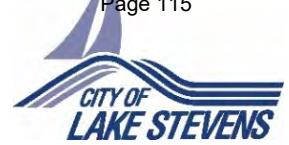
The City adopted Snohomish County's Shoreline Master Program in 1974 and has not subsequently updated the document other than minor revisions to the administrative provisions found separately in Chapter 14.92 (Shoreline Management) of the Lake Stevens Municipal Code (LSMC). The City's Comprehensive Plan (Critical Areas Element) contains a few shoreline goals and policies. Regulations applicable to critical areas which are located within shoreline jurisdiction underwent a comprehensive update in 2008, consistent with Growth Management Act requirements for use of "best available science." In those regulations, the City specified a stream shoreline buffer of 150 feet, applicable to Catherine Creek and Little Pilchuck Creek.

Most of the uses, developments, and activities regulated under the Critical Areas Regulations are also subject to the City's Comprehensive Plan, the Lake Stevens Municipal Code, the International Building Code, and various other provisions of City, state and federal laws. Any applicant must comply with all applicable laws prior to commencing any use, development, or activity. Lake Stevens will ensure consistency between the SMP and other City codes, plans and programs by reviewing each for consistency during periodic updates of the City's Comprehensive Plan as required by State statute.

## C. Implementation of the SMA

RCW 90.58.020 clearly states how the Shoreline Management Act shall be implemented in the following statement:

"The legislature finds that the shorelines of the state are among the most valuable and fragile of its natural resources and that there is great concern throughout the state relating to their utilization, protection, restoration, and preservation. In addition it finds that ever increasing pressures of additional uses are being placed on the shorelines necessitating increased coordination in the management and development of the shorelines of the state. The legislature further finds that much of the shorelines of the state and the uplands adjacent thereto are in private ownership; that unrestricted construction on the privately owned or publicly owned shorelines of the state is not in the best public interest; and therefore, coordinated planning is necessary in order to protect the public interest associated with the shorelines of the state while, at the same time, recognizing and protecting private property rights consistent with the public interest. There is, therefore, a clear and urgent demand for a planned, rational, and concerted effort, jointly performed by federal, state, and



local governments, to prevent the inherent harm in an uncoordinated and piecemeal development of the state's shorelines.

It is the policy of the state to provide for the management of the shorelines of the state by planning for and fostering all reasonable and appropriate uses. This policy is designed to insure the development of these shorelines in a manner which, while allowing for limited reduction of rights of the public in the navigable waters, will promote and enhance the public interest. This policy contemplates protecting against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life, while protecting generally public rights of navigation and corollary rights incidental thereto.

The legislature declares that the interest of all of the people shall be paramount in the management of shorelines of statewide significance. The department, in adopting guidelines for shorelines of statewide significance, and local government, in developing master programs for shorelines of statewide significance, shall give preference to uses in the following order of preference which:

1. Recognize and protect the statewide interest over local interest;
2. Preserve the natural character of the shoreline;
3. Result in long term over short term benefit;
4. Protect the resources and ecology of the shoreline;
5. Increase public access to publicly owned areas of the shorelines;
6. Increase recreational opportunities for the public in the shoreline;
7. Provide for any other element as defined in RCW 90.58.100 deemed appropriate or necessary.

In the implementation of this policy the public's opportunity to enjoy the physical and aesthetic qualities of natural shorelines of the state shall be preserved to the greatest extent feasible consistent with the overall best interest of the state and the people generally. To this end uses shall be preferred which are consistent with control of pollution and prevention of damage to the natural environment or are unique to or dependent upon use of the state's shoreline. Alterations of the natural condition of the shorelines of the state, in those limited instances when authorized, shall be given priority for single-family residences and their appurtenant structures, ports, shoreline recreational uses including but not limited to parks, marinas, piers, and other improvements facilitating public access to shorelines of the state, industrial and commercial developments which are particularly dependent on their location on or use of the shorelines of the state and other development that will provide an opportunity for substantial numbers of the people to enjoy the shorelines of the state. Alterations of the natural condition of the shorelines and shorelands of the state shall be recognized by the department. Shorelines and shorelands of the state shall be appropriately classified and these classifications shall be revised when circumstances warrant regardless of whether the change in circumstances occurs through man-made causes or natural causes. Any areas resulting from alterations of the natural condition of the shorelines and shorelands of the state no longer meeting the definition of 'shorelines of the state' shall not be subject to the provisions of chapter 90.58 RCW.

Permitted uses in the shorelines of the state shall be designed and conducted in a manner to minimize, insofar as practical, any resultant damage to the ecology and environment of the shoreline area and any interference with the public's use of the water."





## D. Geographic Applications of the SMA

As defined by the Shoreline Management Act of 1971, shorelines include certain waters of the state plus their associated “shorelands.” At a minimum, the waterbodies designated as shorelines of the state are streams whose mean annual flow is 20 cubic feet per second (cfs) or greater and lakes whose area is greater than 20 acres. RCW 90.58.030(2)(d) defines shorelands as:

*“[T]hose lands extending landward for two hundred 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.*

- (i) Any county or city may determine that portion of a one-hundred-year-floodplain to be included in its master program as long as such portion includes, as a minimum, the floodway and the adjacent land extending landward two hundred feet therefrom.*
- (ii) Any city or county may also include in its master program land necessary for buffers for critical areas as defined in Chapter 36.70A RCW, that occur within shorelines of the state.”*

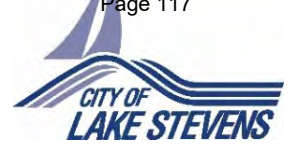
In addition, rivers with a mean annual cfs of 1,000 or more are considered shorelines of statewide significance.

The lateral extent of the shoreline jurisdiction shall be determined for specific cases based on the location of the ordinary high-water mark (OHWM), floodway, and presence of associated wetlands.

Lake Stevens is 1,014 acres and is therefore included in a classification of unique shorelines known as Shorelines of Statewide Significance. The City’s shoreline planning area has grown extensively due to multiple annexations around Lake Stevens, and eastward to also encompass the shorelines of Catherine Creek and Little Pilchuck Creek. The 20 cfs cutoff point for Catherine Creek is located at Hartford Drive NE in the City limits. The 20 cfs cutoff point for Little Pilchuck Creek is some distance upstream of the City and the UGA, and wanders in and out of the UGA along the eastern City boundary. Careful consideration of the hydrologic associations of known wetlands around Lake Stevens also resulted in significant expansions of shoreline jurisdiction from what had previously been understood.

### 1. Applicable Area

The City of Lake Stevens and its Urban Growth Area (UGA) is located in Snohomish County, WA. The City is bordered nearly on all sides by unincorporated Snohomish County jurisdiction, with a small shared border with Marysville along the northwest portion of the City. The City of Everett is located generally west and the City of Snohomish is located to the south. All of Lake Stevens is in the City’s shoreline jurisdiction, either in City limits or the UGA. Catherine Creek is likewise split between City limits and the UGA, while Little



Pilchuck Creek is entirely within the UGA. The City encompasses approximately 9 square miles. The Shoreline Environment Designation Map in Appendix A identifies the areas known to be within shoreline jurisdiction; additional areas may be determined on a site-specific basis if there are associated wetlands with a connection to the shoreline. The total area subject to the City's updated SMP, not including aquatic area, is approximately 362 acres (0.57 square mile), and encompasses approximately 9.2 miles of shoreline. (See Appendix A)

## E. How the Shoreline Master Program is Used

The City of Lake Stevens Shoreline Master Program is a planning document that outlines goals and policies for the shorelines of the City, and also establishes regulations for development occurring within shoreline jurisdiction.

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.

The Shoreline Management Act (SMA) defines for local jurisdictions the content and goals that should be represented in the Shoreline Master Programs developed by each community; within these guidelines, it is left to each community to develop the specific regulations appropriate to that community. Pursuant to the Guidelines, shorelines of the state that meet the criteria established in WAC 173-26-211 are given a shoreline environment designation. The purpose of the shoreline designation system is to ensure that land use, development, or other activity occurring within the designated shoreline jurisdiction is appropriate for that area and that consideration is given to the special requirements of that environment.

The Lake Stevens Shoreline Master Program addresses a broad range of uses that could be proposed in the shoreline area. This breadth is intended to ensure that the Lake Stevens shoreline area is protected from activities and uses that, if unmonitored, could be developed inappropriately and could cause damage to the ecological system of the shoreline, displace "preferred uses" as identified in Chapter 90.58 RCW, or cause the degradation of shoreline aesthetic values. The Lake Stevens Shoreline Master Program provides the regulatory parameters within which development may occur. In addition, it identifies those uses deemed unacceptable within Lake Stevens shoreline jurisdiction, as well as those uses which may be considered through a discretionary permit such as a Conditional Use Permit or Shoreline Variance.

Policies are used to: (1) develop regulations and standards, and (2) provide guidance and clarity where there is question or uncertainty about how to apply a specific regulation.

### 1. When Is a Permit Required?

A Shoreline Substantial Development Permit is required when a development or activity meets the definition of "substantial development" contained within Chapter 6 of this SMP. Substantial development is discussed in more detail in Chapter 7 Section C of this SMP. A development or activity is exempt if it meets the criteria listed in WAC 173-27-040. Some development may require a Shoreline Conditional Use Permit, if listed as such in the Use



Tables contained in Chapter 5 Section B of this SMP; or a Shoreline Variance. Shoreline Conditional Use Permits and Shoreline Variances are discussed in more detail in Chapter 7 Sections D and E, respectively. However, ALL new development, uses, and activities must comply with the policies and regulations set forth in the City of Lake Stevens Shoreline Master Program, including those developments, uses, and activities that are exempt from permits. Review under the State Environmental Policy Act (SEPA) may also be required.

“Development,” is defined by the Shoreline Management Act of 1971 as:

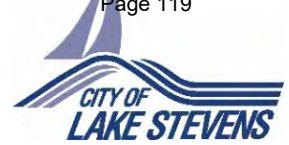
*A use consisting of the construction or exterior alteration of structures; dredging, drilling; dumping; filling; removal of any sand, gravel, or minerals; bulkheading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters of the state subject to Chapter 90.58 RCW at any stage of water level. “Development” does not include dismantling or removing structures if there is no other associated development or redevelopment (RCW 90.58.030(3)(a) WAC 173-27-030(6)).*

Projects that are identified as “developments,” but not “substantial developments,” do not require a Shoreline Substantial Development Permit; however, they must still comply with all applicable regulations in the City’s Shoreline Master Program, including Appendix B - Critical Areas Regulations Within Shoreline Jurisdiction. In addition, some developments may require a Shoreline Conditional Use Permit or Shoreline Variance from the Shoreline Master Program’s provisions, although they do not meet the definition of “substantial development.”

“Substantial development” is any “development” where the total cost or fair market value exceeds ~~five seven~~ thousand ~~seven hundred eighteen~~ forty-seven dollars (\$~~5,718~~7,047), as adjusted for inflation by the Office of Financial Management every five years, or any development that materially interferes with the normal public use of the water or shorelines of the state. The ~~five seven~~ thousand ~~seven hundred eighteen~~ forty-seven dollar (\$~~5,718~~7,047) threshold will be adjusted for inflation by the ~~O~~ffice of ~~F~~inancial ~~M~~anagement every five years, beginning July 1, 2007, based upon changes in the consumer price index during that time period. 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 is not considered a substantial development if the fair market value of the dock does not exceed: (A) twenty thousand dollars for docks that are constructed to replace existing docks, are of equal or lesser square footage than the existing dock being replaced; or (B) ten thousand dollars for all other docks. However, if subsequent construction occurs within five years of completion of the prior construction, and the combined fair market value of the subsequent and prior construction exceeds the amount specified above, the subsequent construction shall be considered a substantial development. A dock is not considered substantial development if the fair market value of the dock does not exceed ten thousand dollars (\$10,000), as adjusted for inflation by the Office of Financial Management every five years. If subsequent construction having a fair market value exceeding two thousand five hundred dollars (\$2,500) occurs within five years of completion of the prior construction, the subsequent construction shall be considered a substantial development.

Under the Shoreline Management Act, some types of development are exempt from the requirement to apply for and receive a permit before beginning work per RCW





90.58.030(3)(e). A complete list of developments and uses that are not considered “substantial development” as per WAC 173-27-040, is included at Chapter 7 Section C.1.

## **2. The Permit Process**

The 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.

## **3. The Shoreline Permits**

There are three types of permits: the Shoreline Substantial Development Permit, the Shoreline Conditional Use Permit, and the Shoreline Variance. All of these permits use the same application form; however, they are processed slightly differently and have different criteria for approval. Shoreline Exemptions require City review to determine whether the proposal is indeed exempt from shoreline permits, and whether the proposal meets the policies and regulations of the Shoreline Master Program. Requests for Shoreline Exemption are made on a separate application form.

Requests for a Shoreline Exemption and 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 Chapter 7 Section C.4. Requests for Shoreline Conditional Use Permits and Shoreline Variances require final approval by DOE.

A map of the shoreline jurisdiction is presented in Appendix A and descriptions of the various shoreline designations are presented in Chapter 2 of this SMP.

## **4. Relationship of this Shoreline Master Program to Other Plans**

In addition to compliance with the provisions of the Shoreline Management Act of 1971, the Lake Stevens Shoreline Master Program (SMP) must be mutually consistent with local plans and policy documents, specifically, the Lake Stevens Comprehensive Plan and the Lake Stevens Municipal Code. The Lake Stevens SMP must also be mutually consistent with the regulations developed by the City to implement its plans, such as the zoning code and subdivision code, as well as building construction and safety requirements.

Submitting an application for a shoreline development, use, or activity does not exempt an applicant from complying with any other local, county, state, regional, or federal statutes or regulations, which may also be applicable to such development or use.



## F. Public Process for SMP Adoption

The City of Lake Stevens involved the public and solicited feedback throughout the update process of this Shoreline Master Program. The City notified and solicited input from all relevant organizations and agencies at the beginning and throughout the local adoption process of the SMP update.

### 1. Shoreline Citizen Advisory Committee (CAC)

City staff and consultants worked closely with a Shoreline Citizen Advisory Committee throughout the update process. The CAC included seven Lake Stevens residents (City Council Representative, Planning Commission Representative, two Park Board Members, two shoreline property owners and one non-shoreline resident). Six meetings were held from March to December 2010. The CAC provide in-depth and structured input on draft policies and regulations, assisted in the outreach to various constituencies and interest groups, and helped to ensure that a broad spectrum of interests and considerations were incorporated into the SMP update.

### 2. Early Public Review

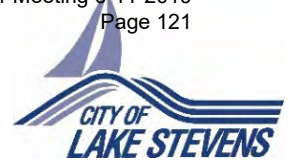
The City held a total of three public open houses during the writing phase of the SMP to solicit public input. For each open house, approximately 380 shoreline property owners and other property owners within shoreline jurisdiction were invited by a mailed postcard. The meetings were also advertised in the Lake Stevens Journal and/or Everett Herald. Each open house consisted of opportunities to talk with staff and consultants about proposed updates to the SMP, a presentation reviewing the SMP update and proposed changes, and opportunities to provide written feedback.

- Open House #1 (April 15, 2010) - ~70 people attended to provide meaningful feedback through a brainstorming exercise and by filling out questionnaires.
- Open House #2 (June 24, 2010) - ~24 people attended to provide feedback on a questionnaire.
- Open House #3 (November 18, 2010) - ~13 people attended to provide comments on the proposed SMP.

### 3. Local Adoption Process

The local adoption process began on April 4, 2011 with submittal of draft documents to the Washington Department of Commerce for the required 60-day review and ended with adoption of a resolution by the City Council on November 28, 2011 for approval of the final draft Shoreline Master Program documents and direction to staff to forward them to the Washington Department of Ecology for formal review and approval.

The City received numerous phone calls, emails and office visits from residents and property owners after sending the notice of the public hearings and during the public hearing process. Formal written submittals are included in the Responsiveness Summary. Public testimony from the Council Hearings is included in the General Testimony reports.



A summary of the local adoption process is provided below:

- April 5, 2011 – Draft Shoreline Master Program and associated documents submitted to Washington Department of Commerce for 60-day review of Comprehensive Plan amendments and Development Regulations, including SMP documents.
- April 12, 2011 – Postcard notice for the SEPA Determination of Non-Significance and Public Meetings mailed to 2,080 shoreline property owners or within 300 feet.
- April 13, 2011 – Notice of Planning Commission Public Hearing on May 4 published in Lake Stevens Journal.
- April 15, 2011 – Issued SEPA Determination of Non-Significance (DNS) and published in the Everett Herald.
- April 19, 2011 – Final Draft Shoreline Master Program documents completed.
- April 20, 2011 – Notice of Planning Commission Public Hearing on May 4 published in Lake Stevens Journal. Final documents uploaded to City of Lake Stevens website.
- April 29, 2011 – Comment period ends for SEPA DNS.
- May 4, 2011 – Planning Commission Public Hearing on the SMP documents. Attendance: 25.
- May 4 & 11, 2011 – Notice of City Council Public Hearings on May 23 and June 13 published in Lake Stevens Journal.
- May 6, 2011 – Appeal period ends for SEPA DNS.
- May 11, 2011 – Notice of City Council Public Hearings on May 23 and June 13 published in Lake Stevens Journal.
- May 18, 2011 – Continuation of Planning Commission Public Hearing on the SMP documents and code amendments, and recommendation to City Council. Attendance: 9.
- May 23, 2011 – City Council Public Hearing and First Reading of Resolution to adopt Final Draft SMP documents. Attendance: 61.
- May 31, 2011 – City Council Workshop. Attendance: 60.
- June 6, 2011 – City Council Workshop with Ecology, Fish & Wildlife, and Consultants. Attendance: 33.
- June 6, 2011 – 60-day Washington Department of Commerce review complete.
- June 13, 2011 – City Council Public Hearing and Second Reading of Resolution to adopt Final Draft SMP documents. Attendance: 71.
- July 11, 2011 – City Council Public Hearing and Third & Final Reading of Resolution to adopt Final Draft SMP documents. Attendance: 28. Council Subcommittee designated to meet with citizen group and their representatives.



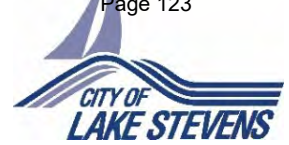
- August 16, 2011 – Council Subcommittee Meeting #1 with staff and citizen group and their representatives met to discuss the major topics. Decision to propose supplemental work program to Council. Attendance: 11.
- September 12, 2011 – City Council adopts Supplemental Work Program for staff and consultants to research major issues and report back to Council Subcommittee.
- October 27, 2011 – Council Subcommittee Meeting #2 with staff and citizen group and their representatives.
- October 31, 2011 – Council Subcommittee Meeting #3 with staff and citizen group and their representatives.
- November 14, 2011 – City Council Workshop to discuss Subcommittee recommendations and other proposed revisions to the proposed SMP. Ecology was present to answer Council questions.
- November 17, 2011 – Council Subcommittee Meeting #4 with staff and citizen group and their representatives.
- November 21, 2011 – Fourth Public Hearing and Adoption. Attendance: ~30.
- November 28, 2011 – Fifth and Final Public Hearing and Adoption of Final Draft SMP and associated documents and direction to staff to forward them to the Washington Department of Ecology for formal review and approval. Attendance: ~32.
- December 9, 2011 – Submittal of City Council Approved Final Draft for Ecology Review SMP documents to the Washington Department of Ecology for formal review and approval.

#### **4. Ecology's Final Review and Adoption Process**

Ecology's final review and adoption process began with the submittal of City Council approved Final Draft Shoreline Master Program and associated documents.

A summary of Ecology's final review adoption process is provided below:

- February 27, 2012 – SMP amendment package verified as complete by Ecology.
- April 10, 2012 – Notice of the state comment period distributed to state interested parties as well as local interested parties identified by the City.
- April 19, 2011 – Ecology public hearing to solicit input on the City proposed amendments.
- April 19 to May 21, 2012 – State comment period. Eleven individuals or organizations provided either formal testimony at the public hearing or submitted written comments.
- January 4, 2013 – Washington Department of Ecology Letter of Conditional Approval to City.



- January 4 to February 4, 2013 – ~~Thirty~~ 30-day period for City response to Conditional Approval.
- January 28, 2013 – City request for extension to the 30-day response until April 30, 2013.
- April 30, 2013 – City response to Conditional Approval agreeing to most of Ecology's recommended changes, proposing alternative language for two required changes, and proposing eight additional minor clarifications.
- May 31, 2013 – Final Ecology approval of the City of Lake Stevens Shoreline Master Program Comprehensive Update.
- June 14, 2013 – Effective date of approved Shoreline Master Program.

## G. Periodic Review

As indicated above, the City adopted a comprehensively updated SMP in 2013.

In accordance with the Shoreline Management Act, local jurisdictions with shorelines of the state are required to conduct a periodic review of their SMPs (WAC 173-26-090). The periodic review is intended to keep SMPs current with amendments to state laws, changes to local plans and regulations, changes in local circumstances, and new or improved data and information.

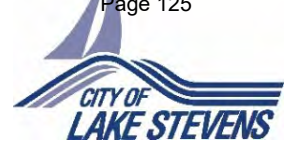
The periodic review of the City's SMP began in 2018 and was completed in 2019. The City used the optional SMP amendment process that allows for a shared local/state public comment period for efficiency. A summary of the public process for the periodic review is provided below.

### 1. Public Process for Periodic Review

- November 20, 2018 – Notice of project and December 5 open house posted on City website and published in Lake Stevens Journal.
- November 29, 2018 – Notice of project and December 5 open house emailed to stakeholder groups.
- November 26, 2018 to January 10, 2019 – Online SMP public survey. Responses: 20.
- December 5, 2018 – Open house #1. Attendance: 2.
- December 17, 2018 – Notice of project and January 9 open house posted on City website and published in Lake Stevens Journal.
- December 20, 2018 and January 3, 2019 – Postcard notice for the project and January 9 open house mailed to 708 shoreline property owners.
- January 9, 2019 – Open house #2. Attendance: ~10.



- January 16, 2019, briefing with the Planning Commission-reviewed report prepared by Watershed regarding outline of proposed SMP changes.
- February 6, 2019, briefing with the Planning Commission-reviewed draft amendments to SMP.
- February 20, 2019, public hearing with the Planning Commission on draft amendments to the SMP, one citizen provided public comment.
- March 26, 2019, joint public hearing held with Lake Stevens City Council and Department of Ecology.
- April 12, 2019 – Draft amendments to SMP submitted to Department of Ecology for initial determination of consistency.
- May 14, 2019 – Department of Ecology statement of initial concurrence issued. The statement had no specific comments on the draft amendments to the SMP.
- June 11, 2019 – Amended SMP adopted by Lake Stevens City Council.



## CHAPTER 2

# Environment Designation Provisions

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### A. Introduction

The Shoreline Management Act (Chapter 90.58 RCW) and Shoreline Guidelines (Chapter 173-26 WAC) provide for shoreline environment designations to serve as a tool for applying and tailoring the general policies of the SMA to local shorelines. Shoreline environment designations provide a means of adapting broad policies to shoreline sub-units while recognizing different conditions and valuable shoreline resources, and a way to integrate comprehensive planning into SMP regulations. In accordance with WAC 173-26-211, the following shoreline environment designation provisions apply; including purpose, designation criteria, and management policies. Where there is a contradiction between the matrices and another SMP text provision, the text provision shall apply.

All areas not specifically assigned a shoreline environment designation shall be designated “Urban Conservancy” (UC).

### B. Shoreline Environment Designation Maps

The Shoreline Environment Designation Maps can be found in Appendix A. Pursuant to WAC 173-26-211, the maps illustrate the shoreline environment designations that apply to all shorelines of the state within the City of Lake Stevens’ jurisdiction. The lateral extent of the shoreline jurisdiction shall be determined for specific cases based on the location of the ordinary high water mark (OHWM), effective floodway, and presence of associated wetlands. ~~The maps should be used in conjunction with the Environment Designation tables in Section C below.~~ In the event of a mapping error, the City will rely upon ~~the boundary descriptions and~~ the criteria in Section C below.

### C. Policies and Regulations

#### 1. "Natural" (N) Environment

##### a. Purpose

The purpose of the "Natural" environment is to protect and restore all wetlands associated with shoreline areas by applying the City of Lake Stevens Critical Areas Regulations Within Shoreline Jurisdiction in Appendix B. These systems require development restrictions to maintain the ecological functions and ecosystem-wide processes.

##### b. Designation Criteria

A "Natural" environment designation will be assigned to those wetland complexes in shoreline jurisdiction. Identified wetlands include those associated with Stevens Creek, Stitch Lake, Lundeen Creek, and Lake Stevens. For the “Natural” areas that extend





beyond 200 feet from OHWM, the exact location of the wetland boundary will be determined with a wetland delineation at the time of project application.

### **c. Management Policies**

#### Uses

1. Any use that would substantially degrade the ecological functions or natural character of the designated wetland area should be prohibited.
2. New land division, development or shoreline modification that would reduce the capability of the wetlands to perform normal ecological functions should not be allowed.
3. Uses that are consumptive of physical, visual, and biological resources should be prohibited.

#### Access and Improvements

4. Access may be permitted for scientific, historical, cultural, educational, and low-intensity water-oriented recreational purposes such as nature study that do not impact ecological functions, provided that no significant ecological impact on the area will result.
5. Physical alterations should only be considered when they serve to protect or enhance a significant, unique, or highly valued feature that might otherwise be degraded or destroyed or for public access where no significant ecological impacts would occur.

#### Implementing Regulations

6. The ecological resources, including associated wetlands, in the "Natural" environment should be protected through the provisions in the Critical Areas section of this SMP.

## **2. "High-Intensity" (H-I) Environment**

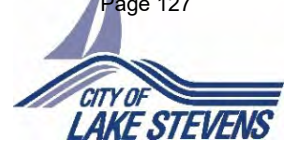
### **a. Purpose**

The purpose of the "High-Intensity" environment is to provide for high-intensity water-oriented commercial, transportation, and industrial uses while protecting existing ecological functions and restoring ecological functions in areas that have been previously degraded.

### **b. Designation Criteria**

A "High-Intensity" environment designation will be assigned to shorelands designated for commercial or industrial use in the Comprehensive Plan if they currently support or are suitable and planned for high-intensity commercial, industrial, or institutional uses that either include, or do not detract from the potential for water-oriented uses, shoreline restoration and/or public access.





### c. Management Policies

#### Uses

1. In regulating uses in the "High-Intensity" environment, first priority should be given to water-dependent uses. Second priority should be given to water-related and water-enjoyment uses.

The 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.

2. Developments in the "High-Intensity" environment should be managed so that they enhance and maintain the shorelines for a variety of urban uses, with priority given to water-dependent, water-related, and water-enjoyment uses.
3. Because Little Pilchuck Creek and Catherine Creek are non-navigable waterways, new nonwater-oriented development should be allowed in the High Intensity environment if ecological restoration is provided as a significant public benefit.

#### Public Access

4. Existing public access ways should not be blocked or diminished.
5. In order to make maximum use of the available shoreline resource and to accommodate future water-oriented uses, shoreline restoration and/or public access, the redevelopment and renewal of substandard, degraded, obsolete urban shoreline areas should be encouraged.

#### Aesthetics

6. Aesthetic objectives should be actively implemented by means such as sign control regulations, appropriate development siting, screening and architectural standards, and maintenance of natural vegetative buffers. These objectives may be implemented either through this SMP or other City ordinances.

#### **~~d. Specific Environment Designations~~**

~~The following table (Table 1) assigns areas within shoreline jurisdiction as a "High Intensity" environment. See attached Shoreline Environment Designation Maps (Appendix A).~~

### 3. "Urban Conservancy" (UC) Environment

#### a. Purpose

The purpose of the "Urban Conservancy" environment is to protect and "restore", as defined in this SMP, ecological functions in urban and developed settings, while allowing public access and a variety of park and recreation uses.



**Table 1. High Intensity Environment Designation Descriptions**

<b>Environment Designation</b>	<b>Sub-Unit</b>	<b>Begins (parcel No.)</b>	<b>Ends (parcel No.)</b>
High Intensity	Lake Stevens Residential	29051200400200	29051200400100
High Intensity	Little Pilchuck Creek—UGA	Sliver of parcel 29060400301000	
High Intensity	Little Pilchuck Creek—UGA	Portion of parcel 29060900200800	
High Intensity	Little Pilchuck Creek—UGA	Portion of parcel 29060900206500	
High Intensity	Little Pilchuck Creek—UGA	Portions of N Machias Rd in Shoreline Jurisdiction	
High Intensity	Little Pilchuck Creek—UGA	Northeast corner of parcel 29060500402000	
High Intensity	Little Pilchuck Creek—UGA	Northern portion of Machias Rd at the intersection with SR 92	
High Intensity	Catherine Creek—City	SW portion of 00562200001801	Western portion of 29060800103000
High Intensity	Catherine Creek—City	00660100000101	29060800103400
High Intensity	Catherine Creek—City	29060900300900, 29060900301000	Southwest portion 29060900304400
High Intensity	Catherine Creek—UGA	Portion of 29060900304600	

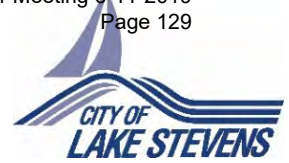
## **b. Designation Criteria**

An "Urban Conservancy" environment designation will be assigned to shorelands that are within public and private parks and natural resource areas, including park lands on Lake Stevens and Catherine Creek. Lands planned for park uses or resource conservation areas and lands with no other existing or planned commercial or residential land uses should also be designated "Urban Conservancy."

## **c. Management Policies**

### Uses

1. Water-oriented recreational uses should be given priority over nonwater-oriented uses. Water-dependent recreational uses should be given highest priority.
2. Commercial activities enhancing ecological functions or the public's enjoyment of publically-publicly accessible shorelines may be appropriate.



3. Water-dependent and water-enjoyment recreation facilities that do not deplete the resource over time, such as boating facilities, angling, wildlife viewing trails, and swimming beaches, are preferred uses, provided significant ecological impacts to the shoreline are avoided or mitigated.
4. Development that hinders natural channel movement in channel migration zones should not be allowed.

#### Ecological Restoration and Public Access

5. During development and redevelopment, all reasonable efforts, as determined by the City, should be taken to restore ecological functions.
6. Standards should be established for shoreline stabilization measures, vegetation conservation, water quality, and shoreline modifications within the "Urban Conservancy" designation to ensure that new development does not further degrade the shoreline and is consistent with an overall goal to improve ecological functions and habitat.
7. Public access and public recreation objectives should be implemented whenever feasible and significant ecological impacts can be mitigated.

#### **~~d. Specific Environment Designations~~**

~~The following table (Table 2) assigns areas within shoreline jurisdiction as an "Urban Conservancy" environment. See also the attached maps.~~

### **4. "Shoreline Residential" (SR) Environment**

#### **a. Purpose**

The purpose of the "Shoreline Residential" environment is to accommodate residential development and appurtenant structures that are consistent with this SMP. An additional purpose is to provide appropriate community access and recreational uses.

#### **b. Designation Criteria**

A "Shoreline Residential" environment designation will be assigned to City of Lake Stevens' shorelands if they are predominantly single-family or multifamily residential development or are planned for residential development.

#### **c. Management Policies**

##### Uses

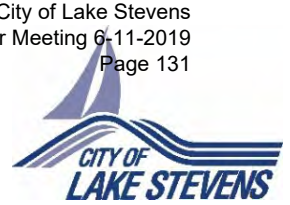
1. Water-oriented recreational uses should be allowed.
2. New residential development should be supported by adequate land area and services.
3. Land division and development should be permitted only 1) when adequate setbacks or buffers are provided to protect ecological functions and 2) where there is adequate access, water, sewage disposal, and utilities systems, and public services available and 3) where the environment can support the proposed use in a manner which protects or restores the ecological functions.



Table 2. Urban Conservancy Environment Designation Descriptions

Environment Designation	Sub-Unit	Begins (parcel No.)	Ends (parcel No.)
Urban Conservancy	Lake Stevens Residential — City Limits	29060700200800	
Urban Conservancy	Lake Stevens Residential — City Limits	00493300900104	
Urban Conservancy	Lake Stevens Residential — City Limits	00553800002000	
Urban Conservancy	Lake Stevens Residential — City Limits	00553800001602	00553800001500
Urban Conservancy	Lake Stevens Residential — City Limits	29060800303400	
Urban Conservancy	Lake Stevens Residential — UGA	00533400001500	
Urban Conservancy	Little Pilchuck Creek — UGA	29060900303300	
Urban Conservancy	Little Pilchuck Creek — UGA	29060900302400	
Urban Conservancy	Little Pilchuck Creek — UGA	Eastern portion of 29060400301000	
Urban Conservancy	Catherine Creek — City	Eastern portion of 29060800400100	00828600099900

4. Development standards for setbacks or buffers, shoreline stabilization, vegetation conservation, critical area protection, and water quality should be established to protect and, where significant ecological degradation has occurred, restore ecological functions over time.
5. New multi-family development and new subdivisions of land into more than four parcels shall provide public access, which could include benches for viewing in a public right of way, community access, or similar types of public access.
6. New residential development should be located and designed so that future shoreline stabilization is not needed.
7. Maintenance or repair of existing development should be allowed, except where repair causes substantial adverse effects to shoreline resource or environment. Replacement of a structure or development may be authorized as repair where such replacement is the common method of repair for the type of structure or development and the replacement structure or development is comparable to the original structure or development including but not limited to its size, shape, configuration, location and external appearance and the replacement does not cause substantial adverse effects to shoreline resources or environment.



**d. Specific Environment Designations**

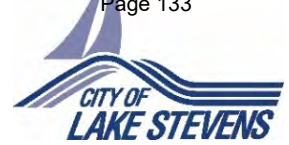
The following table (Table 3) assigns areas within shoreline jurisdiction as a “Shoreline Residential” environment. See also the attached maps.

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**Table 2. Shoreline Residential Environment Designation Descriptions**

<b>Environment Designation</b>	<b>Sub-Unit</b>	<b>Begins (parcel No.)</b>	<b>Ends (parcel No.)</b>
Shoreline Residential	Lake Stevens Residential—City Limits	00493200100100	29060800300600
Shoreline Residential	Lake Stevens Residential—City Limits	00553800001900	-00553800001601
Shoreline Residential	Lake Stevens Residential—City Limits	00553800001302	29061700202600
Shoreline Residential	Lake Stevens Residential—UGA	00719200099900	29061900104800
Shoreline Residential	Lake Stevens Residential—City Limits	29061900107000	00493300200300
Shoreline Residential	Lake Stevens Residential—City Limits	00493300101700	29051200400700
Shoreline Residential	Lake Stevens Residential—City Limits	00604900400100	29060700201100
Shoreline Residential	Little Pilchuck Creek—UGA	Southeastern corner of 29060500102200	
Shoreline Residential	Little Pilchuck Creek—UGA	Northeastern corner of 29060900200600	Northeastern corner of 29060900207900
Shoreline Residential	Little Pilchuck Creek—UGA	Southeastern corner of 29060900300500	Northeastern corner of 29060900302000
Shoreline Residential	Little Pilchuck Creek—UGA	29060900302600	29060900305200
Shoreline Residential	Catherine Creek—UGA	Southern portion of 29060900302000	Southern portion of 29060900301900
Shoreline Residential	Catherine Creek—UGA	29060900301600	29060900301200
Shoreline Residential	Catherine Creek—City Limits	29060900301100	00814400001100
Shoreline Residential	Catherine Creek—City Limits	00828600002000	00705800002000



## **5. "Aquatic" Environment**

### **a. Purpose**

The purpose of the "Aquatic" environment is to protect, restore, and manage the unique characteristics and resources of the areas waterward of the ordinary high water mark.

### **b. Designation Criteria**

An "Aquatic" environment designation will be assigned to shoreline areas waterward of the ordinary high-water mark.

### **c. Management Policies**

1. New over-water structures should be prohibited except for water-dependent uses, public access, or ecological restoration.
2. The size of new over-water structures should be limited to the minimum necessary to support the structure's intended use.
3. In order to reduce the impacts of shoreline development and increase effective use of water resources, multiple uses of over-water facilities should be encouraged.
4. Provisions for the "Aquatic" environment should be directed towards maintaining and restoring habitat for aquatic species.
5. Uses that cause significant ecological impacts to critical freshwater habitats should not be allowed except where necessary to achieve Shoreline Management Act objectives (RCW 90.58.020), and then only when their impacts are mitigated according to the sequence described in WAC 173-26-201(2)(e) and restated in Chapter 3 Section B.4, as necessary to assume no net loss of ecological functions.
6. Shoreline uses and modifications should be designed and managed to prevent degradation of water quality and alteration of natural hydrographic conditions.
7. Abandoned and neglected structures that cause adverse visual impacts or are a hazard to public health, safety, and welfare should be removed or restored to a usable condition consistent with this SMP.



## CHAPTER 3

# General Provisions

---

### A. Introduction

General policies and regulations are applicable to all uses and activities (regardless of shoreline environment designation) that may occur along the City's shorelines.

This chapter is divided into twelve different topic headings and is arranged alphabetically. Each topic begins with a discussion of background SMP issues and considerations, followed by general policy statements and regulations. The intent of these provisions is to be inclusive, making them applicable over a wide range of environments as well as particular uses and activities.

### B. Policies and Regulations

#### 1. Universally Applicable Policies and Regulations

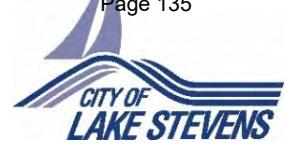
##### a. Applicability

1. The following regulations describe the requirements for all shoreline uses and modifications in all shoreline environment designations.
2. Within shoreline jurisdiction, the purpose of a [shoreline](#) variance permit is strictly limited to granting relief from specific bulk, dimensional or performance standards set forth in the SMP where there are extraordinary circumstances relating to the physical character or configuration of property such that the strict implementation of the SMP will impose unnecessary hardships on the applicant or thwart the policies set forth in RCW 90.58.020. Specifically, LSMC14.16C.115 shall not apply [to standards set forth in the SMP](#). Variance procedures and criteria have been established in this SMP, Chapter 7 Section E and in Washington Administrative Code (WAC) 173-27-200 and 173-27-170, respectively.

##### b. Policies

1. The City should periodically review conditions on the shoreline and conduct appropriate analysis to determine whether or not other actions are necessary to protect and restore the ecology to ensure no net loss of ecological functions, protect human health and safety, upgrade the visual qualities, and enhance residential and recreational uses on the City's shorelines. Specific issues to address in such evaluations include, but are not limited to:
  - a. Water quality.





- b. Conservation of aquatic vegetation (control of noxious weeds and enhancement of vegetation that supports more desirable ecological and recreational conditions).
  - c. Upland vegetation.
  - d. Changing visual character as a result of new residential development, including additions, and individual vegetation conservation practices.
  - e. Shoreline stabilization and modifications.
- 2. The City should keep records of all project review actions within shoreline jurisdiction, including shoreline permits and letters of exemption.
  - 3. Where appropriate, the City should pursue the policies of this SMP in other land use, development permitting, public construction, and public health and safety activities. Specifically, such activities include, but are not limited to:
    - a. Water quality and stormwater management activities, including those outside shoreline jurisdiction but affecting the shorelines of the state.
    - b. Aquatic vegetation management.
    - c. Health and safety activities, especially those related to sanitary sewage.
    - d. Public works and utilities development.
  - 4. The City should involve affected federal, state, and tribal governments in the review process of shoreline applications.

### **c. Regulations**

- 1. All proposed shoreline uses and development, including those that do not require a shoreline permit, must conform to the Shoreline Management Act, Chapter 90.58 RCW, and to the policies and regulations of this SMP.
- 2. All new shoreline modifications must be in support of an allowable shoreline use that conforms to the provisions of this SMP. Except as otherwise noted, all shoreline modifications not associated with a legally existing or an approved shoreline use are prohibited.
- 3. Shoreline uses, modifications, and conditions listed as "prohibited" shall not be eligible for consideration as a shoreline variance or shoreline conditional use permit. See Chapter 5 for Shoreline Use Regulations, including exemptions, variances, conditional uses, and nonconforming uses.
- 4. The "policies" listed in this SMP will provide broad guidance and direction and will be used by the City in applying the "regulations." The policies, taken together, constitute the Shoreline Element of the Lake Stevens Comprehensive Plan.
- 5. Where provisions of this SMP conflict, the provisions most directly implementing the objectives of the Shoreline Management Act, based on a review of the applicable goals and policies to determine intent, as determined by the City, shall apply unless specifically stated otherwise.
- 6. The regulations of Chapters 2, 4, 5 and sections 2, and 4 through 12 of Chapter 3 in this SMP shall not apply to those land areas that are outside shoreline jurisdiction as



of the date of adoption of this SMP but which do fall within shoreline jurisdiction due solely to a human-constructed shoreline restoration project, pursuant to the provisions of Washington State House Bill 2199 Chapter 405, 2009 Laws [and WAC 173-27-215](#). That is, if a shoreline restoration project causes the expansion of shoreline jurisdiction onto a neighboring property or portion of the subject property, then SMP regulations noted above do not apply to the area of expanded jurisdiction. However, if the area newly falling into shoreline jurisdiction is a critical area, then the critical area provisions of this SMP do apply.

7. The regulations in Appendix B: Critical Areas Regulations Within Shoreline Jurisdiction are fully enforceable and considered part of the SMP regulations.

## **2. Archaeological and Historic Resources**

### **a. Applicability**

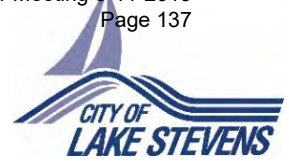
The following provisions apply to archaeological and historic resources that are either recorded at the State Historic Preservation Office and/or by local jurisdictions or have been inadvertently uncovered. Archaeological sites located both in and outside shoreline jurisdiction are subject to Chapter 27.44 RCW (Indian Graves and Records) and Chapter 27.53 RCW (Archaeological Sites and Resources) and shall comply with Chapter 25-48 WAC (Archaeological Excavations and Removal Permit) as well as the provisions of this chapter.

### **b. Policies**

1. Due to the limited and irreplaceable nature of the resource, public or private uses, activities, and development should be prevented from destroying or damaging any site having historic, cultural, scientific or educational value as identified by the appropriate authorities and deemed worthy of protection and preservation.

### **c. Regulations**

1. All shoreline permits shall contain provisions which require developers to immediately stop work and notify the City, the state office of archaeology and historic preservation, and affected Indian tribes if any phenomena of possible archaeological value are uncovered during excavations. In such cases, the developer shall be required to provide for a site inspection and evaluation by a professional archaeologist to ensure that all possible valuable archaeological data are properly salvaged or mapped.
2. Permits issued in areas known to contain archaeological artifacts and data shall include a requirement that the developer provide for a site inspection and evaluation by a professional archaeologist in coordination with affected Indian tribes. The permit shall require approval by the City before work can begin on a project following inspection. Significant archaeological data or artifacts shall be recovered before work begins or resumes on a project.
3. Significant archaeological and historic resources shall be permanently preserved for scientific study, education and public observation. When the City determines that a site has significant archaeological, natural, scientific or historical value, a Substantial Development Permit shall not be issued which would pose a threat to the site. The



City may require that development be postponed in such areas to allow investigation of public acquisition potential and/or retrieval and preservation of significant artifacts.

4. In the event that unforeseen factors constituting an emergency as defined in RCW 90.58.030 necessitate rapid action to retrieve or preserve artifacts or data identified above, the project may be exempted from the permit requirement of these regulations. The City shall notify the State Department of Ecology, the State Attorney General's Office and the State Historic Preservation Office of such a waiver in a timely manner.
5. Archaeological sites located both in and outside the shoreline jurisdiction are subject to Chapter 27.44 RCW (Indian Graves and Records) and Chapter 27.53 RCW (Archaeological Sites and Resources) and shall comply with Chapter 25-48 WAC (Archaeological Excavation and Removal Permit) as well as the provisions of this SMP.
6. Archaeological excavations may be permitted subject to the provisions of this program.
7. Identified historical or archaeological resources shall be included in park, open space, public access and site planning, with access to such areas designed and managed so as to give maximum protection to the resource and surrounding environment.
8. Clear interpretation of historical and archaeological features and natural areas shall be provided when appropriate.
9. The City will work with affected tribes and other agencies to protect Native American artifacts and sites of significance and other archaeological and cultural resources as mandated by Chapter 27.53 RCW.

### **3. Critical Areas**

Critical areas in shoreline jurisdiction are regulated by Appendix B of this SMP. The regulations in Appendix B: Critical Areas Regulations Within Shoreline Jurisdiction are fully enforceable and considered part of the SMP regulations. The provisions of the Critical Areas Regulations do not extend shoreline jurisdiction beyond the limits specified in this SMP. Critical areas outside shoreline jurisdiction are regulated by the City's Critical Areas Regulations, Chapter 14.88 LSMC (Ordinance 741 effective May 8, 2007 and amended by Ordinance 773 effective April 21, 2008).

### **4. Environmental Impacts**

#### **a. Applicability**

The following policies and regulations apply to all uses and development in shoreline jurisdiction that are not within the jurisdiction of the Critical Areas Regulations as addressed in Section B.3 above.



## **b. Policies**

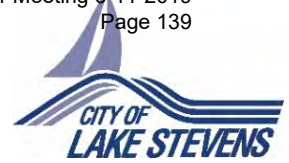
1. In implementing this SMP, the City should take necessary steps to ensure compliance with Chapter 43.21C RCW, the Washington State Environmental Policy Act of 1971, and its implementing guidelines.
2. All significant adverse impacts to the shoreline should be avoided or, if that is not possible, minimized to the extent feasible and provide mitigation to ensure no net loss of ecological function.

## **c. Regulations**

1. All project proposals, including those for which a shoreline permit is not required, shall comply with Chapter 43.21C RCW, the Washington State Environmental Policy Act.
2. Projects that cause significant ecological impacts, as defined in Definitions, are not allowed unless mitigated according to the sequence in subsection c. 4 below to avoid reduction or damage to ecosystem-wide processes and ecological functions.
3. Projects that cause significant adverse impacts, other than significant ecological impacts, shall be mitigated according to the sequence in subsection c.4 below.
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 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 mitigation plan outlining restoration, if applicable and how proposed mitigation measures would result in no net loss of shoreline ecological functions.

When applying mitigation to avoid or minimize significant adverse effects and significant ecological impacts, the City will apply the following sequence of steps in order of 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 with less impact or that increase the overall shoreline function; and
- f. Monitoring the impact and the compensation projects (from subsection (e) above) and taking appropriate corrective measures.



5. Exception to the sequencing noted above: The City may provide for or allow mitigation of an environmental impact through a comprehensive mitigation program such as a mitigation banking program if such mitigation measures will result in a greater benefit in terms of ecological functions and values. Such a program must be based on a comprehensive analysis of ecological systems such as provided by the analysis and restoration plan accomplished as part of this SMP.

Mitigation measures shall be accomplished at locations in the following order of preference:

- a. On the site where impacts occur (first preference).
  - b. If (a) is not feasible or beneficial in terms of ecological functions, then within or adjacent to the same water body.
  - c. If (b) is not feasible or beneficial in terms of ecological functions, then within the City of Lake Stevens.
  - d. If (c) is not feasible or beneficial in terms of ecological functions, then within the UGA.
6. All shoreline development shall be located and constructed to avoid locally-specific significant adverse impacts to human health and safety.

## **5. Flood Hazard Reduction and River Corridor Management**

### **a. Applicability**

The provisions in this section apply to those areas within shoreline jurisdiction lying along a floodplain corridor, including lakes, rivers, streams, associated wetlands in the floodplain, and river deltas.

The provisions in this section are intended to address two concerns especially relevant to river shorelines:

1. Protecting human safety and minimizing flood hazard to human activities and development.
2. Protecting and contributing to the restoration of ecosystem-wide processes and ecological functions found in the applicable watershed or sub-basin.

### **b. Policies**

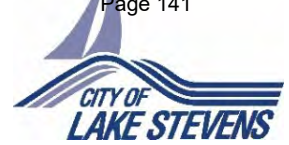
1. The City should implement a comprehensive program to manage the City's riparian corridors that integrates the following City ordinances and activities:
  - a. Regulations in this SMP.
  - b. The City's zoning code (Title 14 LSMC).
  - c. The City's Surface Water Management Program, Stormwater Management Plan, and implementing regulations.
  - d. The City's participation in the National Flood Insurance Program and compliance with the State's floodplain management law at Chapter 86.16. RCW.



- e. The construction or improvement of new public facilities, including roads, dikes, utilities, bridges, and other structures.
  - f. The ecological restoration of selected shoreline areas.
2. In regulating development on shorelines within SMA jurisdiction, the City should endeavor to achieve the following:
  - a. Maintenance of human safety.
  - b. Protection and, where appropriate, the restoration of the physical integrity of the ecological system processes, including water and sediment transport and natural channel movement.
  - c. Protection of water quality and natural groundwater movement.
  - d. Protection of fish, vegetation, and other life forms and their habitat vital to the aquatic food chain.
  - e. Protection of existing legal uses and legal development of property (including nonconforming development) unless the City determines relocation or abandonment of a use or structure is the only feasible option or that there is a compelling reason to the contrary based on public concern and the provisions of the SMA.
  - f. Protection of recreation resources and aesthetic values, such as point and channel bars, islands, and other shore features and scenery.
  - g. When consistent with the provisions (a) through (f) above, provide for public access and recreation, consistent with Chapter 3 Section B.7.
3. The City should undertake flood hazard planning, where practical, in a coordinated manner among affected property owners and public agencies and consider entire drainage systems or sizable stretches of rivers or lakes. This planning should consider the off-site erosion and accretion or flood damage that might occur as a result of stabilization or protection structures or activities. Flood hazard management planning should fully employ nonstructural approaches to minimizing flood hazard to the extent feasible.
4. The City should give preference to and use nonstructural solutions over structural flood control devices wherever feasible, including prohibiting or limiting development in historically flood-prone areas, regulating structural design and limiting increases in peak stormwater runoff from new upland development, public education, and land acquisition for additional flood storage. Structural solutions to reduce shoreline hazard should be allowed only after it is demonstrated that nonstructural solutions would not be able to reduce the hazard.

Where structural solutions are rebuilt, fish-friendly structures such as setback levees should be used.
5. In designing publicly financed or subsidized works, the City should provide public pedestrian access to the shoreline for low-impact outdoor recreation.
6. The City should encourage the removal or breaching of dikes to provide greater wetland area for flood water storage and habitat; provided, such an action does not increase the risk of flood damage to existing human development.





### **c. Regulations**

1. New development must be consistent with (a) through (d) below in addition to the provisions of this SMP. In cases of inconsistency, the provisions most protective of shoreline ecological functions and processes shall apply:
  - a. The City's development regulations related to floodways, floodplains, drainage, and erosion regulations.
  - b. "The Flood Insurance Study for Snohomish County, Washington and Incorporated Areas," dated November 8, 1999 in accordance with Chapter 86.16 RCW and the National Flood Insurance Program.
  - c. The City's Storm Water Management Utility Regulations.
  - d. Conditions of Hydraulic Project Approval, issued by Washington State Department of Fish and Wildlife, which may be incorporated into permits issued for flood protection.
2. New structural flood hazard reduction measures, including dikes, levees, and overflow channels, may be allowed only when consistent with development regulations related to floodways and floodplains and all of the following can be demonstrated:
  - a. The project does not further restrict natural channel movement, except that flood hazard reduction measures that protect an existing building, roadway, bridge, or utility line may be installed, provided the measure is placed as close to the existing structure as possible;
  - b. Other, nonstructural measures would not be feasible or adequate;
  - c. The measures are necessary to protect existing development or new public development, such as a roadway, that cannot be located further from the stream channel; and
  - d. Shoreline vegetation necessary to provide ecological functions is protected or restored.
3. New flood hazard reduction measures, including dikes and levees, may be constructed to protect properties as part of a shoreline environmental restoration project, such as the breaching of a dike to create additional wetlands. Also refer to Chapter 3, Sections B.3 (Critical Areas), B.4 (Environmental Impacts), B.11 (Vegetation Conservation), and B.12 Water Quality and Quantity); Chapter 4, Section C.6 (Shoreline Restoration and Ecological Enhancement); and the Restoration Plan (specifically Chapter 3 Restoration Goals and Objectives).
4. Otherwise allowed shoreline modifications in the 100-year floodplain and flood hazard reduction measures shall employ the type of construction or measure that causes the least significant ecological impacts. When authorizing development within the 100-year floodplain, the City will require that the construction method with the least negative significant ecological impacts be used. For example, the City will not allow rock revetments to be used for erosion control if a "softer" approach using vegetation plantings and engineered woody debris placement is possible.
5. Existing hydrological connections into and between water bodies, such as streams, tributaries, wetlands, and dry channels, shall be maintained. Also refer to Chapter 3,



Sections B.3 (Critical Areas), B.4 (Environmental Impacts), B.11 (Vegetation Conservation), and B.12 Water Quality and Quantity); Chapter 4, Section C.6 (Shoreline Restoration and Ecological Enhancement); and the Restoration Plan (specifically Chapter 3 Restoration Goals and Objectives).

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.
7. Designs for flood hazard reduction measures and shoreline stabilization measures in river corridors must be prepared by qualified professional engineers (or geologists or hydrologists) who have expertise in local riverine processes.
8. Public structural flood hazard reduction projects that are continuous in nature, such as dikes or levees, shall provide for public access unless the City determines that such access is not feasible or desirable according to the criteria in Chapter 3 Section B.7 Public Access.
9. Shoreline modification and development standards shall be as outlined in the matrices in Chapter 4 and Chapter 5 for allowable uses and modification and development standards such as setbacks and clearing and grading within each shoreline environment designation.
10. Bridges, culverts, and other river, stream, and waterway crossings shall be designed and constructed so they do not restrict flood flows such that flood elevations are increased. Where a bridge, culvert, or other waterway crossing replaces an existing crossing, the replacement structure shall not increase flood heights over those caused by the original structure.
11. The removal of gravel for flood control may be allowed only if a biological and geomorphological study demonstrates a long-term benefit to flood hazard reduction, no net loss of ecological functions, and extraction is part of a comprehensive flood management solution.

## **6. Parking (Accessory)**

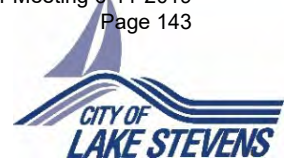
### **a. Applicability**

Parking is the temporary storage of automobiles or other motorized vehicles. Except as noted, the following provisions apply only to parking that is "accessory" to a permitted shoreline use. Parking as a "primary" use and parking which serves a use not permitted in the shoreline jurisdiction is prohibited. Garages and parking areas for single-family homes are required to meet the regulations in Chapter 5 Section C.8.c.4.

### **b. Policies**

1. Where feasible, parking for shoreline uses should be provided in areas outside shoreline jurisdiction.
2. Parking should be planned to achieve optimum use. Where possible, parking should serve more than one use (e.g. serving recreational use on weekends, commercial uses on weekdays).





### **c. Regulations**

1. Parking in shoreline jurisdiction must directly serve a permitted shoreline use.
2. Parking as a primary use or that serves a use not permitted in the applicable shoreline environment designation shall be prohibited over water and within shoreline jurisdiction.
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.

Type B, semi-opaque screen with buffer. A screen that is opaque from the ground to a height of three feet, with intermittent visual obstruction from above the opaque portion to a height of at least 20 feet. The semi-opaque screen is intended to partially block visual contact between uses and to create a strong impression of the separation of spaces. At maturity, the portion of intermittent visual obstructions should not contain any completely unobstructed openings more than 10 feet wide. In addition, a Type B screen includes a minimum five-foot-wide landscaped planting strip parallel and adjacent to the property line where the screening is required.

4. Parking facilities serving individual buildings on the shoreline shall be located landward, if feasible, to minimize adverse impacts on the shoreline.
5. Parking facilities for shoreline activities shall provide safe and convenient pedestrian circulation within the parking area and to the shorelines.
6. Parking facilities shall provide adequate facilities to prevent surface water runoff from contaminating water bodies, as per the most recent edition of the City of Lake Stevens Surface Water Management Plan.
7. Lighting associated with parking lots shall be beamed, hooded, or directed to minimize and avoid illumination of the water, setback areas, wetlands, and other wildlife habitat areas.
8. See Chapter 5 Section B Development Standards Matrix, for setback requirements.

## **7. Public Access**

### **a. Applicability**

Shoreline public access is the physical ability of the general public to reach and touch the water's edge and the ability to have a view of the water and the shoreline from upland locations. Public access facilities may include picnic areas, pathways and trails, floats and docks, promenades, viewing towers, bridges, boat launches, and improved street ends.



The City provides a number of public access and recreation sites along its shorelines, but should continue to improve existing sites and pursue opportunities to add new public access and recreation sites. The City should continue to work on opportunities for providing public access and recreation on Lake Stevens, particularly in the recently annexed portion of the lake and eventually in the UGA portion of the lake, which are underserved compared to the rest of the lake. Because the great majority of Lake Stevens shorelines are occupied by single-family residences, additional public access will most effectively be provided by land acquisition rather than SMP requirements.

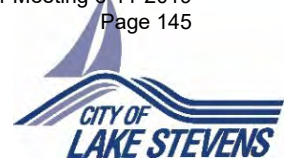
Catherine Creek has a park that provides public access, but it is currently leased by the City and is owned by the School District. The City should work to ensure that this property continues to provide public access and recreational opportunities by securing a long-term lease or purchasing the site.

Little Pilchuck Creek does not currently have public access or recreation sites within the City's shoreline jurisdiction.

In addition to the above examples, comprehensive documentation of existing parks and recreation facilities, public access points and trails are identified and mapped in detail in the Parks & Recreation Element of the City's Comprehensive Plan. This element also identifies future park acquisition and development needs. Similarly, Chapter 4 of the Shoreline Inventory & Analysis Report identifies existing and potential public access sites for each of the City's shoreline waterbodies. The City's public access planning process provided by these documents provides more effective public access than individual project requirements for public access, as provided for in WAC 173-26-221(4)(d)(iii)(A).

## **b. Policies**

1. Public access shall be considered in the review of all private and public developments with impacts on public access and related to the size of the impacts and with the exception of the following:
  - a. Single-family residential including one- and two-family dwelling units and residential subdivisions of four lots or less and their accessory structures (e.g., docks, garages, shoreline modification, etc.); or
  - b. Where deemed inappropriate due to health, safety and environmental concerns or constitutional limitations.
2. Developments, uses, and activities on or near the shoreline should not impair or detract from the public's access to the water or the rights of navigation.
3. Public access should be provided as close as possible to the water's edge without causing significant ecological impacts and should be designed in accordance with the Americans with Disabilities Act.
4. Opportunities for public access should be identified on publicly owned shorelines. Public access afforded by shoreline street ends, public utilities and rights-of-way should be preserved, maintained and enhanced.
5. Public access should be designed to provide for public safety and comfort and to minimize potential impacts to private property and individual privacy. There should



be a physical separation or other means of clearly delineating public and private space in order to avoid unnecessary user conflict.

6. Views from public shoreline upland areas should be enhanced and preserved. Enhancement of views should not be construed to mean excessive removal of existing native vegetation that partially impairs views.
7. Public access and interpretive displays should be provided as part of publicly funded restoration projects where significant ecological impacts can be avoided.
8. City parks, trails and public access facilities adjacent to shorelines should be maintained and enhanced in accordance with City and County plans.
9. Commercial and industrial waterfront development should be encouraged to provide a means for visual and pedestrian access to the shoreline area, wherever feasible.
10. The acquisition of suitable upland shoreline properties to provide access to publicly owned shorelands should be encouraged.
11. The City should acquire and develop waterfront property in the recently annexed portion of Lake Stevens to provide additional public access to the shoreline.
12. The City should work with the School District to ensure that Catherine Creek Park will continue to provide public access to Catherine Creek for future generations.

### **c. Regulations**

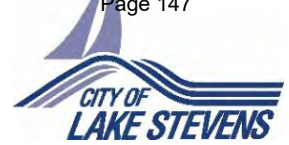
1. Public access is required for the following development unless the conditions stated in Section c.2, immediately below, apply.
  - a. Land division into more than four lots and PRDs
  - b. Nonwater-oriented uses
  - c. Water related and water oriented commercial uses
  - d. Development by public entities or on public land, including the City and public utility districts
  - e. Development or use that will interfere with an existing public access way. Impacts to public access may include blocking access or discouraging use of existing on-site or nearby accesses.
2. Public access is not required as part of development if any of the following conditions apply:
  - a. The development is a single-family residence not part of a development planned for more than 4 parcels or the development is accessory to a single family residence (e.g., docks, garages, shoreline modifications, etc.).
  - b. Public access is demonstrated to be infeasible or undesirable due to reasons of incompatible uses, safety, security or impact to the shoreline environment. In determining infeasibility or undesirability, the City will consider alternative means of providing public access such as off-site improvements, separation of uses, and restricting the hours of public access to avoid conflicts.
  - c. Where constitutional or legal limitations apply.



- d. On properties (including public properties) adjacent to Little Pilchuck Creek or Catherine Creek where there is no other connecting trail or route to a public ROW. Provision 2.b regarding safety and security of public access sites shall apply. (The intent of this provision is to avoid isolated and unsafe access features, especially since development must be set back at least 160 feet from the OHWM of these water bodies.) *Exception:* Public access shall be maintained on public properties in the Urban Conservancy environment on Catherine Creek and Little Pilchuck Creek.
  - e. Where the City determines that more effective public access can be provided through public access planning and other compensatory off-site public access improvements provided as part of the development.
3. The shoreline permit shall describe the impact, the required public access conditions, and how the conditions address the impact. Mitigation for public access impacts shall be in accordance with the definition of mitigation and mitigation sequencing in Chapter 3 Section B.4.

Where public access is required as part of development, the City may allow payment in lieu of site access, where access at the public site would be dangerous or undesirable. The City will use the payment for public access improvements elsewhere.

4. Shoreline substantial development (including land division into more than four lots and PRDs) or conditional uses shall minimize impact to public views of shoreline waterbodies from public land or substantial numbers of residences.
5. Public access provided by shoreline street ends, public utilities and rights-of-way shall not be diminished (This is a requirement of RCW 35.79.035).
6. Public access sites shall be connected directly to the nearest public street or public right-of-way and shall include provisions for physically impaired persons, where feasible.
7. Required public access sites shall be fully developed and available for public use at the time of occupancy of the use or activity.
8. Public access easements and permit conditions shall be recorded as a covenant against the title and/or on the face of a plat or short plat as a condition running contemporaneous with the authorized land use. Said recording with the County Assessor's Office shall occur prior to permit approval (RCW 58.17.110).
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).
10. The standard state approved logo or other approved signs that indicate the public's right of access and hours of access shall be constructed, installed and maintained by the applicant in conspicuous locations at public access sites. Signs may control or restrict public access as a condition of permit approval.
11. Future actions by the applicant, successors in interest, or other parties shall not diminish the usefulness or value of the public access provided.



12. Public access facilities may be developed over water provided that all ecological impacts are mitigated to achieve no net loss of ecological functions.

## **8. Shorelines of State-Wide Significance**

### **a. Applicability**

The Shoreline Management Act of 1971 designated certain shoreline areas as shorelines of state-wide significance. Within the City of Lake Stevens jurisdiction, Lake Stevens is a shoreline of state-wide significance. Shorelines thus designated are important to the entire state. Because these shorelines are major resources from which all people in the state derive benefit, this jurisdiction gives preference to uses which favor long-range goals and support the overall public interest.

### **b. Policies**

In implementing the objectives of RCW 90.58.020 for shorelines of statewide significance, the City will base decisions in preparing and administering this SMP on the following policies in order of priority, 1 being the highest and 6 being lowest.

1. Recognize and protect the state-wide interest over local interest.
  - a. Solicit comments and opinions from groups and individuals representing state-wide interests by circulating the SMP, and any proposed amendments affecting shorelines of state-wide significance, to state agencies, adjacent jurisdictions, citizen's advisory committees and local officials and state-wide interest groups.
  - b. Recognize and take into account state agencies' policies, programs and recommendations in developing and administering use regulations and in approving shoreline permits.
  - c. Solicit comments, opinions and advice from individuals with expertise in ecology and other scientific fields pertinent to shoreline management.
2. Preserve the natural character of the shoreline.
  - a. Designate and administer shoreline environments and use regulations to protect and restore the ecology and environment of the shoreline as a result of man-made intrusions on shorelines.
  - b. Upgrade and redevelop those areas where intensive development already exists in order to reduce adverse impact on the environment and to accommodate future growth rather than allowing high intensity uses to extend into low-intensity use or underdeveloped areas.
  - c. Protect and restore existing diversity of vegetation and habitat values, wetlands and riparian corridors associated with shoreline areas.
  - d. Protect and restore habitats for State-listed "priority species."
3. Support actions that result in long-term benefits over short-term benefits.
  - a. Evaluate the short-term economic gain or convenience of developments relative to the long-term and potentially costly impairments to the natural shoreline.



- b. In general, preserve resources and values of shorelines of state-wide significance for future generations and restrict or prohibit development that would irretrievably damage shoreline resources.
4. Protect the resources and ecology of the shoreline.
  - a. All shoreline development should be located, designed, constructed and managed to avoid disturbance of and minimize adverse impacts to wildlife resources, including spawning, nesting, rearing and habitat areas and migratory routes.
  - b. Actively promote aesthetic considerations when contemplating new development, redevelopment of existing facilities or general enhancement of shoreline areas.
  - c. Shoreline development should be managed to ensure no net loss of ecological functions.
5. Increase public access to publicly owned areas of the shoreline.
  - a. Give priority to developing paths and trails to shoreline areas, to provide linear access along the shorelines.
  - b. Locate development landward of the ordinary high water mark so that access is enhanced.
6. Increase recreational opportunities for the public on the shoreline by planning for and encouraging development of facilities for recreational use of the shoreline.

## **9. Signage**

### **a. Applicability**

A sign is defined as a device of any material or medium, including structural component parts, which is used or intended to be used to attract attention to the subject matter for advertising, identification or informative purposes. The following provisions apply to any commercial or advertising sign located within shoreline jurisdiction that directs attention to a business, professional service, community, site, facility, or entertainment, conducted or sold either on or off premises.

Signs in shoreline jurisdiction shall also adhere to all sign regulations in Chapter 14.68 LSMC. In the case of overlapping or conflicting regulations, the most stringent regulation shall apply.

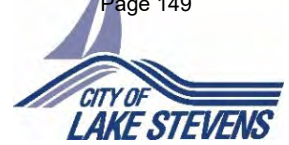
### **b. Policies**

1. Signs should be designed and placed so that they are compatible with the aesthetic quality of the existing shoreline and adjacent land and water uses.
2. Signs should not block or otherwise interfere with visual access to the water or shorelands.

### **c. Regulations**

1. Prohibited Signs: The following types of signs are prohibited:
  - a. Off-premises detached outdoor advertising signs.





- b. Commercial signs for products, services, or facilities located off-site.
  - c. Spinners, streamers, pennants, flashing lights and other animated signs used for commercial purposes. Highway and railroad signs are exceptions.
  - d. Signs placed on trees or other natural features, unless the Shoreline Administrator finds that these signs are necessary for public safety reasons.
2. Allowable Signs: The following types of signs may be allowed in all shoreline environments:
- a. Water navigational signs, and highway and railroad signs necessary for operation, safety and direction.
  - b. Public information signs directly relating to a shoreline use or activity. Public information signs shall include public park signs, public access identification signs, and warning signs.
  - c. Off-premise, free-standing signs for community identification, information, or directional purposes.
  - d. National, site and institutional flags or temporary decorations customary for special holidays and similar events of a public nature.
  - e. Temporary directional signs to public or quasi-public events if removed within 10 days following the event.
3. All signs shall be located and designed to avoid interference with vistas, viewpoints and visual access to the shoreline.
4. Over-water signs, signs on floats or pilings, and signs for goods, services, or businesses not located directly on the site proposed for a sign are prohibited.
5. Lighted signs shall be hooded, shaded, or aimed so that direct light will not result in glare when viewed from surrounding properties or watercourses.
6. Signs shall not exceed 32 square feet in surface area. On-site freestanding signs shall not exceed 6 feet in height. When feasible, signs shall be flush-mounted against existing buildings.
7. Temporary or obsolete signs shall be removed within timeframes pursuant to LSMC 14.68.030. Examples of temporary signs include: real estate signs, directions to events, political advertisements, event or holiday signs, construction signs, and signs advertising a sale or promotional event.
8. Signs that do not meet the policies and regulations of this section B.9 shall be removed or shall conform within two years of the adoption of this SMP.
9. No signs shall be placed in a required view corridor.

## **10. Utilities (Accessory)**

### **a. Applicability**

Accessory utilities are on-site utility features serving a primary use, such as a water, sewer or gas line connecting to a residence or business. Accessory utilities do not carry significant capacity to serve other users and are considered a part of the primary use.



They are addressed in this section because they concern all types of development and have the potential to impact the quality of the shoreline and its waters.

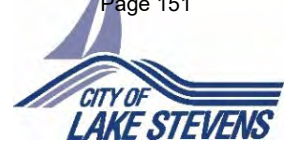
## **b. Policies**

1. Accessory utilities should be properly installed so as to protect the shoreline and water from contamination and degradation to ensure no net loss of ecological functions.
2. Accessory utility facilities and rights-of-way should be located outside of the shoreline setback to the maximum extent possible. When accessory utility lines require a shoreline location, they should be placed underground.
3. Accessory utility facilities should be designed and located in a manner which preserves the natural landscape and shoreline ecological processes and functions and minimizes conflicts with present and planned land uses.

## **c. Regulations**

1. In shoreline areas, accessory utility transmission lines, pipelines and cables shall be placed underground unless demonstrated to be infeasible. Further, such lines shall utilize existing rights-of-way and/or bridge crossings whenever possible. Proposals for new corridors in shoreline areas involving water crossings must fully substantiate the infeasibility of existing routes.
2. Accessory utility development shall, through coordination with government agencies, provide for compatible multiple uses of sites and rights-of-way. Such uses include shoreline access points, trails and other forms of recreation and transportation systems, providing such uses will not unduly interfere with utility operations or endanger public health and safety.
3. Sites disturbed for accessory utility installation shall be stabilized during and following construction to avoid adverse impacts from erosion and, where feasible, restored to pre-project configuration and replanted with native vegetation.
4. Accessory utility discharges and outfalls shall be located, designed, constructed, and operated in accordance with best management practices to ensure degradation to water quality is kept to a minimum.
5. Accessory 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 is a preferred method of utility water crossing over open trenching.
6. Stormwater management systems shall conform to applicable ~~Lake Stevens' stormwater regulations~~ the standards of the 2012 Stormwater Management Manual for Western Washington, as Amended in December 2014 (Ecology Publication #14-10-055). Any conveyance pipes, detention tanks, or retention facilities shall be placed as far upland away from the shoreline as is feasible.





## 11. Vegetation Conservation

### a. Applicability

The following provisions apply to any activity that results in the removal of or impact to shoreline vegetation, whether or not that activity requires a shoreline permit. Such activities include clearing, grading, grubbing, and trimming of vegetation. These provisions also apply to vegetation protection and enhancement activities. They do not apply to forest practices managed under the Washington State Forest Practices Act. See Chapter 6 for definitions of “significant vegetation removal,” “ecological functions,” “clearing,” “grading,” and “restore.”

### b. Policies

1. Vegetation within the City shoreline areas should be enhanced over time to provide a greater level of ecological functions, human safety, and property protection. To this end, shoreline management activities, including the provisions and implementation of this SMP, should be based on a comprehensive approach that considers the ecological functions currently and potentially provided by vegetation on different sections of the shoreline, as described in Chapter 5 of the February 2010 City of Lake Stevens Draft Shoreline Inventory and Analysis Report.
2. This SMP in conjunction with other City development regulations should establish a coordinated and effective set of provisions and programs to protect and restore those functions provided by shoreline vegetation.
3. Aquatic weed management should stress prevention first. Where active removal or destruction is necessary, it should be the minimum to allow water-dependent activities to continue, minimize negative impacts to native plant communities, and include appropriate handling or disposal of weed materials.
4. The removal of invasive or noxious weeds and replacement with native vegetation should be encouraged. Removal of noxious or invasive weeds should be conducted using the least-impacting method feasible, with a preference for mechanical rather than chemical means.

### c. Regulations

#### For All Shoreline Environments:

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 Shoreline Administrator may 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 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 occurs naturally on undeveloped lots unless the 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 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 Shoreline Administrator finds that another method is more appropriate:

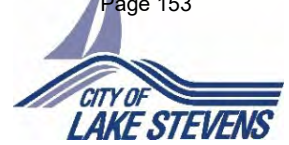
Property owners must prepare, and agree to adhere to, a shoreline vegetation management plan prepared by a qualified professional and approved by the Shoreline Administrator that:

- 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.

6. A condition of all development shall be that those areas within the required SMP setback area that have been cleared or where significant vegetation removal has occurred and that are not otherwise occupied by approved structures or uses shall be revegetated with native vegetation. The Shoreline Administrator may require replanting of previously cleared areas or removal of invasive or noxious weeds and replanting with native vegetation as part of mitigation of ecological impacts.
7. Snags and living trees (i.e., large cottonwoods) shall not be removed within the required SMP setback area unless an arborist determines them to be extreme hazards and likely to fall into a park use area, or unless removal is part of an approved development that includes mitigation for impacts to ecological functions. Snags and living trees within the setback which do not present an extreme hazard shall be retained. Selective pruning of trees for safety and view protection is allowed. The City may make exceptions to this standard for water dependent development and for development in the High Intensity environment, or where the City determines that the removal of such vegetation is in the public interest and is consistent with the goals of the Shoreline Management Act as stated in section RCW 90.58.020.



For Shorelines in the Natural Environment

8. Shorelines in the natural environment are critical areas and managed under those provisions. See Section 3.B.3.

For Shorelines in the Urban Conservancy Environment

9. For properties within areas planned for residential development within the Urban Conservancy environment, new development that will cause significant vegetation removal within the required setbacks specified in Chapter 5 Sections B and C.8 shall not be allowed. In cases where the dimensions of existing lots or parcels are not sufficient to accommodate permitted primary residential structures outside of the vegetation conservation area or where the denial of reasonable use would result in a taking, the applicant shall apply for a Shoreline Variance.
10. The enhancement of vegetation shall be a condition of all nonwater-dependent development, dike or levee construction, and shoreline modifications in the Urban Conservancy environments, except where the Shoreline Administrator finds that:
  - a. Vegetation enhancement is not feasible on the project site. In these cases the Shoreline Administrator may require off-site vegetation enhancement that performs the same ecological functions. Enhancement opportunities on the same waterbody shall be explored first, prior to consideration of enhancement opportunities in the same basin or watershed.
  - b. The restoration of ecological processes and functions can be better achieved through other measures such as the removal of channel constraints.
  - c. Sufficient native vegetation already exists.
11. Minor vegetation removal may be done to provide for development and maintenance of public access and trails on public property provided impacts are mitigated.

For Shorelines in the High-Intensity Environment

12. The impacts due to significant vegetation removal shall be mitigated according to the sequence described in Chapter 3 Section B.4.
13. A condition of all development shall be that those shorelands on the site not occupied by structures, shoreline uses, or human activities shall be revegetated, in accordance with subsection c.5 above. Vegetation within the required setbacks specified in Chapter 5 Section B and C.8 of the shoreline, to the extent the setback extends onto the subject development site, must be native vegetation or species approved by the Shoreline Administrator.

For Shorelines in the Shoreline Residential Environment

14. Development is subject to requirements in Chapter 5 Section C.8 Residential Development.

For Shorelines in the Aquatic Environment

15. Aquatic weed control shall only occur when native plant communities and associated habitats are threatened or where an existing water dependent use is restricted by the



presence of weeds. Aquatic weed control shall occur in compliance with all other applicable laws and standards.

16. The control of aquatic weeds by hand pulling, mechanical harvesting, or placement of aqua screens, if proposed to maintain existing water depth for navigation, shall be considered normal maintenance and repair and therefore exempt from the requirement to obtain a shoreline substantial development permit.
17. The control of aquatic weeds by derooting, rotovating or other method which disturbs the bottom sediment or benthos shall be considered development for which a substantial development permit is required, unless it will maintain existing water depth for navigation in an area covered by a previous permit for such activity, in which case it shall be considered normal maintenance and repair and therefore exempt from the requirement to obtain a substantial development permit.
18. Where large quantities of plant material are generated by control measures, they shall be collected and disposed of in an appropriate, identified upland location.
19. Use of herbicides to control aquatic weeds shall be prohibited except for those chemicals specifically approved by the Department of Ecology for use in aquatic situations and where no reasonable alternative exists and weed control is demonstrated to be in the public's interest. Application of herbicides for the control of aquatic weeds requires approval from the Department of Ecology. The Shoreline Administrator must be notified of all herbicide usage in aquatic areas and supplied with proof of approval from the Department of Ecology. Additionally, all herbicides shall be applied by a licensed professional.

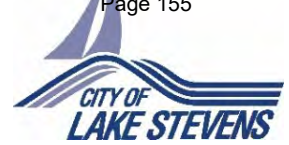
## **12. Water Quality and Quantity**

### **a. Applicability**

The following section applies to all development and uses in shoreline jurisdiction that affect water quality, as defined below.

1. As used in this SMP, “water quality” means the physical characteristics of water within shoreline jurisdiction, including water quantity and hydrological, physical, chemical, aesthetic, recreation-related, and biological characteristics.
2. Where used in this SMP, the term “water quantity” refers only to development and uses regulated under this chapter and affecting water quantity, such as impermeable 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.

Because the policies of this SMP are also policies of the City’s Comprehensive Plan, the policies also apply to activities outside shoreline jurisdiction that affect water quality within shoreline jurisdiction, as determined by the Shoreline Administrator. However, the regulations apply only within shoreline jurisdiction.



## **b. Policies**

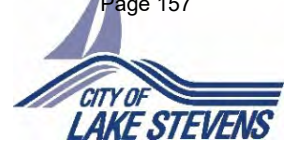
1. All shoreline uses and activities should be located, designed, constructed, and maintained to avoid significant ecological impacts that alter water quality, quantity, or hydrology.
2. The City should require reasonable setbacks, buffers, and stormwater storage basins and encourage low-impact development techniques and materials to achieve the objective of lessening negative impacts on water quality.
3. All measures for controlling erosion, stream flow rates, or flood waters through the use of stream control works should be located, designed, constructed, and maintained so that net off-site impacts related to water do not degrade the existing water quality and quantity.
4. As a general policy, the City should seek to improve water quality, quantity (the amount of water in a given system, with the objective of providing for ecological functions and human use), and flow characteristics in order to protect and restore ecological functions and ecosystem-wide processes of shorelines within Shoreline Management Act jurisdiction. The City should implement this policy through the regulation of development and activities, through the design of new public works, such as roads, drainage, and water treatment facilities, and through coordination with other local, state, and federal water quality regulations and programs. The City should implement the City of Lake Stevens Surface Water Management Plan, as updated and adopted by City ordinance.
5. All measures to treat runoff in order to maintain or improve water quality should be conducted on-site before shoreline development creates impacts to water.
6. Shoreline use and development should minimize the need for chemical fertilizers, pesticides or other similar chemical treatments to prevent contamination of surface and groundwater and/or soils, and adverse effects on shoreline ecological functions and values.
7. The City should create a public education campaign to educate shoreline property owners and local stores about best management practices for shorelines. This could include specific information about fertilizers, herbicides, and pesticides.

## **c. Regulations**

1. All shoreline development, both during and after construction, shall avoid or minimize significant ecological impacts, including any increase in surface runoff, through control, treatment, and release of surface water runoff so that water quality and quantity are not adversely affected. Control measures include, but are not limited to, low impact development techniques, dikes, catch basins or settling ponds, oil interceptor drains, grassy swales, planted buffers, and fugitive dust controls.
2. All development shall conform to local, state, and federal water quality regulations, provided the regulations do not conflict with this SMP.
3. Uses and development that require the application of pesticides, herbicides, fertilizers and other chemicals that could adversely affect water quality (except for those chemicals specifically approved by the Department of Ecology for use in aquatic situations) are prohibited in shoreline jurisdiction.



4. The application of pesticides or herbicides in shoreline jurisdiction is prohibited except for those products specifically approved for use by the Department of Ecology in aquatic situations, and then only if used according to approved methods of and standards for application.



## CHAPTER 4

# Shoreline Modification Provisions

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### A. Introduction and Applicability

Shoreline modifications are structures or actions which permanently change the physical configuration or quality of the shoreline, particularly at the point where land and water meet. Shoreline modification activities include, but are not limited to, structures such as revetments, bulkheads, levees, breakwaters, docks, and floats. Actions such as clearing, grading, landfilling, and dredging are also considered shoreline modifications. The terms “clearing and grading” are not intended to include normal landscaping and maintenance such as mowing or planting of a garden performed routinely by property owners. However, there are State Environmental Protection Act (SEPA) thresholds where clearing and grading do require a land use permit and could become a shoreline modification requiring a shoreline permit.

Generally, shoreline modification activities are undertaken for the following reasons:

1. To prepare a site for a shoreline use
2. To provide shoreline stabilization or shoreline protection
3. To support an upland use

The policies and regulations in this chapter are intended to prevent or mitigate the adverse environmental impacts of proposed shoreline modifications. General provisions, which apply to all shoreline modification activities, are followed by provisions tailored to specific shoreline modification activities. This chapter provides policies and regulations for shoreline modification features including shoreline stabilization measures and docks and floats.

If a shoreline development entails more than one shoreline modification, then all of the regulations pertaining to each type of modification apply.

Even though a shoreline modification may not require a shoreline substantial development permit, it must still conform to the regulations and standards in this SMP. The City requires that a property owner contemplating a shoreline modification contact the Shoreline Administrator and apply for a “letter of exemption” or a shoreline permit. No shoreline modification shall be undertaken without either a shoreline permit or a letter of exemption.

### B. Shoreline Modification Matrix

The following matrix (Table 14) is the shoreline modification matrix. The matrix provides the permitted, conditional, and prohibited uses in all shoreline environmental designations. A permitted modification does not mean the modification is exempt from a shoreline permit. All proposed shoreline modifications require application to the City for a shoreline exemption or shoreline permit and application to the Washington Department of Fish and Wildlife for a Joint





Aquatic Resources Permit Application (JARPA). In addition, all shoreline modifications are subject to other provisions in this SMP and any other applicable federal, state and local rules and regulations. See especially, Section C “Policies and Regulations” below.

The numbers in the matrix refer to footnotes which may be found immediately following the matrix. These footnotes provide additional clarification or conditions applicable to the associated modification. Where there is a conflict between the matrix and the written provisions in this chapter, the written provisions shall apply.

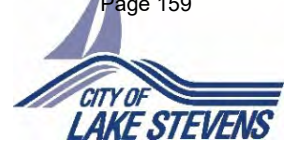
**Table 31. Shoreline Modification Matrix**

<p>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 N/A = Not applicable</p>	Natural	High-Intensity	Urban Conservancy	Shoreline Residential	Aquatic <sup>4</sup>
Shoreline stabilization:					
Environmental restoration/enhancement	P	P	P	P	P
Bioengineering	C	P	P	P	C/P <sup>5</sup>
Revetments	X	P	C	P	C/P <sup>5</sup>
Bulkheads	X	P	C	P	C/P <sup>5</sup>
Breakwaters/jetties/rock weirs/groins	X	X	X	X	X
Dikes/levees	X	C	C	C	C
Clearing and Grading	X	P	P	P	N/A
Dredging	N/A	N/A	N/A	N/A	C
Hazardous waste cleanup	P	P	P	P	P
Fill <sup>1</sup>	X	P	P	P	C <sup>2</sup>
Piers/docks/mooring piles and buoys <sup>3,6</sup>	X	P	P	P	P
Covered Moorage (no sides)	X	X	X	P	P
Permanent swim floats/platforms	X	X	X	X	X
Boardwalks, public	C	P	P	P	X

**Shoreline Modification Matrix Notes:**

1. Fill in the floodplain must meet all federal, state, and local flood hazard reduction regulations.
2. Fill in aquatic areas for the purposes of shoreline ecological restoration may be allowed as a permitted use if the Shoreline Administrator determines that there will be an increase in desired ecological functions.
3. New non-public piers and docks are prohibited on Little Pilchuck Creek and Catherine Creek.





4. *A shoreline modification may be allowed in the Aquatic Environment if the chart indicates that it is allowed in both the Aquatic Environment and the adjacent upland environment.*
5. *New shoreline stabilization structures are not allowed in the Aquatic Designation. Replacement walls or bulkheads shall not encroach waterward of the OHWM or existing structure unless the residence was occupied prior to January 1, 1992, and there are overriding safety or environmental concerns. In such cases, the replacement structure shall abut the existing shoreline stabilization structure (WAC 173-26-231(3)(a)(iii)(C)). All other shoreline stabilization structures in the Aquatic Designation require a conditional use permit.*
6. *A maximum of two private mooring piles or buoys per dock in lieu of fingers or ells are allowed only within the envelope of the dock and no farther waterward than the end of the dock pursuant to LSMC 10.16.070. Also, a maximum of two private piles or buoys are allowed in lieu of dock if it includes markings for navigational safety where it shall be colored white and shall have a horizontal blue band around the circumference of the buoy centered midway between the top of the buoy and the water line (WAC 352-66-100) and LSMC 10.16.070(d). "Envelope of the dock" is defined as the area measured 30 feet from shore and only as far from the side of the dock as required for the size of the boat to be moored at the dock. Mooring buoys or piles do require review by the Washington Department of Fish and Wildlife to determine if an HPA is required.*

## C. Policies and Regulations

### 1. General Policies and Regulations

#### a. Applicability

The following provisions apply to all shoreline modification activities whether such proposals address a single property or multiple properties.

#### b. Policies

1. Structural shoreline modifications should be allowed only where they are demonstrated to be necessary:
  - a. To support or protect an allowed primary structure or a legally existing shoreline use that is in danger of loss or substantial damage; or
  - b. For reconfiguration of the shoreline to mitigate impacts or enhance the shoreline ecology.
2. The adverse effects of shoreline modifications should be reduced, as much as possible, and shoreline modifications should be limited in number and extent.
3. Allowed shoreline modifications should be appropriate to the specific type of shoreline and environmental conditions in which they are proposed.
4. The City should take steps to assure that shoreline modifications individually and cumulatively do not result in a net loss of ecological functions, as stated in WAC 173-26-231. This is to be achieved by preventing unnecessary shoreline modifications, by giving preference to those types of shoreline modifications that

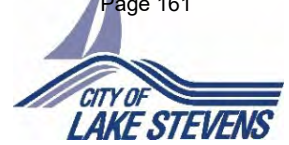


have a lesser impact on ecological functions, and by requiring mitigation of identified impacts resulting from shoreline modifications.

5. Where applicable, the City should base decisions on available scientific and technical information and a comprehensive analysis of site-specific conditions provided by the applicant, as stated in WAC 173-26-231.
6. Impaired ecological functions should be enhanced where feasible and appropriate while accommodating permitted uses, as stated in WAC 173-26-231. As shoreline modifications occur, the City will incorporate all feasible measures to protect ecological shoreline functions and ecosystem-wide processes.
7. In reviewing shoreline permits, the City should require steps to reduce significant ecological impacts according to the mitigation sequence in WAC 173-26-201(2)(e).

### **c. Regulations**

1. All shoreline modification activities must be in support of a permitted shoreline use or to provide for human health and safety. Shoreline modification activities which do not support a permitted shoreline use are considered “speculative” and are prohibited by this SMP, unless it can be demonstrated that such activities are necessary to protect human health and safety, ecological functions, and the public interest.
2. Structural shoreline modification measures shall be permitted only if nonstructural measures are unable to achieve the same purpose or are not feasible. See Chapter 6 for definition of “feasible”. Nonstructural measures considered shall include alternative site designs, increased setbacks, drainage improvements, relocation of proposed structures, and vegetation enhancement.
3. Shoreline modifications in flood-prone areas identified by FEMA on the Flood Rate Insurance Map shall comply with adopted floodplain regulations.
4. Stream channel modification (i.e., realignment) shall be prohibited as a means of shoreline stabilization or shoreline protection, unless it is the only feasible alternative and includes environmental enhancement.
5. All new shoreline development shall be located and designed to prevent or minimize the need for shoreline modification activities.
6. Proponents of shoreline modification projects shall obtain all applicable federal and state permits and shall meet all permit requirements.
7. Shoreline modification materials shall be only those approved by the City and applicable state agencies. No toxic (e.g., creosote) or quickly degradable materials (e.g., plastic or fiberglass that deteriorates under ultraviolet exposure) shall be used.
8. In channel migration zones, natural geomorphic and hydrologic processes shall not be limited and new development shall not be established where future shoreline modifications will be required and shall include appropriate protection of ecological function.



## 2. Shoreline Stabilization (Including Bulkheads)

### a. Applicability

Shoreline stabilization includes structural or nonstructural actions taken to address erosion impacts to property, dwellings, businesses, or ~~essential~~ structures caused by processes, such as current, flood, wind, or wave action.

~~Pursuant to WAC 173-26-231, new structural stabilization measures shall not be allowed except when necessity is demonstrated to protect existing primary structures; in support of new nonwater dependent development, including single family residences, in support of water dependent development or to protect projects for the restoration of ecological functions or hazardous substance remediation projects, when all conditions listed in WAC 173-26-231(3)(a)(iii)(B)(II), (III) or (IV), respectively, are met.~~

~~Replacement of an existing shoreline stabilization structure may be replaced with a similar structure if there is a demonstrated need to protect principal uses or structures from erosion caused by currents, tidal action or waves, pursuant to WAC 173-26-231(3)(a)(iii)(C).~~

Nonstructural methods include building setbacks, relocation of the structure to be protected, erosion and groundwater management, shoreline restoration/enhancement efforts, planning and regulatory measures to avoid the need for structural stabilization.

Structural methods include “hard,” “soft” or “hybrid” structural stabilization measures.

**Hard Structural Shoreline Stabilization** means erosion control practices using hardened structures that armor and stabilize the shoreline from further erosion. Hard structural shoreline stabilization typically uses concrete, boulders, dimensional lumber or other materials to construct linear, vertical or near-vertical faces. These include bulkheads, rip-rap, groins, and similar structures.

**Soft Structural Shoreline Stabilization** means erosion control and restoration practices that contribute to restoration, protection or enhancement of shoreline ecological functions. Soft shoreline stabilization typically includes a mix of gravels, cobbles, boulders, logs and native vegetation placed to provide stability in a non-linear, sloping arrangement. On lakes such as Lake Stevens, non-structural and soft structural stabilization measures can be cost-effective and practicable solutions.

**Hybrid Structural Shoreline Stabilization** means a structural stabilization practice that includes soft and hard structural components, including, but not limited to, those identified above.

Generally, the harder the construction measure, the greater the impact on shoreline processes, including sediment transport, geomorphology, and biological functions.

**Maintenance, Repair, and Replacement** WAC 173-27-040(2)(b) defines normal maintenance and repair of existing structures and notes that many maintenance and repair activities are exempt from the requirement for a shoreline substantial development permit.



~~Pursuant to WAC 173-27-040(1) regarding application and interpretation of exemptions, exemptions shall be construed narrowly, any exempt project must still be carried out in compliance with policies and standards of the SMA and the local SMP, and the proof of exemption is on the applicant. If one portion of a project is not exempt, then the entire project is not exempt. Conditional use and variance permits may also still be required even though the activity does not need a substantial development permit.~~

Pursuant to WAC 173-26-231(3)(a)(iii)(C), in the context of shoreline stabilization, “replacement” means the construction of a new ~~similar~~ structure to perform a shoreline stabilization function of an existing structure which can no longer adequately serve its purpose. Additions to or increases in size of existing shoreline stabilization measures shall be considered new structures.

## **b. Policies**

1. Non-structural stabilization measures are preferred over soft structural measures. Soft stabilization measures are ~~strongly~~ preferred over hybrid measures and hybrid structural shoreline stabilization measures are ~~strongly~~ preferred over hard structural shoreline stabilization.

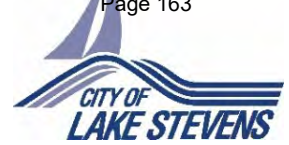
Proposals for hard-, hybrid and soft structural solutions, including bulkheads, should be allowed only when it is demonstrated that to be necessary to protect an existing primary structure or a legally existing shoreline use that is in danger of loss or substantial damage or are necessary for reconfiguration of the shoreline for mitigation or enhancement purposes. Hard structural shoreline stabilization measures should be allowed only when it is demonstrated that soft or hybrid structural measures would not provide support or protection for an existing primary structure or a legally existing shoreline use.

2. Bulkheads and other structural stabilizations should be located, designed, and constructed primarily to prevent damage to existing primary structures and minimize adverse impacts to ecological functions.
3. New development requiring bulkheads and/or similar protection to protect a primary structure should not be allowed. Shoreline uses should be located in a manner so that bulkheads and other structural stabilization are not likely to become necessary in the future.
4. Shoreline modifications individually and cumulatively shall not result in a net loss of ecological functions. This is to be achieved by giving preference to those types of shoreline modifications that have a lesser impact on ecological functions and requiring mitigation of identified impacts resulting from shoreline modifications.

## **c. Regulations**

### New Development

1. New primary structures shall, where feasible, be located and designed to eliminate the need for concurrent or future shoreline stabilization. New non-water dependent primary structures that would require shoreline stabilization that would cause significant adverse impacts to adjacent or down-current properties or restrict channel migration in Channel Migration Zones ~~are~~ is prohibited.



2. New primary structures, including single-family residences, which include structural shoreline stabilization, will not be allowed unless all of the conditions below are met:
  - a. The need to protect the primary structure from damage due to erosion caused by natural processes, such as currents, waves, and by manmade processes such as boat wakes, is demonstrated through a geotechnical report.
  - b. The erosion is not being caused by upland conditions, such as loss of vegetation and drainage.
  - c. Nonstructural measures, such as placing the primary structure farther from the shoreline, planting vegetation, low impact development measures, or installing on-site drainage improvements, are not feasible or not sufficient.
  - d. The structure will not result in a net loss of shoreline ecological functions.
3. New primary structures on steep slopes or bluffs shall be set back sufficiently to ensure that shoreline stabilization will not be needed during the life of the structure, as demonstrated by a geotechnical analysis by a geotechnical engineer or related professional licensed and in good standing in the State of Washington.

New or expanded shoreline stabilization measures

4. New stabilization measures are not allowed except to protect or support an existing primary structure and permitted shoreline use, as necessary for human safety, for the restoration of ecological functions, or for hazardous substance remediation pursuant to Chapter 70.105D RCW. The construction of a bulkhead for the primary purpose of retaining or creating dry land ~~that is not specifically authorized as a part of the permit~~ is prohibited.
5. New or replacement structural shoreline stabilization measures are allowed on Catherine Creek and Little Pilchuck Creek shorelines for necessary flood hazard reduction provided that all feasible steps are taken to minimize adverse impacts to the natural environment. The structures must be in conformance with a City-approved flood hazard reduction program.
6. New or enlarged (e.g., increase in height, width, length or depth) structural shoreline stabilization measures, including repairs that enlarge the structure by more than 10-percent, for a primary structure or residence and permitted shoreline use shall-should not be allowed unless there is conclusive evidence, documented by a geotechnical analysis (see definition in Chapter 6 and subsection c.8, below), that the structure is in danger from shoreline erosion caused by currents, waves, or boat wakes per WAC 173-26-231(3)(B). Normal sloughing, erosion of steep bluffs, or shoreline erosion itself, without a scientific or geotechnical analysis by a licensed geotechnical engineer or related licensed professional, is not demonstration of need.
- ~~7. 7.—An existing shoreline stabilization structure may be replaced with a similar structure if there is a demonstrated need to protect principal uses or structures from erosion caused by currents, tidal action, or waves.~~
  - ~~• The replacement structure should be designed, located, sized, and constructed to assure no net loss of ecological functions.~~
  - ~~• Replacement walls or bulkheads shall not encroach waterward of the ordinary high water mark or existing structure unless the residence was occupied prior to~~



~~January 1, 1992, and there are overriding safety or environmental concerns. In such cases, the replacement structure shall abut the existing shoreline stabilization structure.~~

- ~~• Where a net loss of ecological functions associated with critical saltwater habitats would occur by leaving the existing structure, remove it as part of the replacement measure.~~
- ~~• Soft shoreline stabilization measures that provide restoration of shoreline ecological functions may be permitted waterward of the ordinary high water mark.~~
- ~~• For purposes of this section standards on shoreline stabilization measures, "replacement" means the construction of a new structure to perform a shoreline stabilization function of an existing structure which can no longer adequately serve its purpose. Additions to or increases in size of existing shoreline stabilization measures shall be considered new structures.~~

~~7.~~ Hard structural shoreline stabilization measures, such as bulkheads, are not allowed unless the applicant can demonstrate through a geotechnical analysis that soft structural measures such as vegetation or beach enhancement, or nonstructural measures, such as additional building setbacks, are not feasible to mitigate the danger from wave action and erosion.

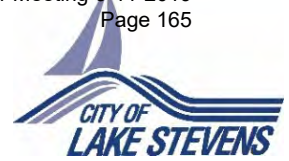
~~8.~~ Separate Section per WAC 73-26-231(D) Geotechnical reports prepared pursuant to this section~~The geotechnical report~~ must demonstrate that erosion rates projected within three years would result in damage to an existing primary structure. The report must also evaluate on-site drainage issues and address drainage problems away from the shoreline edge before considering structural shoreline stabilization. The project design and analysis must also evaluate vegetation enhancement and low impact development measures as a means of reducing undesirable erosion.

Where the geotechnical report confirms a need to prevent potential damage to a primary structure, but the need is not as immediate as the three years, that report may still be used to justify more immediate authorization to protect against erosion using soft measures.

~~98.~~ Where structural shoreline stabilization measures are demonstrated to be necessary, as described in subsections c.6 and 7 above, the size of stabilization measures shall be limited to the minimum necessary. The Shoreline Administrator may require that the proposed structure be altered in size or design or impacts otherwise mitigated. Impacts to sediment transport shall be avoided or minimized.

~~109.~~ The Shoreline Administrator shall require mitigation of adverse impacts to shoreline functions in accordance with the mitigation sequence defined in Chapter 3 Section B.4 of the General Provisions. The Shoreline Administrator may require the inclusion of vegetation conservation, as described in Chapter 3 Section B.11, as part of shoreline stabilization, where feasible. Any mitigation required shall be proportional to the impact of the proposed development. In order to determine acceptable mitigation, the Shoreline Administrator may require the applicant to provide 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.

~~1140.~~ Shoreline stabilization measures that incorporate ecological restoration through the placement of rocks, gravel or sand, and native shoreline vegetation may be allowed. Soft shoreline stabilization that restores ecological functions may be permitted waterward of the OHWM as long as the overriding intent is not to create dry land. Where the ecological restoration includes placement of new substrates, measures shall be taken to ensure that these substrates do not erode and reduce water depth of neighboring properties.

~~124.~~ Following completion of shoreline modification activities, disturbed shoreline areas shall be restored to pre-project conditions or conditions set by the Shoreline Administrator. Vegetation conservation measures, including the planting of native vegetation along the shoreline, may be required. Plantings shall consist of native grasses, shrubs, and trees as approved by the Shoreline Administrator in keeping with preexisting or typical naturally occurring bank vegetation. Vegetation shall be fully reestablished within three years. All revegetation projects shall include a program for monitoring and maintenance. Areas which fail to adequately reestablish vegetation shall be replanted with approved plants and/or vegetation until the plantings/vegetation is successfully reestablished.

#### General Regulations for Repair, Maintenance and Replacement

~~132.~~ Existing hard, hybrid or soft structural stabilization may be repaired, maintained and replaced if there is a demonstrated need to protect an existing primary structure from erosion caused by currents, tidal action and/or waves. If the repair, maintenance or replacement activity changes the location of the stabilization or alters any dimension of the stabilization by more than 10 percent, it shall be treated as a new stabilization and the City may require mitigation in accordance with this Program.

~~14a.~~ The replacement structures should be designed, located, sized, and constructed to assure no net loss of ecological functions.

~~15e.~~ Soft shoreline stabilization measures that provide restoration of shoreline ecological functions may be permitted waterward of the ordinary high-water mark.

#### Replacement or Major Repair of Hard Structural Shoreline Stabilization

~~16.~~ Replacement or major repair of a hard shoreline stabilization measure shall include the following activities over any 5-year period:

- ~~a.~~ A repair needed to a portion of an existing stabilization structure that has collapsed, eroded away or otherwise demonstrated a loss of structural integrity, or in which the repair work involves modification of the toe rock or footings, and the repair is 50 percent or greater than the linear length of the shoreline stabilization measure; or
- ~~b.~~ A repair to more than 75 percent of the linear length of the existing hard structural shoreline stabilization measure in which the repair work involves replacement of top or middle course rocks or other similar repair activities.



17. The City may only approve a major repair or replacement of an existing hard structural stabilization measure with a hard structural shoreline stabilization measure to protect existing primary structures or principal uses, including detached dwelling units, if conclusive evidence is provided to the City that the primary structure or use is in danger from shoreline erosion caused by currents or waves as determined by a geotechnical report specified under subsection c.8. above.

18. The applicant must submit the following for replacement or major repair of hard structural shoreline stabilization:

- a. A written narrative that provides a demonstration of need shall be submitted. A qualified professional (e.g., shoreline designer or other consultant familiar with lakeshore processes and shore stabilization), but not necessarily a licensed geotechnical engineer shall prepare a written narrative consisting of the following:
  - i. An estimation of the time frames and rates of erosion and urgency associated with the specific situation.
  - ii. An assessment of the necessity for hard structural stabilization, considering site-specific conditions such as water depth, orientation of the shoreline, wave fetch, and location of the nearest structure.
  - iii. An assessment of erosion potential resulting from the action of waves or other processes operating at or waterward of the OHWM in the absence of the hard structural shoreline stabilization.
  - iv. An assessment of the feasibility of using nonstructural or soft structural stabilization measures in lieu of hard structural shoreline stabilization measures.
- b. Design recommendations for minimizing impacts and ensuring that the replacement or repaired stabilization measure is designed, located, sized, and constructed to assure no net loss of ecological functions.

19b. Replacement walls or bulkheads shall not encroach waterward of the ordinary high-water mark or existing structure unless the residence was occupied prior to January 1, 1992, and there are overriding safety or environmental concerns. In such cases, the replacement structure shall abut the existing shoreline stabilization structure.

#### Minor Repair of Hard Structural Shoreline Stabilization

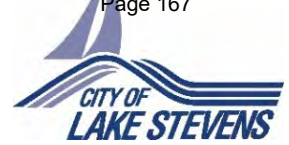
20. Minor repairs of hard shoreline stabilization include those maintenance and repair activities not otherwise addressed in subsection c.16 above. The City shall allow minor repair activities to existing hard structural shoreline stabilization measures. No geotechnical report or demonstration of need may be required.

#### Repair or Replacement of Soft Shoreline Stabilization, or Replacement of Hard Stabilization with Soft Shoreline Stabilization

21. The City shall allow repair or replacement of soft shoreline stabilization, and replacement of hard shoreline stabilization with soft shoreline stabilization to mitigate the effects of wave action on shoreline erosion.

22. The applicant shall submit to the City, design recommendations for minimizing impacts and ensuring that the replacement or repaired stabilization measure is





designed, located, sized, and constructed to assure no net loss of ecological functions.  
No geotechnical report or demonstration of need may be required.

#### Design of Shoreline Stabilization Measures

~~2343.~~ Bulkhead design and development shall conform to all other applicable City and state agency policies and regulations, including the Washington State Department of Fish and Wildlife criteria governing the design of bulkheads.

~~2444.~~ Gabions (wire mesh filled with concrete or rocks) are prohibited, except as a conditional use where it is determined that gabions are the least environmentally disruptive method of shoreline stabilization.

~~2545.~~ Stairs and other allowed structures may be built as integral to a bulkhead but shall not extend waterward of the bulkhead or structure unless it is necessary to access the shoreline or a use or structure is otherwise allowed over water.

~~2646.~~ Bulkheads shall be designed to permit the passage of surface water or groundwater without causing ponding or over-saturation of retained soil/materials of lands above the OHWM.

~~2747.~~ Adequate toe protection and proper footings shall be provided to ensure bulkhead stability without relying on additional riprap.

~~2848.~~ Materials and dimensional standards:

- a. New bulkheads and other shoreline stabilization structures shall not be constructed higher than 24 inches above the OHWM or, if the bulkhead is set back from the shoreline, 24 inches above grade at the base of the bulkhead or structure. On steep slopes, new bulkheads may be built taller than 24 inches high if necessary to meet the existing slope. Replacement bulkheads may be built to the height of the original bulkhead.

Exception: The Shoreline Administrator may waive this provision for flood hazard minimization measures conforming to this SMP.

- b. While structural materials are not the preferred method of shoreline stabilization, if structural shoreline measures are allowed ~~according to subsections c.6, 7 and 12 above~~, the following are examples of acceptable materials for shoreline stabilization structures, listed in order of preference from top to bottom:
  - i. Large stones, with vegetation planted in the gaps. Stones should not be stacked steeper than 2 horizontal to 1 vertical slope.
  - ii. Timbers or logs. Note the prohibition against toxic wood treatments.
  - iii. Stacked masonry units (e.g., interlocking cinder block wall units).
  - iv. Cast-in-place reinforced concrete.
- c. The following materials are not acceptable for shoreline stabilization structures:
  - i. Degradable plastics and other nonpermanent synthetic materials.
  - ii. Sheet materials, including metal, plywood, fiberglass, or plastic.
  - iii. Broken concrete, asphalt, or rubble.
  - iv. Car bodies, tires or discarded equipment.
  - v. Other materials deemed inappropriate by the Shoreline Administrator.



~~2949~~. Fill behind bulkheads shall be limited to an average of 1 cubic yard per running foot of bulkhead. Any filling in excess of this amount shall be considered landfill and shall be subject to the provisions for landfill and the requirement for obtaining a shoreline substantial development permit.

#### Bioengineering

~~3020~~. Bioengineering projects shall use native trees, shrubs, and grasses and/or ground cover, unless such an approach is not feasible.

~~3124~~. All bioengineering projects shall include a program for monitoring and maintenance.

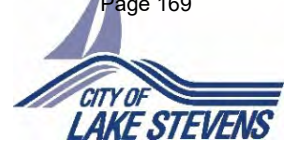
### **3. Over-Water Structures - Including Piers and Docks, Floats, and Boardwalks**

#### **a. Applicability**

Over-water structures for moorage, boat-related, float plane-related, and other direct water-dependent uses or development, including docks, piers, boat launches, and swimming/diving platforms, inflatable recreational equipment, as well as public access boardwalks, fishing piers, and viewpoints, in shoreline areas shall be subject to the following policies and regulations. All over-water structures shall also conform to all applicable state and federal requirements.

#### **b. Policies**

1. Moorage associated with a single-family residence is considered a water-dependent use provided that it is designed and used as a facility to access watercraft (including float planes).
2. New moorage, excluding docks accessory to single-family residences, should be permitted only when the applicant/proponent has demonstrated that a specific need exists to support the intended water-dependent or public access use. To demonstrate “need”, the applicant shall provide a statement that clearly shows the intent to provide for a water-dependent or public access use as well as the provision of all other services and support (e.g. utilities, access, etc.) needed for the intended use.
3. To minimize continued proliferation of individual private moorage, reduce the amount of over-water and in-water structures, and reduce potential long-term impacts associated with those structures, shared moorage facilities are preferred over single-user moorage. New subdivisions of more than two (2) lots and new multi-family development of more than two (2) dwelling units should provide shared moorage.
4. Docks, piers, and other water-dependent use developments including those accessory to single-family residences, should be sited and designed to avoid adversely impacting shoreline ecological functions or processes, and should mitigate for any unavoidable impacts to ecological functions.
5. Moorage and other water-dependent use developments should be spaced and oriented in a manner that minimizes hazards and obstructions to public navigation rights and corollary rights thereto such as, but not limited to, fishing, swimming and pleasure boating.



6. Moorage and other water-dependent use developments should be restricted to the minimum size necessary to meet the needs of the proposed use. The length, width and height of over-water structures and other developments regulated by this section should be no greater than that required for safety and practicality for the primary use.
7. Moorage and other water-dependent use developments should be constructed of materials that will not adversely affect water quality or aquatic plants and animals in the long term.

### **c. Regulations**

#### General Regulations for Private and Public Structures

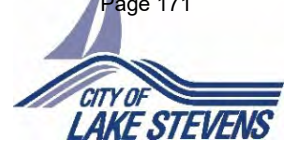
1. All new, reconstructed, repaired, or modified over-water structures shall be allowed only in support of an allowed water-dependent use and must comply with all other regulations as stipulated by State and Federal agencies. Non-water-dependent uses may use a dock constructed for a water-dependent use as long as they do not impede the water-dependent use. Over-water structures built solely for the purpose of a non-water-dependent use are prohibited.
2. All moorage and other over-water structures shall be designed and located so as not to constitute a hazard to navigation or other public uses of the water.
3. Proposed private over-water structures which do not comply with the dimensional standards contained in this chapter may only be approved if they obtain a shoreline variance. (See Chapter 7 Section E.)
4. No portion of the deck of a pier shall, during the course of the normal fluctuations of the elevation of the waterbody, protrude more than three (3) feet above the OHWM. Temporary cabanas without a permanent frame may be allowed. Temporary structures are allowed for only five months of the year (May 1 – September 30).
5. Docks, piers, and other developments for water-dependent uses shall be located at least ten (10) feet from the extended side property lines (extended at the same angle as the property line on shore), except for joint use structures. Where a ten (10) foot setback is not feasible, as determined by the Shoreline Administrator, a five (5) foot setback from the side property line may be permitted. All over-water structures shall be configured to minimize interference with rights of navigation.
6. No residential use may occur over water, including houseboats, live-aboards, or other single- or multi-family dwelling units.
7. All floats, ells, fingers, and lifts must be at least 30 feet waterward of the OHWM.

Exception: For docks shorter than 50 feet, the Shoreline Administrator may make an administrative exception to allow lifts within the first 30 feet if the applicant submits a specific request, reason for the request and documentation of the dock dimensions and proposed locations for lifts.

8. All pier and dock dimensions shall be minimized to the maximum extent feasible. The proposed length must be the minimum necessary to support the intended use.
9. Skirting that extends to the water is not permitted on any structure except to contain or protect floatation material.
10. All piers, docks, and similar structures shall at no time rest on the lake substrate.



11. All over-water structures and other water-dependent use developments shall be constructed and maintained in a safe and sound condition. Abandoned or unsafe structures shall be removed or repaired promptly by the owner.
12. Lighting associated with over-water structures shall be beamed, hooded or directed to avoid causing glare on adjacent properties or waterbodies except for motion-detector lights. Illumination levels shall be the minimum necessary for safety. All lights, except motion-detector lights, shall be shielded and light directed to prevent directly lighting the water surface and light shining toward the uplands.
13. Any paint, stain or preservative applied on components of an overwater or in-water structure must be leach-resistant, completely dried or cured prior to installation. All materials ~~used for any portion of an over water structure that may come in contact with water~~ shall be constructed of materials, such as untreated wood, concrete, approved plastic composites, ~~or steel, or treated wood that meets or exceeds the standards outlined in the latest edition of the Western Wood Preservers Institute Best Management Practices for the Use of Treated Wood in the Aquatic and Sensitive Areas, that will not adversely affect water quality or aquatic plants or animals.~~ Materials shall not be treated with pentachlorophenol, creosote, chromate copper arsenate (CCA), or comparably toxic compounds ~~as outlined in the latest edition of the Western Wood Preservers Institute Best Management Practices for the Use of Treated Wood in Aquatic and Sensitive Areas.~~ Structures may also use other materials approved by applicable state agencies for contact with water to avoid discharge of pollutants from wave or boat wake splash, rain or runoff.
14. Temporary moorages shall be permitted for vessels used in the construction of shoreline facilities. The design and construction of temporary moorages shall be such that upon termination of the project, the aquatic habitat in the affected area can be returned to its original (pre-construction) condition within one (1) year at no cost to the environment or the public.
15. New boathouses or other walled covered moorage are prohibited. Covered boat lifts and covered moorage with no sides in conformance with other provisions in this section may be allowed. The nonconforming use clause in Chapter 7 Section H shall apply to existing enclosed moorage structures.
16. If a dock is provided with a safety railing, such railing shall not exceed 36 inches in height and shall be an open framework that does not unreasonably interfere with shoreline views of adjoining properties.
17. Moorage facilities shall be marked with reflectors, or otherwise identified to prevent unnecessarily hazardous conditions for water surface users during the day or night. Exterior finish shall be generally non-reflective.
18. Public boardwalks are allowed for public access in shoreline areas.
19. The Shoreline Administrator has flexibility in dock dimensional standards to a maximum width of 6 feet to accommodate disability (ADA) needs for single-family homeowners when the house is accessible to ADA standards (including an accessible entry and bathroom) and there is an ADA accessible pathway to the dock.
20. Alternative Design. The City shall approve new, replaced or additions to docks different from the standards below subject to Washington Department of Fish and Wildlife approval of an alternate project design limited to the following features: size



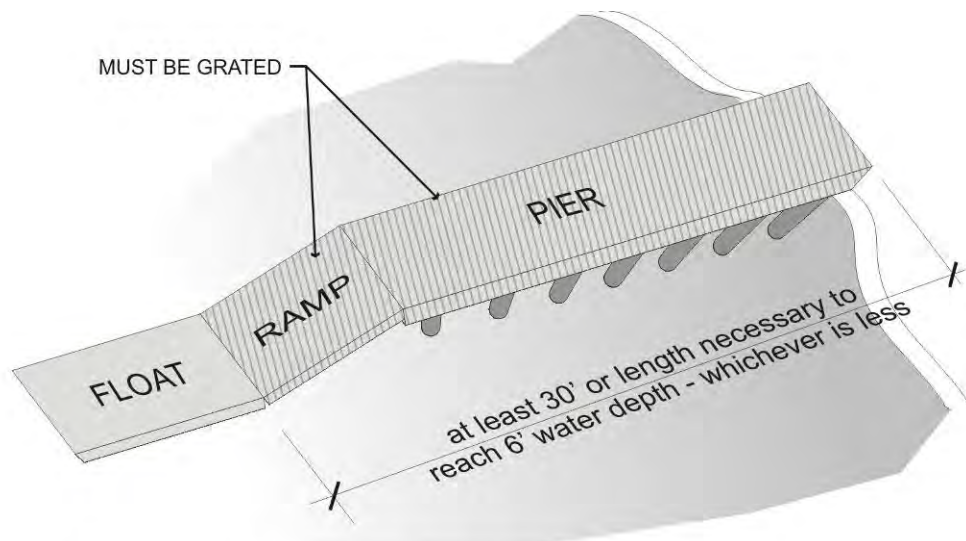
of pilings, replacement area, and/or different decking requirements subject to a Hydraulic Permit Approval. With submittal of a building permit, the applicant shall provide documentation that the Washington Department of Fish and Wildlife has approved the alternative proposal design.

#### New Private, Non-Commercial Piers

Regulations 21 – 3~~12~~ below apply specifically to residential and private recreational properties not used for commercial purposes.

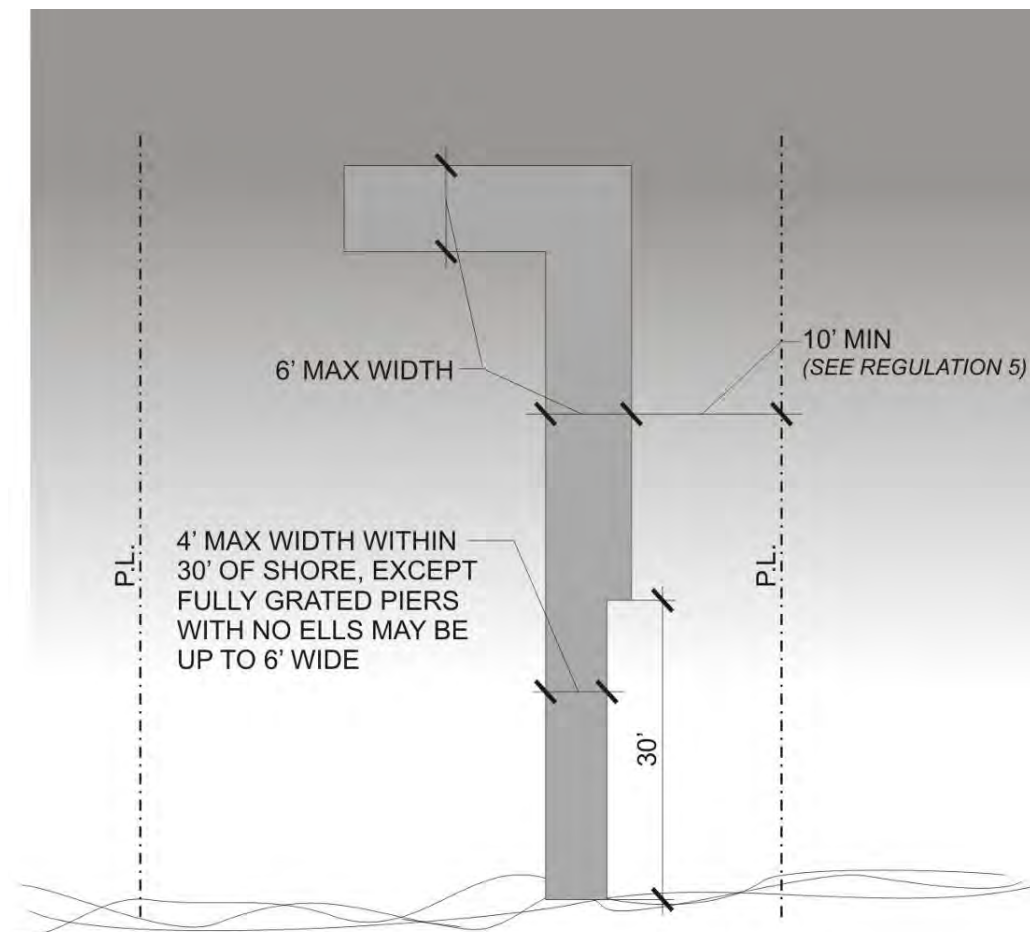
21. A new private pier or dock may be permitted on lots owned for residential or for private recreational use, provided:
  - a. The applicant has demonstrated a need for moorage.  
Exception: Docks accessory to a single-family residence are allowed without requiring a demonstrated need (WAC 173-26-231(3)(b))).
  - b. No more than one (1) pier is permitted for each single-family residence or private recreational lot not used for commercial purposes.
  - c. On waterfront lots subdivided to create additional waterfront lots, upland lots with waterfront access rights, or lots with waterfront multi-family development, joint-use piers shall be required.
22. A new, joint-use pier may be permitted on a community recreation lot shared by a number of waterfront or upland lots provided the applicant has demonstrated a need for moorage or other allowed water-dependent use or in the case of single-family residences, no demonstrated need is required.
23. New floating docks located within the first 30 feet of shoreline, measured waterward of the OHWM, are prohibited except where the float is located in water at least six (6) feet in depth, measured from the OHWM. Piers that terminate in a waterward float are allowed; provided that the landward edge of the float is over water with a depth of six (6) feet or more, measured from the OHWM, or is at least 30 feet waterward of the OHWM. All float tubs shall be fully encapsulated.
- 24. Development Standards for New Docks
  - a. Decking: All new docks require decking with a minimum of 40 percent open space within 30 feet of the shoreline. See regulations C.3.c. ~~2728~~ to ~~2932~~ for dock replacement and repair requirements.
  - b. Piles. Piles shall be either steel, concrete, PVC, ~~or~~ untreated wood, or treated wood meeting or exceeding the standards outlined in the latest edition of the Western Wood Preservers Institute Best Management Practices for the Use of Treated Wood in the Aquatic and Sensitive Areas and shall be spaced a minimum of 102 feet apart, except when shown not to be feasible for site-specific engineering or design considerations.





**Requirement to offset new floats from pier**

Figure 1. Pier approach length. (See regulation 4.C.3.c.23.)



**Residential dock width and geometric dimension requirements**

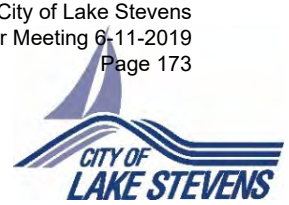


Figure 2. Residential dock width and geometric dimension requirements.

c. Length.

- i. The maximum waterward intrusion of any portion of the dock shall not extend beyond the average of the two most adjacent legally existing docks within 300 feet on either side of the proposed dock. If the most adjacent legally existing docks are 50 feet long or less, then any legally existing docks within 300 feet on either side of the proposed dock may be used to determine the average length for the proposed dock with documentation showing all dock lengths within 300 feet and identification of the two docks, one on each side of the proposed dock, being used to determine the average length. If no legal docks exist within 300 feet, the maximum length of the dock is the minimum necessary to reach a 5 ½ -foot water depth below the low water mark.

Exception: If the above dock limits do not allow the dock to reach an adequate depth to moor a boat, the Shoreline Administrator may approve a longer dock up to the minimum necessary to reach 5½ feet of depth, as measured from the low water mark. However, in no case shall a dock extend more than 200 feet from the shoreline, measured perpendicularly to the shoreline.

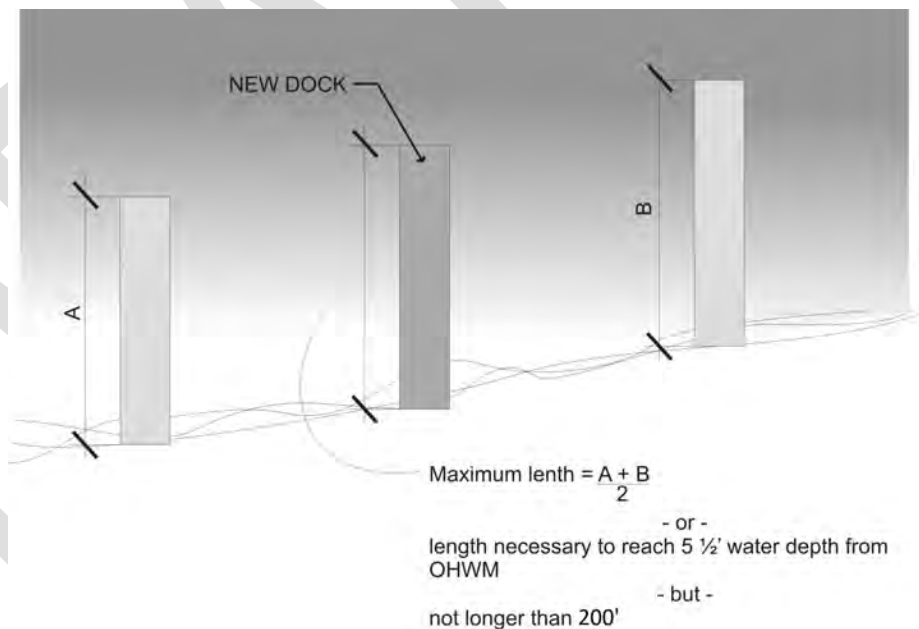


Figure 3. Allowable length of new docks. (See regulation 4.C.3.c.23.a.i.)

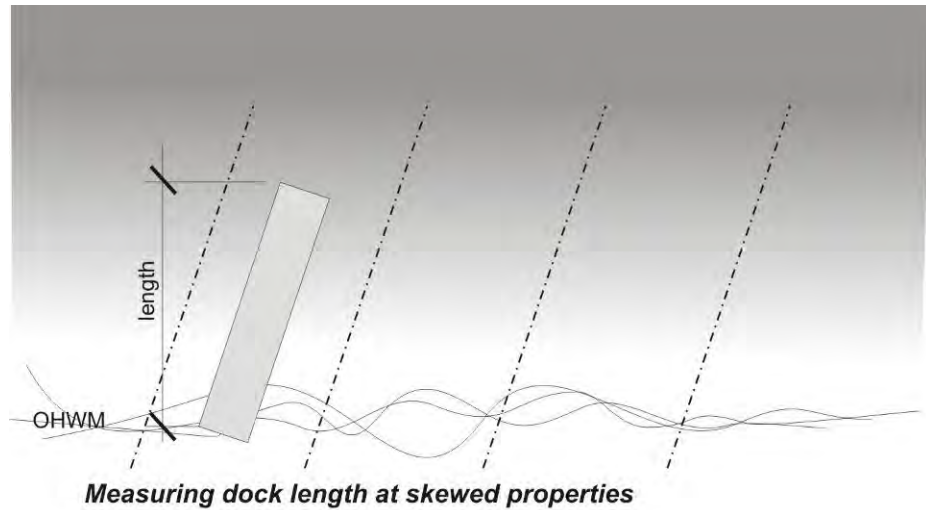


Figure 4. Dock length measurement.

- ii. The maximum length of ells, fingers, and floats is 20 feet.
- d. Width.
  - i. The maximum width of a dock walkway is 4 feet for the first 30 feet from shore and up to 6 feet for portions of walkways which extend more than 30 feet from the shore. Fully grated piers with no ells may be up to 6 feet wide their entire length, including within the first 30 feet from shore.
  - ii. The maximum width of ells and floats is 6 feet. Ells and floats shall be positioned beyond 30 feet from shore.
  - iii. Any additional fingers must be no wider than 4 feet if beyond 30 feet from shore.
  - iv. The maximum width of a ramp connecting a dock to a float is 4 feet.

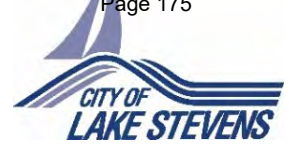
#### Additions to Private Pier or Dock

~~256.~~ Additions to existing, legally conforming piers or docks may be permitted up to the size allowed for new piers as described in subsection c.24 above provided any additions in the nearshore 30 feet consists of decking allowing for a minimum of 40 percent open space. If the existing dock's dimensions are nonconforming, additions are prohibited.

~~2726.~~ When proposed additions to a private residential pier result in a pier that exceeds the maximum total length or width allowances for new docks as described in c.24 above, the addition may be proposed under a Variance application and subject to the following provisions:

- a. The applicant must remove any in-water structures rendered obsolete by the addition;
- b. The additional length of walkway must be no wider than 4 feet within the first 30 feet from shore and up to 6 feet for walkway sections located more than 30 feet from shore;





- c. The decking of all new pier elements include decking with a minimum of 40 percent open space as described in subsection c.24.a. above; and
- d. Any proposed new piles must comply with standards under subsection c.24.b. above.

Replacement or Repair of Existing Private Pier or Dock

27. Replacement or major repair proposals must comply with the following:

a32. If a single-family residence has two or more existing docks and one requires replacement or repair as described in subsections c.285 to .29 ~~below~~<sup>above</sup>, then one dock must be removed as a condition of the ~~replacement or~~ repair. The remaining dock may be improved to the same dimensions as either existing dock.

2528. Proposals involving replacement of the entire private pier or dock, or 50 percent or more of the pier support piles, can be replaced up to 100% of the area (square footage) of the existing pier or dock and shall comply with the following standards:

- a. Decking: All replacement piers must include decking with a minimum of 40 percent open space ~~as described in subsection c.24.a. above~~ within 30 feet of the shoreline, and for a Any pier element (i.e., pier walkway, ell, etc.) whether in the first 30-feet or beyond that exceeds (i.e., pier walkway, ell, etc.) greater than 6 feet wide in width must including decking with a minimum of 40 percent open space for the entire portion of that element that is wider than 6 feet.
- b. Piles: Piles shall be either steel, concrete, PVC or similar, untreated wood or treated wood meeting or exceeding the standards outlined in the latest edition of the Western Wood Preservers Institute Best Management Practices for the Use of Treated Wood in the Aquatic and Sensitive Areas and shall be spaced a minimum of 10 feet apart, except when shown not to be feasible for site-specific design considerations. Other materials may be considered if recommended by a qualified professional, on a case by case approach, when approved by the Shoreline Administrator or designee. Replacement piles must be sized as described above under subsection 24.b, and must achieve the minimum 12 foot spacing to the extent allowed by site specific engineering or design considerations. ~~c.~~ Existing private piers or docks may be reconfigured consistent with the regulations in this section provided the reconfiguration is not wider than 6 feet within 30 feet of the shoreline; does not exceed the maximum allowed length; and does not create or increase nonconformity with respect to setbacks from side property lines.

~~e.—Width shall comply with “New Private, Non-Commercial Piers” standards (see Chapter 4 Section C.3.e.24.d).~~

29. Minor repair proposals must comply with the following:

Repair of Existing Private Pier or Dock

28a. Repair proposals which replace less than 50 percent of the existing pier-support piles must comply with the following:



~~(1)a.~~ If the width of pier element is wider than 6 feet in the area where the piles will be replaced, the decking that would be removed in order to replace the piles shall be replaced with decking with a minimum of 40 percent open space for the entire portion of that element that is wider than 6 feet as described in subsection c.24.a. above.

~~b.(2)~~ Replacement piles ~~must be sized as described under subsection c.24.b. above, and must achieve the minimum 12-foot spacing to the extent allowed by site-specific engineering or design considerations shall be either steel, concrete, PVC or similar, untreated wood, or treated wood meeting or exceeding the standards outlined in the latest edition of the Western Wood Preservers Institute Best Management Practices for the Use of Treated Wood in the Aquatic and Sensitive Areas and shall be spaced a minimum of 10 feet apart, except when shown not to be feasible for site-specific design considerations. Other materials may be considered if recommended by a qualified professional, on a case by case approach, when approved by the Shoreline Administrator or designee.~~ Pilings may be repaired by splicing.

~~29b.~~ Repair proposals which replace 50 percent or more of the decking on any pier element (i.e., pier walkway, ell, etc.) greater than 6 feet wide must use decking with 40 percent open space for the entire portion of that element that is wider than 6 feet ~~as described in subsection c.24.a. above.~~

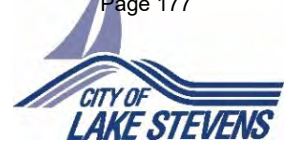
~~30c.~~ If the cumulative repair proposed over a three-year period exceeds thresholds established in subsection c.28~~5~~ above, the current repair proposal shall be reviewed under subsection c.28~~5~~ above.

~~31d.~~ Other repairs to existing legally established piers and docks or moorage facilities where the nature of the repair is not described in the above subsections ~~shall may~~ be considered minor repairs by the Shoreline Administrator or designee and ~~may are~~ permitted, if consistent with all other applicable codes and regulations.

#### Watercraft Lifts, Lift Canopies, and Covered Moorage (see also regulation C.3.c.5)

~~303.~~ Watercraft lifts and associated canopies may be permitted as an accessory to residential development provided that:

- a. Watercraft lifts are movable equipment employed to temporarily lift watercraft above the water for protection and storage and are allowed only as an accessory to a dock and not as a separate structure.
- b. Residential piers may have a maximum of three watercraft lifts per single-family lot having legal use of the structure.
- c. All lifts are placed at least 30 feet waterward from the ordinary high water mark and within the limits of the dimensional standards for docks in this chapter.
- d. Lift canopies (covers over the raised craft) must not be constructed of permanent structural material. The bottom of a lift canopy is elevated above the lift to the maximum extent practicable, the lowest edge of the canopy must be at least 4 feet above the ordinary high water mark, and the top of the canopy must not extend more than 8½ feet above the adjacent pier.



- e. Lift canopies must be made of fabric material.
  - f. Any platform lifts are fully grated or open allowing light to penetrate below the lift.
  - g. The lifts and canopies comply with all other regulations as stipulated by State and Federal agencies.
314. Covered moorage with no sides may be permitted as an accessory to residential development provided that:
- a. Only one per dock;
  - b. Dimensions no larger than a total of 240 square feet;
  - c. Maximum height of roof at 8 1/2 feet above dock;
  - d. Structure shall be located at least 30 feet waterward from the OHWM; and
  - e. Flat roofs are prohibited.

#### Boat Launching Facilities

325. The maximum waterward intrusion of any portion of any launching ramp or lift station shall be the point where the water depth is six (6) feet below the ordinary high water mark.
336. Boat ramps are only permitted for public access, public or joint recreational uses, and emergency access. Any asphalt or concrete launch that solidly covers the substrate below the ordinary high water mark are not permitted accessory to private residential uses.
347. Launching rails are prohibited.

#### Recreational Floats/Swim Platforms

358. New recreational floats and swimming platforms for private properties are prohibited. Temporary inflatable recreational equipment (e.g., floating trampolines) is allowed from May 1 through September 30. Temporary inflatable recreational equipment shall be located a maximum of ten feet waterward from the end of the associated dock or no further than the minimum manufacturer's suggested setback for safety purposes. If there is no associated dock, the temporary inflatable recreational equipment shall be located a maximum of ten feet waterward from the average of the two most adjacent legally existing docks.

#### Public, Community and Commercial Over-Water Structures – including Docks, Piers and Boardwalks

369. Existing public, community and commercial over-water structures such as docks, piers, or boardwalks may be repaired and/or replaced in the same location as the existing structure.
3740. Public, community and commercial over-water structures may be expanded in size subject to the following:
- a. The existing structure is not large enough to support the intended use.



- b. The applicant must remove any in-water structures rendered obsolete by the expansion (e.g., portions of an existing dock that are no longer needed must be removed).
- c. Piles. Piles shall be either steel, concrete, PVC or similar, ~~steel, or~~ untreated wood, or treated wood meeting or exceeding the standards outlined in the latest edition of the Western Wood Preservers Institute Best Management Practices for the Use of Treated Wood in the Aquatic and Sensitive Areas and shall be spaced a minimum of 102 feet apart, except when shown not to be feasible for site-specific ~~engineering or~~ design considerations.
- d. At no point shall any new portion of the pier exceed 12 feet in width.
- e. All new dock portions shall consist of decking allowing for a minimum of 40 percent open space.
- f. The length of the pier is the minimum necessary to accommodate the intended public usage of the pier.

3841. New public docks or piers may be permitted if increased public usage of existing structures has required the need for additional over-water cover. For new public docks or piers, floating piers located in the first 30 feet may be allowed as a conditional use if it is found to be necessary to support the launching of small watercraft (such as canoes, kayaks, or rowing shells).

3942. One new commercial dock or pier may be permitted per commercial waterfront lot, provided it is in support of a water-oriented use.

4043. New public, community and commercial over-water structures shall be subject to the standards under ~~3937~~.c through f above.

4144. Parcels for community docks may be allowed more than one dock, if stated in the originating covenants of the development and approved prior to the effective date of this Shoreline Master Program, up to one moorage space per residential lot. The slips are for residents only and not for rent or sale to nonresidents.

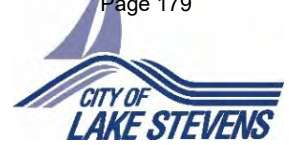
## 4. Fill

### a. Applicability

Fill is the addition of soil, sand, rock, gravel, sediment, earth retaining structure, or other material to an area waterward of the OHWM, in wetlands, or on shorelands in a manner that raises the elevation or creates dry land. Any fill activity conducted within shoreline jurisdiction must comply with the following provisions.

### b. Policies

1. Fills waterward of OHWM should be allowed only when necessary to support allowed water-dependent or public access uses, cleanup and disposal of contaminated sediments, and other water-dependent uses that are consistent with this SMP.
2. Shoreline fill should be designed and located so there will be no significant ecological impacts and no alteration of local currents, surface water drainage, channel migration, or flood waters which would result in a hazard to adjacent life, property, and natural resource systems.



### c. Regulations

1. Fill waterward of OHWM requires a conditional use permit and may be permitted only when:
  - a. In conjunction with a water-dependent or public use permitted by this SMP;
  - b. In conjunction with a levee, bridge, or navigational structure for which there is a demonstrated public need and where no feasible upland sites, design solutions, or routes exist; or
  - c. As part of an approved shoreline restoration project.
2. Waterward of OHWM, pile or pier supports shall be utilized whenever feasible in preference to fills. Fills for approved road development in floodways or wetlands shall be permitted only if pile or pier supports are proven not feasible.
3. Fill **prohibited** in floodplains where the fill would alter the hydrologic characteristics, flood storage capacity, or inhibit channel migration that would, in turn, increase flood hazard or other damage to life or property. Fill **prohibited** in floodway, except when approved by conditional use permit and where required in conjunction with a proposed water-dependent or other use specified in -subsection 4.c.2 above.
4. Fill shall be permitted only where it is demonstrated that the proposed action will not:
  - a. Result in significant ecological damage to water quality, fish, shellfish, and/or wildlife habitat; or
  - b. Adversely alter natural drainage and circulation patterns, currents, river flows or significantly reduce floodwater capacities.
  - c. Alter channel migration, geomorphic, or hydrologic processes.
5. Environmental cleanup action involving excavation/fill, as authorized by the Shoreline Administrator, may be permitted.
6. Sanitary fills shall not be located in shoreline jurisdiction.
7. Fill waterward of the ordinary high water mark that is for the purpose of restoring ecological functions is a permitted use and does not require a conditional use permit.

## 5. Dredging and Disposal

### a. Applicability

Dredging is the removal or displacement of earth or sediment (e.g., gravel, sand, mud, silt and/or other material or debris) from a stream, river, lake, marine water body, or associated marsh, bog or swamp. Activities which may require dredging include the construction and maintenance of navigation channels, levee construction, recreation facilities, boat access, and ecological restoration.

Dredge material disposal is the depositing of dredged materials on land or into water bodies for the purpose of either creating new or additional lands for other uses or disposing of the by-products of dredging.



## **b. Exemptions**

Pursuant to WAC 173-27-040, dredging or dredge disposal actions may be exempt from the requirement for a shoreline substantial development permit, but may still require a conditional use or variance permit.

## **c. Policies**

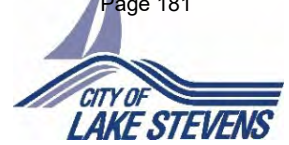
1. Dredging operations should be planned and conducted to minimize interference with navigation and adverse impacts to other shoreline uses, properties, and values.
2. When allowed, dredging and dredge material disposal should be limited to the minimum amount necessary.
3. Disposal of dredge material within a channel migration zone shall be discouraged.

## **d. Regulations**

### General

1. Dredging and dredge disposal shall be permitted only where it is demonstrated that the proposed actions will not:
  - a. Result in significant or ongoing damage to water quality, fish, and shoreline habitat;
  - b. Adversely alter natural drainage and circulation patterns, currents, river flows, channel migration processes or significantly reduce floodwater capacities; or
  - c. Cause other significant ecological impacts.
2. Proposals for dredging and dredge disposal shall include all feasible mitigating measures to protect marine habitats and to minimize adverse impacts such as turbidity, release of nutrients, heavy metals, sulfides, organic material or toxic substances, dissolved oxygen depletion, disruption of food chains, loss of benthic productivity and disturbance of fish runs and important localized biological communities.
3. Dredging and dredge disposal shall not occur in wetlands, except as authorized by conditional use permit as a shoreline restoration project.
4. Dredging and dredge disposal shall be carefully scheduled to protect ecological function (e.g., fish runs, spawning, benthic productivity, etc.) and to minimize interference with fishing activities.
5. Dredging and dredge disposal shall be prohibited on or in archaeological sites that are listed on the Washington State Register of Historic Places until such time that they have been released by the State Archaeologist.
6. Dredging shall utilize techniques which cause minimum dispersal and broadcast of bottom material.
7. Dredging shall be permitted only:
  - a. For navigation or navigational access and recreational access;
  - b. In conjunction with a water-dependent use of water bodies or adjacent shorelands;





- c. As part of an approved habitat improvement project;
  - d. To improve water quality;
  - e. In conjunction with a bridge, navigational structure or wastewater treatment facility for which there is a documented public need and where other feasible sites or routes do not exist;
  - f. To improve water flow or manage flooding only when consistent with an approved flood/stormwater comprehensive management plan; or
  - g. To clean up contaminated sediments.
8. When dredging is permitted, the dredging shall be the minimum necessary to accommodate the proposed use.
9. New dredging activity is prohibited:
- a. In shoreline areas with bottom materials which are prone to significant sloughing and refilling due to currents, resulting in the need for continual maintenance dredging, except by conditional use permit; and
  - b. In habitats identified as critical to the life cycle of officially designated or protected fish, shellfish or wildlife.
10. Dredging for the primary purpose of obtaining material for landfill is prohibited.
11. New development shall be located and designed to avoid or minimize the need for new or maintenance dredging where feasible.
12. Maintenance dredging of established navigation channels, public access facilities and basins is restricted to maintaining previously dredged and/or existing authorized location, depth, and width.

#### Regulations - Dredge Material Disposal

13. Depositing clean dredge materials in water areas shall be allowed only by conditional use permit for one or more of the following reasons:
- a. For wildlife habitat improvement or shoreline restoration; or
  - b. To correct problems of material distribution adversely affecting fish and wildlife resources.
14. Where the Shoreline Administrator requires, revegetation of land disposal sites shall occur as soon as feasible in order to retard wind and water erosion and to restore the wildlife habitat value of the site. Native species and other compatible plants shall be used in the revegetation.
15. Proposals for disposal in shoreline jurisdiction must show that the site will ultimately be suitable for a use permitted by this SMP.
16. The Shoreline Administrator may impose reasonable limitations on dredge disposal operating periods and hours and may require provision for buffers at land disposal or transfer sites in order to protect the public safety and other lawful interests from unnecessary adverse impacts.



17. Disposal of dredge material within a channel migration zone shall require a conditional use permit.

## **6. Shoreline Restoration and Ecological Enhancement**

### **a. Applicability**

Shoreline restoration and ecological enhancement are the improvement of the natural characteristics of upland or submerged shoreline using native materials. The materials used are dependent on the intended use of the restored or enhanced shoreline area. An Ecological Restoration Plan accompanies this SMP and recommends ecological enhancement and restoration measures.

### **b. Policies**

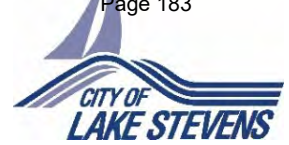
1. The City should consider shoreline enhancement as an alternative to structural shoreline stabilization and protection measures where feasible.
2. All shoreline enhancement projects should protect the integrity of adjacent natural resources including aquatic habitats and water quality.
3. Where possible, shoreline restoration should use maintenance-free or low-maintenance designs.
4. The City should pursue the recommendations in the shoreline restoration plan prepared as part of this SMP update. The City should give priority to projects consistent with this plan.
5. Shoreline restoration and enhancement should not extend waterward more than necessary to achieve the intended results.

### **c. Regulations**

1. Shoreline enhancement may be permitted if the project proponent demonstrates that no significant change to sediment transport or river current will result and that the enhancement will not adversely affect ecological processes, properties, or habitat.
2. Shoreline restoration and enhancement projects shall use best available science and best management practices.
3. Shoreline restoration and enhancement shall not significantly interfere with the normal public use of the navigable waters of the state without appropriate mitigation.
4. Shoreline restoration and ecological enhancement projects may be permitted in all shoreline environments, provided:
  - a. The project's purpose is the restoration of natural character and ecological functions of the shoreline, and
  - b. It is consistent with the implementation of a comprehensive restoration plan approved by the Shoreline Administrator, or the Shoreline Administrator finds that the project provides an ecological benefit and is consistent with this SMP.

5. The City may grant relief from SMP development standards and use regulations resulting from shoreline restoration projects consistent with criteria and procedures in WAC 173-27-215.





## **7. Dikes and Levees**

### **a. Applicability**

Dikes and levees are manmade earthen embankments utilized for the purpose of flood control, water impoundment projects, or settling basins.

### **b. Policies**

1. Dikes and levees should be constructed or reconstructed only as part of a comprehensive flood hazard reduction program.
2. Environmental enhancement measures should be a part of levee improvements.

### **c. Regulations**

1. Dikes and levees shall be designed, constructed, and maintained in accordance with Washington State Department of Fish and Wildlife Hydraulic Project Approval, federal levee criteria, and in consideration of resource agency recommendations.
2. Dikes and levees shall protect the natural processes and resource values associated with streamways and deltas, including, but not limited to, wildlife habitat.
3. Dikes and levees shall be limited in size to the minimum height required to protect adjacent lands from the projected flood stage.
4. Dikes and levees shall not be placed in the floodway, except for current deflectors necessary for protection of bridges and roads.
5. Public access to shorelines should be an integral component of all levee improvement projects. Public access shall be provided in accordance with public access policies and regulations contained herein.
6. Dikes and levees shall only be authorized by conditional use permit and shall be consistent with "The Flood Insurance Study for Snohomish County, Washington and Incorporated Areas," dated September 16, 2005, as amended.
7. Dikes and levees shall be set back at convex (inside) bends to allow streams to maintain point bars and associated aquatic habitat through normal accretion, if feasible.
8. Proper diversion of surface discharge shall be provided to maintain the integrity of the natural streams, wetlands, and drainages.
9. Underground springs and aquifers shall be identified and protected.
10. Where feasible, the construction, repair, or reconstruction of dikes or levees shall include environmental restoration. The Lake Stevens Restoration Plan accompanying this SMP provides guidance the Shoreline Administrator will use in determining the amount and type of restoration required.



## CHAPTER 5

# Shoreline Use Provisions

## A. Introduction

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

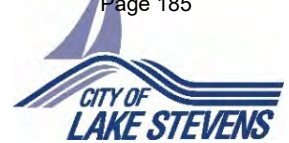
## B. Shoreline Use and Development Standards Matrices

The following matrices (Table 52 and Table 36) indicate the allowable uses and some of the standards applicable to those uses and modifications. A permitted use does not mean the use is exempt from a shoreline permit. All proposed shoreline uses require application to the City for a shoreline exemption or shoreline permit and application to the Washington Department of Fish and Wildlife for a Joint Aquatic Resources Permit Application (JARPA). In addition, all shoreline uses are subject to other provisions in this SMP. See especially, Section C “Policies and Regulations” below.

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 42. Shoreline Use Matrix**

<p>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> <p><b>SHORELINE USE</b></p>	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



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

### SHORELINE USE

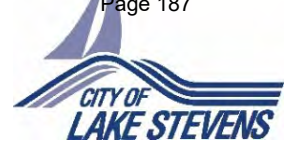
	Natural	High-Intensity	Urban Conservancy <sup>11</sup>	Shoreline Residential	Aquatic <sup>12</sup>
Forest practices	X	X	X	P <sup>8</sup>	X
Industrial:					
Water-dependent	X	P	X	X	X
Water-related, water-enjoyment	X	P	X	X	X
Nonwater-oriented	X	P <sup>4</sup>	X	X	X
In-stream structures	C	C	C	C	C
Mining	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	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>
Uses not otherwise listed	C	C	C	C	C

#### 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 Shoreline Administrator.*
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 Shoreline Administrator 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 Shoreline Administrator 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 Shoreline Administrator, and all significant adverse impacts are mitigated.*
8. *Forest practices for Class IV Conversion is allowed pursuant to Chapter 76.09 RCW Forest Practices.*
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. *Except for the water-dependent uses, 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 53. 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 Shoreline Administrator 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 Shoreline Administrator reduces a requirement, compensatory mitigation, such as vegetation enhancement or shoreline armoring removal, must be provided as determined by the Shoreline Administrator.*
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

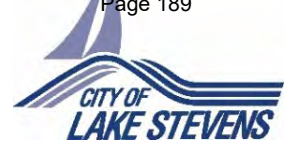
The following provisions apply to all uses in shoreline jurisdiction.

#### 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 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 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 addressed in the shoreline use matrix require a conditional use permit. The 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 applicable 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 would be required to protect the development. (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).
7. Development of uses in flood-prone areas identified by FEMA on the Flood Rate Insurance Map shall comply with adopted floodplain regulations.

## **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, or seed; Christmas trees not subject to the excise tax imposed by Chapter 84.33. RCW; finfish in upland hatcheries; or livestock.

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 agricultural development should be conditioned with the requirement for ecological restoration to ensure no net loss of ecological functions.

The 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 proportionate to the impact of the new 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 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. See Chapter 4 Section C.3 regarding 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 following: 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, crafts and/or structures 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 feet.

#### Design/Renovation/Expansion

7. Boating facilities shall be designed to avoid or minimize significant ecological impacts. The 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 Shoreline Administrator may require ecological restoration measures to account for new environmental impacts and risks to the ecology to ensure no net loss of ecological function.

The 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 proportionate to the impact of the new or expanded 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 except non-walled structures pursuant to Chapter 4 Section C.3.c.34.

#### 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 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 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 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.

All new nonwater-oriented development, where allowed, shall be conditioned with the requirement to provide ecological restoration and public access.

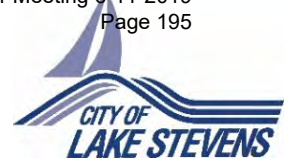
The Shoreline Administrator will consult the provisions of this SMP and determine the applicability and extent of ecological restoration and/or public access required. The extent of ecological restoration shall be that which is reasonable given the specific circumstances of a commercial development.

- 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 and include, but are not limited to 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 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.

### **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/or 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 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**

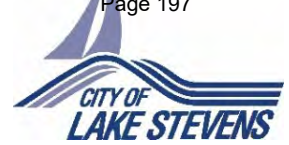
Recreational development includes public and commercial facilities for recreational activities such as hiking, photography, viewing, fishing, boating, swimming, bicycling, picnicking, and playing. It also includes facilities for active or more intensive uses, such as parks, campgrounds, golf courses, 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 addressed in separate categories in this chapter in sections C.3, C.4 and C.8.

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 the shoreline use 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 Shoreline Administrator determines there is no other feasible option.



- b. The parking supports a water-oriented use.
  - c. All adverse impacts from the parking in the shoreline jurisdiction are mitigated.
3. All new recreational development proposals will be reviewed by the Shoreline Administrator for ecological restoration and public access opportunities. When restoration or public access plans indicate opportunities exist for these improvements, the 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 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.6-7 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 or structures, which are designed for and used or intended to be used to provide a place of abode, including single-family residences, duplexes, multi-family residences, mobile home parks, residential subdivisions, residential short subdivisions, and planned residential development, together with normal appurtenances common to a single-family residence pursuant to WAC 173-27-040(2)(g). Residential development does not include hotels, motels, or any other type of overnight or transient housing or camping facilities.

### **b. Policies**

1. Single-family residences are the most common form of shoreline development and are identified as a priority use when developed in a manner consistent with control of pollution and prevention of damage to the natural environment. Without proper management, single-family residential use can cause significant damage to the shoreline area through cumulative impacts from shoreline armoring, storm water runoff, septic systems, introduction of pollutants, and vegetation modification and removal. Residential development also includes multifamily development and the creation of new residential lots through land division. (WAC 173-26-241(3)(j)).
2. Residential development should be prohibited in critical areas including, but not limited to wetlands, steep slopes, floodways, and buffers.





3. 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.
4. 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.
5. 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.
6. Sewage disposal facilities, as well as water supply facilities, shall be provided in accordance with appropriate state and local health regulations.
7. 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 ~~74~~ 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 ~~64~~. Shoreline Regulations for Residential Properties on Lakes**

	Regulation:
Standard Minimum Building Setback from OHWM	50 ft lake setback + 10 ft building setback <sup>1</sup>
Standard Minimum Deck Setback from OHWM	50 feet
Maximum Impervious Surface of Lot Area Above OHWM	40% <sup>2</sup>

<sup>1</sup> *As an alternative to the above standard lake and building setbacks, these setbacks for existing development may be established as set forth in subsection ~~23~~.a.ii below.*

<sup>2</sup> *See exception in subsection C.8.c. ~~23~~.b for lots smaller than half the minimum size.*

- ~~2. Legally constructed single family residences and appurtenant structures used for a conforming use, but that do not meet the regulations of this SMP for setbacks,~~



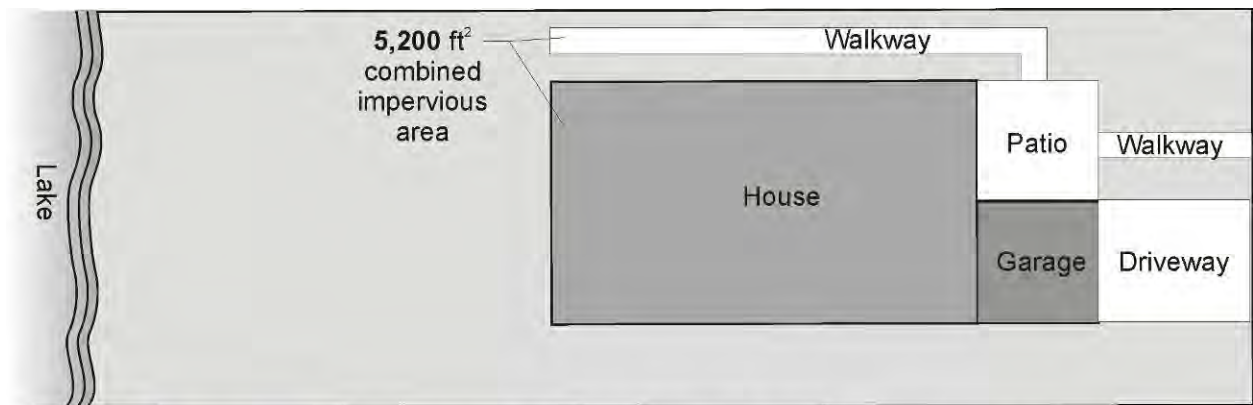
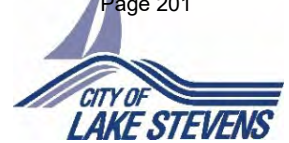
~~buffers, yards, areas, bulk, height, or density shall be considered conforming structures and shall be subject to the provisions in Chapter 7, Section G.~~

32. New residential development, including new structures, new pavement, and additions, within shoreline jurisdiction on lakes shall adhere to the following standards:
- a. Setbacks:
    - i. New buildings: Set back all covered or enclosed structures with a minimum setback of 60 feet from the OHWM (consisting of 50 feet from the OHWM plus an additional 10 foot building setback).
    - ii. Existing buildings: The setback is at the face of the existing single-family residence if less than the standard setback. The footprint of the existing structure may be expanded up to 600 square feet within the area between the standard setback and the face of the structure, pursuant to mitigation sequencing in Chapter 3 Section B.4.c.4, and including mitigation proportional (1:1) to the setback area impacted through planting of vegetation or low impact development techniques on the shore and up to 20 feet landward and in conformance with all other regulations including side setbacks and impervious surface requirements. Additional expansion may occur landward of the standard setback in conformance with all other regulations.
    - iii. Building overhangs are allowed to extend no more than 18 inches into the building setback.
    - iv. Patios and decks: Uncovered patios made with porous materials or above grade decks 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.
  - 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 should be designed and constructed to the standards of the 2012 Stormwater Management Manual for Western Washington, as Amended in December 2014 (Ecology Publication #14-10-055)-2005 Stormwater Manual, as amended, and the Puget Sound Partnership Low Impact Development Manual, as amended. 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.

EXCEPTION: Lots with total lot area above the OHWM at 50 percent or less than the minimum lot size may develop up to 50 percent impervious surface. These same lots may develop up to 60 percent impervious surface with the incentive in subsection 3.c below to provide shoreline vegetation.



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 5. 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, with the exception that properties developing under the small lot exception in subsection 3.b above can increase impervious surface area up to 60 percent using this same incentive. 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 within the shoreline setback provided the property owner agrees to not construct a bulkhead or install any hard shoreline stabilization to protect the deck in the future, and:

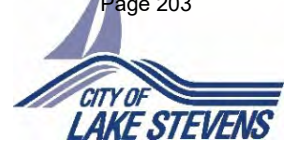


- i. Waterfront deck or patio covers less than 25 percent of the shoreline frontage (width of lot measured along shoreline) and native vegetation covers a minimum of 75 percent of the shoreline frontage. The waterfront deck would count toward total impervious surface calculations.
- ii. Within 25 feet 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.~~

~~evi. The 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 not construct a bulkhead or install hard shoreline stabilization to protect the deck in the future, and~~ adheres to, a shoreline vegetation management plan prepared by a qualified professional and approved by the Shoreline Administrator that:

- ~~(a)i-~~ Requires the preparation of a revegetation plan,
- ~~(b)ii-~~ Requires the native vegetation to consist of a mixture of trees, shrubs and groundcover and be designed to improve habitat functions,
- ~~(c)iii-~~ Includes appropriate limitations on the use of fertilizer, herbicides and pesticides as needed to protect lake water quality, and
- ~~(d)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

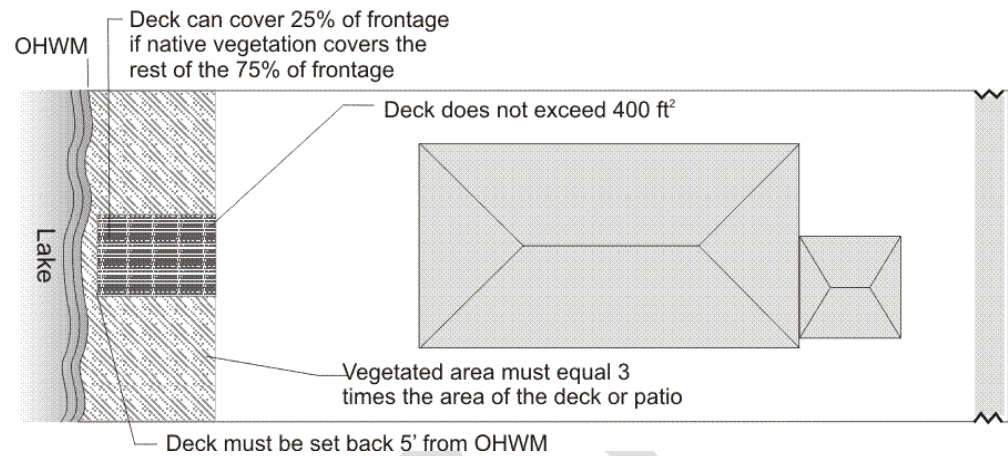


Figure 6. Waterfront deck bonus for lots with no bulkhead or if bulkhead is removed.

43. Non-enclosed garages and pavements for motorized vehicles (drives and parking areas) shall be set back at least 60 feet from the OHWM, unless the applicant demonstrates that such a configuration is not feasible.
54. Accessory uses and appurtenant structures not addressed in the regulations above shall be subject to the same conditions as primary residences.
65. 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.
  - e. Land-division creating four or more new parcels shall provide Public Access (see Chapter 2 Section 4.c.5. and Chapter 3 Section B.7.).

In addition, new residential development on new lots that contain intact native vegetation shall conform to the vegetation conservation standards in Chapter 3 Section B.11.

76. The stormwater runoff for all new or expanded pavements or other impervious surfaces shall be directed to ~~infiltration-stormwater~~ systems designed and installed in accordance with ~~the City of Lake Stevens Surface Water Management Plan the standards of the 2012 Stormwater Management Manual for Western Washington, as Amended in December 2014 (Ecology Publication #14-10-055).~~



87. See the Chapter 3 Section B.11 for regulations related to clearing, grading, and conservation of vegetation.
8. A 4-foot wide path (or six-feet for ADA accessibility upon documentation of need) may be located in the lake setback to provide access to the shoreline or to a dock, contingent upon meeting no net loss of shoreline ecological function and the following provisions:
- a. Within 20 feet of the ordinary high-water mark, for every one square foot of path within the shoreline setback, three square feet of native vegetated area (not lawn) shall be provided or enhanced along the shoreline. No shoreline mitigation planting may be double counted for other existing or new impacts.
9. Landscape installation or site improvements, including but not limited to landscape walls and land disturbance (e.g., grading), shall be allowed, including within the shoreline setback, when in support of or in preparation for an allowed shoreline use.
- a. All landscaping installations or site improvements within the shoreline setback shall comply with the policies and regulations regarding vegetation conservation contained in Chapter 3(B) 11 above and meet no net loss of shoreline ecological function. No shoreline mitigation planting may be double counted for other existing or new impacts.
  - b. Landscape walls shall not exceed four feet in height nor be placed closer than 20 feet landward of the ordinary high-water mark.
  - c. For every lineal foot of wall within the shoreline setback, three square feet of native vegetated area (not lawn) shall be provided or enhanced 20 feet landward of the ordinary high-water mark, along the shoreline.

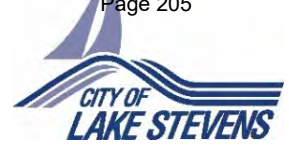
Residential Properties within Shoreline Jurisdiction on Rivers and Streams

109. Table 8-5 below is a summary of regulations for residential properties within shoreline jurisdiction on rivers or streams:

**Table 75. Regulations for Residential Properties within Shoreline Jurisdiction on Rivers or Streams**

	Regulation:
Standard Minimum Building Setback	
Catherine Creek	150 ft stream setback + 10 ft building setback
Little Pilchuck Creek	150 ft stream setback + 10 ft building setback





1140. 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 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 encroach into the building setback.
- 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 14.48-I for maximum height limitations within each zone.

1244. Also see regulations for Shoreline Stabilization and Docks and Floats in Chapter 4 for those structures.

1342. 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 Shoreline Administrator, or treated wood meeting or exceeding the standards outlined in the latest edition of the Western Wood Preservers Institute Best Management Practices for the Use of Treated Wood in the Aquatic and Sensitive Areas. 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. Detached garages and vehicle (motorized and recreational) 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.

1413. The stormwater runoff for all new or expanded pavements or other impervious surfaces shall be directed to ~~infiltration-stormwater~~ systems designed and installed in accordance with ~~the City of Lake Stevens Surface Water Management Plan the standards of the 2012 Stormwater Management Manual for Western Washington, as Amended in December 2014 (Ecology Publication #14-10-055).~~

1544. 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.32 above. See also Chapter 3 Section B.11.

1645. 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

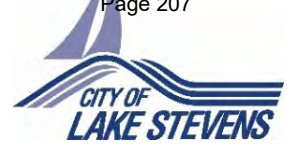
1. Circulation system planning on shorelands should include systems for pedestrian, bicycle, and public transportation where appropriate. Circulation planning and projects should support existing and proposed shoreline uses that are consistent with the SMP.
2. Trail and bicycle paths should be encouraged 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 Section 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.
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 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. Fill for development of transportation facilities is 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 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 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, and/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 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.

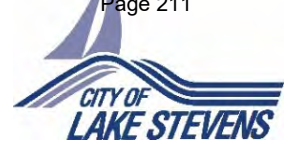
The Shoreline Administrator will consult the provisions of this SMP and determine the applicability and extent of ecological restoration required. The extent of ecological restoration shall be that which is reasonable given the specific circumstances of utility development.

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 expanded, 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 aboveground 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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**These definitions are only for use with the Shoreline Master Program and associated documents and for the shoreline-related land use codes in Title 14 of the Lake Stevens Municipal Code. Unless otherwise defined in this chapter, the definitions provided in LSMC 14.08.010 shall apply. If there is a conflict, the definitions in this chapter shall govern.**

*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.

*Agriculture land.* Land used for commercial production (as shown by record of any income) of horticultural, viticultural, floricultural, dairy, apiary, or animal products, or of vegetables, Christmas trees, berries, grain, hay, straw, turf, seed, or livestock, and that has long-term (six years or longer) commercial significance for agricultural production.

*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.

*Aquifer recharge area.* Geological formations with recharging areas having an effect on aquifers used for potable water where essential source of drinking water is vulnerable to contamination.

*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 available science.* Current scientific information, which is used to designate, regulate, protect, or restore critical areas and which is derived from a valid scientific process as set forth in WAC [365-195-900](#) through [365-195-925](#) and Section [14.88.235](#).

*Best management practices (BMPs).* The best available conservation practices or systems of practices and management measures that:

- a. Control soil loss and protect water quality from degradation caused by nutrients, animal waste, toxins, and sediment; and
- b. 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.

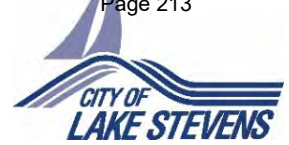
*Biofiltration system.* A stormwater or other drainage treatment system that utilizes as a primary feature the ability of plant life to screen out and metabolize sediment and pollutants. Typically, biofiltration systems are designed to include grassy swales, retention ponds and other vegetative features.

*Boathouse or Boat shelter.* An over-water structure specifically designed or used for storage of boats with permanent walls and/or roofs. Boathouses have a roof and three solid walls and may include a large door on the waterward side to fully enclose the boathouse. Boat shelters have a roof and possibly one or two walls, but are not fully enclosed on three sides.

*Bog.*

- Shoreline Definition – 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.





- **Critical Areas Definition** – A wetland with limited drainage and generally characterized by extensive peat deposits and acidic waters. Vegetation can include, but is not limited to, sedges, sphagnum moss, eriogonums, shrubs, and trees.

**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.

**Buffer management.** An activity proposed by a public agency, public utility, or private entity, and approved by the Planning and Community Development Director, within a buffer required by this title, that is proposed to:

- (1) Reduce or eliminate a verified public safety hazard;
- (2) Maintain or enhance wildlife habitat diversity; or
- (3) Maintain or enhance a fishery or other function of stream, wetland, or terrestrial ecosystems.

**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 stock watering 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.

**Classes, wetland.** The wetland taxonomic classification system of the United States Fish and Wildlife Service (Cowardin, et al. 1978).

**Clearing.** The destruction or removal of vegetation groundcover, shrubs and trees including root material removal and topsoil removal.

**Community Access.** A physical or visual approach to the shoreline available only to authorized users of a development, not the general public.

**Community Dock.** A shared over-water structure built for a residential subdivision or multi-family development to provide water-dependent activities, including multiple slips for moorage of one boat per



resident. More than one dock may be allowed if stated in the originating covenants of the development. The slips are for residents only and not for rent or sale to non residents.

*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).

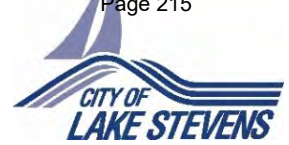
*Critical habitat.* Habitat necessary for the survival of endangered, threatened, sensitive species as listed by the Federal Government or the State of Washington. Habitat for species listed on the candidate list, or monitored species as listed by the Federal Government or the State of Washington, may 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.

*Decking.* Material used on the top of piers, docks, floats, or other overwater structures. Examples include boards and grating. Other materials that meet the 40 percent open space requirements would be comparable and useable if approved by Fish and Wildlife.





*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.

“Development” does not include dismantling or removing structures if there is no other associated development or re-development- (RCW 90.58.030(3)(d)WAC 173-27-030(6)).

*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 Shoreline Master Program.

*EIS.* Environmental Impact Statement.

*Emergency.*

- Shoreline Definition – 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)).



- Critical Areas Definition – An action that must be undertaken immediately or within a time frame too short to allow full compliance with Chapter 14.88 LSMC, in order to avoid an immediate threat to public health or safety, to prevent a imminent danger to public or private property, or to prevent an imminent threat of serious environmental degradation.

*Emergent wetland.* A wetland with at least 30 percent of its surface covered by erect, rooted, herbaceous vegetation at the uppermost vegetative strata.

*Enhancement.* Alteration of an existing resource to improve or increase its characteristics, functions, or processes without degrading other existing ecological functions.

*Enhancement, wetland mitigation.* Manipulation of the physical, chemical or biological characteristics of a wetland site, in order to heighten, intensify or improve functions or to change the growth stage or composition of the vegetation present. Enhancement is undertaken for specified purposes such as water quality improvement, flood water retention or habitat improvement. Activities typically consist of planting vegetation, controlling non-native or invasive species, modifying the site elevation or the proportion of open water to influence hydroperiods, or some combination of these activities. Enhancement results in a benefit to some wetland functions and can lead to a decline in other wetland functions but does not result in a gain in wetland acres. Activities typically consist of planting vegetation, controlling non-native or invasive species, modifying site elevations or the proportion of open water to influence hydroperiods, or some combination of these activities.

*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.

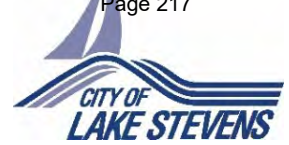
*Exemption.* Certain specific developments listed in WAC 173-27-040 are exempt from the definition of substantial developments and are therefore exempt from the substantial development permit process of the SMA. An activity that is exempt from the substantial development provisions of the SMA must still 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.”

*Existing Development.* Shoreline development which was lawfully constructed or established prior to the effective date of the Shoreline Management Act or the Shoreline Master Program (SMP), or amendments thereto, but which is not consistent with at least one of the present regulations or standards of this SMP. See definition of “development.”

*Exotic species.* Plants or animals that are not native to the Puget Sound Lowlands region.

*Extraordinary hardship.* Prevention of all reasonable economic use of the parcel due to strict application of this chapter and/or programs adopted to implement this Shoreline Master Program.

*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.* Any land area susceptible to be inundated by water from a flood.

*Floodway.* ~~The channel of a stream or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot at any point. As used in this title, the term refers to that area designated as a floodway on the Flood Insurance Rate Map prepared by the U.S. Federal Emergency Management Agency, a copy of which is on file in the Planning and Community Development Department. The area that has been established in effective Federal Emergency Management Agency (FEMA) flood insurance rate maps or floodway maps. The floodway does not include 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.

*Forest land.* Land used for growing trees, not including Christmas trees, for commercial purposes (as shown by record of any income) that has long-term (six years or more) commercial significance.



*Frequently flooded areas.* Lands indicated on the most current FEMA map to be within the 100-year floodplain. These areas include, but are not limited to, streams, lakes, coastal areas, and wetlands.

*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. They may pose a threat to the health and safety of citizens when used as sites for incompatible commercial, residential or industrial development.

*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).

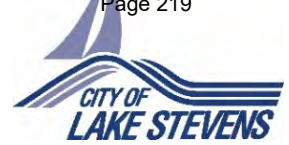
*Grade.* See “base elevation.”

*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 approved federal wetland delineation manual and applicable regional supplements, 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 2012 Stormwater Management Manual for Western Washington, as Amended in December 2014 (Ecology Publication #14-10-055) ~~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.

*Low water mark.* The lowest water level of Lake Stevens recorded by the City of Lake Stevens or Snohomish County over the previous three years.

*LSMC.* Lake Stevens Municipal Code, including any amendments thereto.

*Marina.* A system of piers, buoys, or floats to provide moorage for four or more boats.





*May.* Indicates the action is within discretion and authority, provided they conform to the provisions of this SMP and the SMA. (WAC 173-26-191(2))

*Mineral resource lands.* Lands primarily devoted to the extraction of gravel, sand, other construction materials, or valuable metallic or mineral substances.

*Mitigation (or mitigation sequencing).* The process of avoiding, reducing, or compensating for the environmental impact(s) of a proposal or adverse impacts to critical areas or sensitive resources, 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.

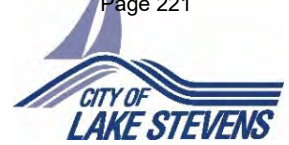
*Must.* A mandate; the action is required.

*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.

*Natural resource lands.* Agriculture, forest, and mineral resource lands as defined in this chapter.

*Nonconforming development or nonconforming structure.* ~~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.~~ An existing structure that was lawfully constructed at the time it was built but is no longer fully consistent with present regulations such as setbacks, buffers or yards; area; bulk; height or density standards due to subsequent changes to the master program.



*Nonconforming lot.* A lot that met dimensional requirements of the applicable master program at the time of its establishment but now contains less than the required width, depth or area due to subsequent changes to the master program.

*Nonconforming use.* An existing shoreline use that was lawfully established prior to the effective date of the Shoreline Management Act or the applicable master program, but which does not conform to present use regulations due to subsequent changes to the master program.

*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.

*OHWL.* 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 (OHWL).* 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.

*Primary Structure.* A structure that is central to the fundamental use of the property and is not accessory to the use of another structure on the property. Examples include a single-family home, multi-family housing or commercial building.

*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))

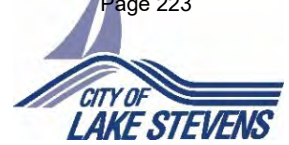
*Public interest.* The interest shared by the citizens of the state or community at large in the affairs of government, or some interest by which their rights or liabilities are affected such as an effect on public property or on health, safety, or general welfare resulting from a use or development.

*Public water system.* A water system that serves two or more connections.

*Qualified professional.* A person with experience and training in the pertinent scientific discipline, and who is a qualified scientific expert with expertise appropriate for the relevant critical area subject in accordance with WAC 365-195-905(4). A qualified professional must have obtained a B.S. or B.A. or equivalent degree in biology, engineering, environmental studies, fisheries, geomorphology, archaeology, cultural resources or related field, and two years of related work experience.

- a. A qualified professional for streams, wetlands or other natural habitats must have a degree in biology with professional experience related to the subject critical area, for wetlands this includes delineating wetlands using federal manuals, preparing wetland reports, conducting function assessments, and developing and implementing mitigation plans.
- b. A qualified professional for geologically hazardous areas must be a professional geotechnical engineer or geologist, licensed by the state of Washington.
- c. A qualified professional for cultural resources must have a degree in archaeology or cultural resources and professional experience related to their discipline of expertise.





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.

*Scrub-shrub wetland.* A wetland with at least 30 percent of its surface area covered with woody vegetation less than 20 feet in height.

*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.

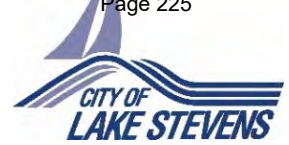
*Shall.* A mandate; the action must be done. (WAC 173-26-191(2))

*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. (WAC 173-26-191(2))

*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.

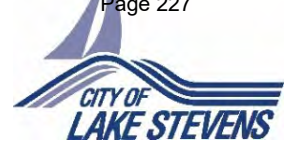
*SMA.* The Shoreline Management Act of 1971, Chapter 90.58 RCW, as amended.

*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.

Streams are further characterized as S, F, Np, or Ns.



*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.*

- Shoreline Definition – 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.
- Critical Areas Definition – A wetland whose dominant vegetation is composed of woody plants and trees.

*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.

*Watercraft.* A motorized or non-motorized recreational water vehicle that the rider rides in or stands on. Examples include but are not limited to motor boats, kayaks, canoes, jet skies, rowboats, rowing shells, sailboats, and paddle boats

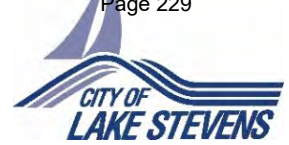
*Water-dependent use.* A use or a portion of a use which cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operations. Examples of water-dependent uses may include fishing, boat launching, swimming, float planes, and stormwater discharges.

*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 stream reach, 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))

*Waters of the state:* Wherever the words "waters of the state" shall be used in this chapter, they shall be construed to include lakes, rivers, ponds, streams, inland waters, underground waters, salt waters and all other surface waters and watercourses within the jurisdiction of the state of Washington. (RCW 90.48.020)

*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 approved federal wetland delineation manual and applicable regional supplement. ~~See the Washington State Wetlands Identification and Delineation Manual.~~

*Wetland category.* See Appendix B Critical Areas Regulations Within Shoreline Jurisdiction.

*Wetland delineation.* See Appendix B Critical Areas Regulations Within Shoreline Jurisdiction.

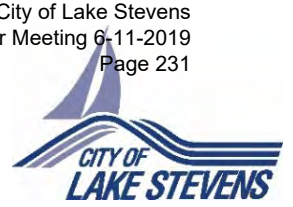
*Wetland mitigation bank.* A site where wetlands and buffers are restored, created, enhanced, or in exceptional circumstances, preserved expressly for the purpose of providing compensatory mitigation in advance of authorized impacts to similar resources.

*Wetlands rating system.* See Appendix B Critical Areas Regulations Within 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.





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## 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.

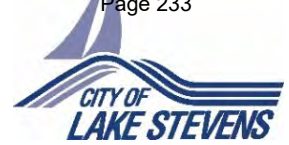
3. If consistent with WAC 173-27-044 and -045, requirements to obtain a substantial development permit, conditional use permit, variance, letter of exemption, or other review to implement the Shoreline Management Act do not apply to: remedial actions; boatyard improvements to meet NPDES permit requirements; WSDOT facility maintenance and safety improvements; projects consistent with an environmental excellence program agreement; projects authorized through the Energy Facility Site Evaluation process.

### 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.C.1 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 exemptions are a Type I Administrative Decisions without Public Notice review process and shall be processed and subject to the applicable regulations. 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 III 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 173-27-10(2)(e).
4. Application review. The Administrator shall make decisions on applications for shoreline exemptions and substantial development permits, and recommendations to the Hearing Examiner 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 conditional use and shoreline variance 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 an exemption, 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.~~



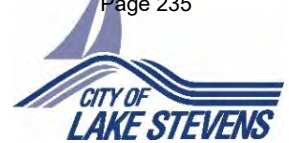
After all local permit administrative appeals or reconsideration periods are complete and the permit documents are amended to incorporate any resulting changes, the City shall mail the permit using return receipt requested mail to the Department of Ecology regional office and the Office of the Attorney General. Projects that require both conditional use permits and or variances shall be mailed simultaneously with any substantial development permits for the project. The permit and documentation of the final local decision shall be mailed together with the complete permit application; a findings and conclusions letter; a permit data form (cover sheet); and applicable SEPA documents. 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” is defined below:

- a. For projects that only require a substantial development permit: the date that Ecology receives the City decision.
  - b. For a conditional use permit or variance: the date that Ecology’s decision on the conditional use permit or variance is transmitted to that applicant and the City.
  - c. For substantial development permits simultaneously mailed with a conditional use permit or variance to Ecology: the date that Ecology’s decision on the conditional use permit or variance is transmitted to the applicant and the City. ~~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 and Exemptions

### 1. 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. An exempt development is only exempt from a shoreline permit, but is still subject to other provisions in this SMP and any other applicable federal, state and local rules and regulations.



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 Superior Court under Chapter 36.70C RCW. 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.

For the purposes of this chapter, the terms "development" and "substantial development" are as defined in RCW 90.58.030 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~~seven thousand ~~forty~~seven dollars (\$7,047), if such development does not materially interfere with the normal public use of the water or shorelines of the state. The dollar threshold established in this subsection must be adjusted for inflation by the Office of Financial Management every five years, beginning July 1, 2007, based upon changes in the consumer price index during that time period. 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, hybrid 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 applies if the fair market value of the dock does not exceed: (A) twenty thousand dollars for docks that are constructed to replace existing docks, are of equal or lesser square footage than the existing dock being replaced; or (B) ten thousand dollars for all other docks in fresh waters, the~~However, 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, and the combined fair market value of the subsequent and prior construction exceeds the amount specified above, 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 that conforms to the provisions of RCW 77.55.181.~~
- q. The external or internal retrofitting of an existing structure with the exclusive purpose of compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.) or to otherwise provide physical access to the structure by individuals with disabilities.

## 2. 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 (WAC 173-27-180)

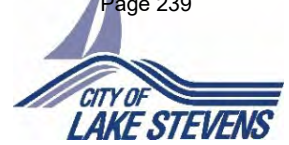
In addition to the application requirements of the specified submittal checklist, any person applying for a shoreline substantial development permit shall submit with their application the following information:

- a. The name, address and phone number of the applicant, applicant's representative and property owner;
- b. The location and legal description of the proposed shoreline substantial development;
- c. ~~5~~ Name of the shoreline (water body) associated with proposal;
- d. A general description of the vicinity of the project (at least 400 feet) including adjacent uses, structures and improvements, intensity of development and physical characteristics;
- e. The present and intended use of the property and a description of the proposed shoreline substantial development project including proposed use(s) and activities necessary to accomplish the project.
- f. A site development plan consisting of maps and elevation drawings, drawn to an appropriate scale to depict clearly all required information and including photos or text, as required. The following information will be provided on a site plan map:
  - i. Land contours, using five foot contour intervals; if project includes grading, filling or other alteration of contours, then either:



- (a) Show both existing and proposed contours on a single map, clearly indicating which is which, and include subsections (f)(ii) through (xiii) of this section;  
or
- (b) Provide two or more maps, one showing existing contours, including subsections (f)(ii) through (vi) of this section, and the other showing proposed contours, including subsections (f)(vii) through (xiii) of this section;
- ii. Dimensions, including height, size and location of existing and proposed structures and improvements, including but not limited to buildings, paved or gravel areas, roads, utilities, septic tanks and drainfields, material stockpiles or surcharge, and stormwater management facilities;
- iii. Ordinary high-water mark;
- iv. Beach type: sand, mud, gravel, etc.;
- v. Width of setback, side yards;
- vi. Delineate all critical areas including lakes, streams and wetland areas and their buffers and identify those to be altered or used as part of the development;
- vii. General indication of character of vegetation found on the site;
- viii. Proposed temporary and permanent fill areas (state quantity, source and composition of fill);
- ix. Proposed excavated or dredged areas (state quantity, composition and destination of material);
- x. A landscaping plan for the project, if applicable;
- xi. Plans for mitigation on or off the site for impacts associated with project, if applicable;
- xii. A depiction of impacts to views from existing residential uses and public areas, where applicable; and
- xiii. For variances, clearly show on plans where development could occur without approval of variance, the physical features and circumstances on the property that provide a basis for request and location of adjacent structures and uses.
- 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; and
- l. Owners of record within 300 feet of project site in electronic table format.





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 Shorelines Hearings Board. The department director action is the final City decision on a Type II application.

### 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 Shorelines Hearings Board.

The following is from WAC 173-27-150 Review Criteria for Substantial Development Permits.

- f. A substantial development permit shall be granted only when the development proposed is consistent with:
  - i. The policies and procedures of the act;
  - ii. The provisions of this regulation; and
  - iii. 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.
- g. 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 - Shorelines Hearings Board

Any decision made by the Administrator on a shoreline exemption or 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 Shorelines Hearings Board in accordance with the review process established by RCW 90.58.180 or as subsequently amended, and with the regulations of the Shorelines Hearings Board contained in Chapter 461-08 WAC or as subsequently amended. Pursuant to RCW 90.58.180, the request for



review must be filed with the Hearings Board within twenty-one (21) days of the date of ~~receipt of the decision~~ filing, as provided for in RCW 90.58.140(6).

## D. Conditional Use Permits

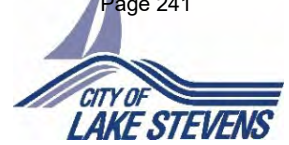
### 1. Shoreline Conditional Use Permits

- 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 Shorelines 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:
  - i. That the proposed use is consistent with the policies of RCW 90.58.020 and the master program;
  - ii. That the proposed use will not interfere with the normal public use of public shorelines;
  - iii. 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;
  - iv. That the proposed use will cause no significant adverse effects to the shoreline environment in which it is to be located; and
  - v. 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 Shorelines 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:
  - i. 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;
  - ii. That the hardship described in (i) 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;
  - iii. 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;
  - iv. That the variance will not constitute a grant of special privilege not enjoyed by the other properties in the area;
  - v. That the variance requested is the minimum necessary to afford relief; and



- vi. 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:
  - i. 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;
  - ii. That the proposal is consistent with the criteria established under subsection (b)(ii) through (vi) of this section; and
  - iii. 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.

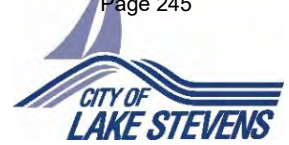
The following is from WAC 173-27-100 Revisions to Permits.

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.

7. 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.
8. "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.
9. 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.
10. 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.
11. 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.

12. 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.
13. 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.
14. 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. Existing Structures and Development

Per RCW 90.58.620, only residential ~~Existing single family homes, other~~ structures, ~~existing uses~~ and ~~their~~ appurtenances that were legally established prior to the effective date of this SMP are considered to be conforming to the SMP. Additions, expansion or reconstruction to these structures, ~~uses~~ and appurtenances must meet the provisions of this SMP. For purposes of this section, appurtenances do not include bulkheads, other shoreline modifications, or overwater structures.

1. "Existing structure or development" means a shoreline structure or development which was lawfully constructed or established prior to the effective date of the Shoreline Management Act or the Shoreline Master Program (SMP), or amendments thereto, but which is not consistent with present regulations or standards of this SMP.
2. Existing structures that were legally established and are used for a legal use but which do not meet the regulations for 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 noncompliance with the regulations by further encroaching upon or extending into areas where construction or use would not be allowed for new development or uses.
3. ~~Existing developments that were legally established and are not consistent with regard to the use regulations of the master program may continue as legal existing uses. Such uses shall not be enlarged or expanded, except that existing single family residences that are located landward of the ordinary high water mark may be enlarged or expanded in compliance 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).~~

34. An existing structure for which a variance has been issued shall be considered a legal existing structure and the requirements of this section shall apply as they apply to existing structures.
45. An existing structure which is moved any distance must be brought into conformance with the regulations for setbacks, buffers or yards and other applicable regulations for new development and uses.
56. If an existing development is damaged to the extent that reconstruction/replacement is warranted, it may be reconstructed/replaced to those configurations existing immediately prior to the time the development was damaged. In order for this reconstruction/replacement to occur, application must be made for all necessary permits within twenty-four months of the date the damage occurred, and all reconstruction/replacement must be completed within two years of permit issuance.

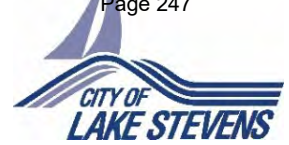
## H. Nonconforming Uses and Lots

**Continuance:** Any legally established use nonconforming to the shoreline regulations in this document is permitted to remain in the form and location in which it existed on the effective date of nonconformance.

~~The following is from WAC 173-27-080 Nonconforming Use Standards.~~

- ~~1. "Nonconforming use" means a shoreline use which was lawfully constructed commenced or established prior to the effective date of the Shoreline Management Act or the Shoreline Master Program, or amendments thereto, but which does not conform to present regulations or standards of this SMP.~~
21. Uses 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 uses 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).
32. A use which is listed as a conditional use but which existed prior to adoption or applicability of this SMP or any relevant amendment and for which a conditional use permit has not been obtained shall be considered a nonconforming use.
43. 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 Shoreline Management Act and this SMP 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 this SMP and the Shoreline Management Act and to assure that the use will not become a nuisance or a hazard.

4. 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 (34) of this section shall be considered a conforming use for purposes of this section.
5. 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 this SMP 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.

## I. 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.

## J. 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.



## K. 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.

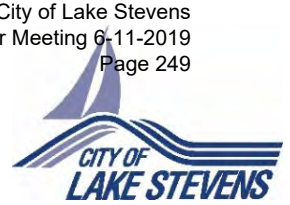
## L. Enforcement

### 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.

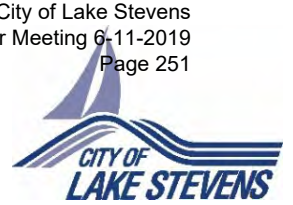


### 3. Investigation and Notice of Violation

- 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.



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# Appendix A: Shoreline Environment Designation Map

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# Appendix B:

## Critical Areas Regulations Within Shoreline Jurisdiction

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The regulations in Appendix B: Critical Areas Regulations Within Shoreline Jurisdiction are fully enforceable and considered part of the SMP regulations.

Sections:

### Part 1. Purpose and Intent

#### 1.A Purpose and Intent

### Part 2. Definitions

#### 2.A Definitions

### Part ~~32~~. General Provisions

#### ~~32~~.A Applicability

#### ~~32~~.B Regulated Activities

#### ~~32~~.C Allowed Activities

#### ~~32~~.D Classification as a Critical Area

#### ~~32~~.E Submittal Requirements

#### ~~32~~.F Site/Resource-Specific Reports

#### ~~32~~.G Mitigation/Enhancement Plan Requirements

#### 3.H Alternative Mitigation

#### ~~32~~.~~I~~H Mitigation Monitoring

#### ~~32~~.~~J~~I Bonding (Security Mechanism)

#### 3.K Maps and Inventory

#### ~~32~~.~~L~~J Pesticide Management

#### ~~32~~.~~M~~K Building Setbacks

#### ~~32~~.~~N~~L Fencing and Signage

#### 3.O Critical Area Tracts and Easements

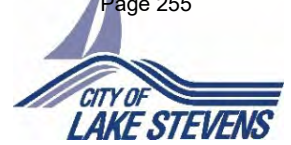
#### ~~2.M—Dedication of Open Space/Native Growth Protection Area~~

#### ~~32~~.~~P~~N Permanent Protection for Streams, Wetlands and Buffers

#### ~~32~~.~~Q~~O On-site Density Transfers for Critical Areas ~~on Sites Less than Five Acres~~

#### ~~32~~.~~R~~P Innovative Development Design





- ~~32.SQ~~ Dedication of Land and/or Easements in Lieu of Park Mitigation
- ~~3.IR~~ Assessment Relief

### **Part ~~43~~. Fish and Wildlife Conservation Areas**

- ~~43.A~~ Classification
- ~~43.B~~ Determination of Boundary
- ~~4.C~~ Species/Habitats of Local Importance
- ~~43.DC~~ Allowed Activities
- ~~43.ED~~ Requirements
- ~~43.FE~~ Mitigation

### **Part ~~54~~. Frequently Flooded Areas**

- ~~54.A~~ Classification
- ~~54.B~~ Determination of Boundary
- ~~54.C~~ Allowed Activities
- ~~54.D~~ Requirements
- ~~54.E~~ Mitigation

### **Part ~~65~~. Geologically Hazardous Areas**

- ~~65.A~~ Classification
- ~~65.B~~ Determination of Boundary
- ~~65.C~~ Allowed Activities
- ~~65.D~~ Geological Assessment Requirements
- ~~65.E~~ Setback Buffer Requirements
- ~~65.F~~ Allowed Alterations
- ~~65.G~~ Prohibited Alterations
- ~~65.H~~ Mitigation

### **Part ~~76~~. Wetlands**

- ~~7.A~~ Purpose
- ~~76.BA~~ Identification and Rating~~Classification~~
- ~~76.CB~~ Determination of Boundary
- ~~76.DC~~ Allowed Activities
- ~~76.ED~~ Requirements
- ~~76.FE~~ Mitigation



## **~~Part 8. Transfer of Development Rights~~**

8.A Definitions

8.B Intent and General Regulations of Transferring Development Rights (TDR).

8.C Qualifications for Designation of Land as a Critical Area Sending or Receiving  
District.

8.D Designation Process.



## Part I. Purpose and Intent

### **1.A Purpose and Intent.**

The purpose of this appendix is to designate, classify, and protect the critical areas within shoreline jurisdiction of the Lake Stevens community by establishing regulations and standards for development and use of properties which contain or adjoin shoreline jurisdictional critical areas for protection of the public health, safety, and welfare. The purpose and intent of this appendix is also to ensure that there is no net loss of the acreage or functions and values of shoreline jurisdictional critical areas regulated by this appendix. The regulations in this appendix are fully enforceable and considered part of the SMP.

- (a) A project proponent shall make all reasonable efforts to avoid and minimize impacts to shoreline jurisdictional critical areas ~~and buffers in the following sequential order of preference according to the mitigation sequence described in SMP Chapter 3 Section B.4:~~
- ~~(1) Avoiding impacts altogether by not taking a certain action or parts of an action; or~~
  - ~~(2) When avoidance is not possible, minimizing impacts by limiting the degree or magnitude of the action and its implementation, using appropriate technology, or by taking affirmative steps, such as project redesign, relocations, or timing, to avoid or reduce impacts and mitigating for the affected functions and values of the critical area; and~~
  - ~~(3) Reducing or eliminating impacts over time by preservation and maintenance operations during the life of the action.~~
  - ~~(4) Compensating for unavoidable impacts by replacing, enhancing or providing substitute resources or environments.~~
- (b) Protect the public from personal injury, loss of life, or property damage due to flooding, erosion, landslides, seismic events, or soil subsidence.
- (c) Protect against publicly financed expenditures due to the misuse of shoreline jurisdictional critical areas which cause:
- (1) Unnecessary maintenance and replacement of public facilities;
  - (2) Publicly funded mitigation of avoidable impacts;
  - (3) Cost for public emergency rescue and relief operations where the causes are avoidable;
  - (4) Degradation of the natural environment.
- (d) Protect aquatic resources.
- (e) Protect unique, fragile, and valuable elements of the environment, including wildlife and its habitat.
- (f) Alert appraisers, assessors, owners, potential buyers, or lessees to the development limitations of critical areas.
- (g) Provide City officials with sufficient information to adequately protect shoreline jurisdictional critical areas when approving, conditioning, or denying public or private development proposals.



- (h) Give guidance to the development of Comprehensive Plan policies in regard to the natural systems and environment of the Lake Stevens Watershed.
- (i) Provide property owners and developers with succinct information regarding the City's requirements for property development.

## **Part II. Definitions**

### **2.A Definitions.**

~~The definitions related to critical areas are included in Chapter 14.08.~~

For the purposes of this appendix, the definitions in Chapter 6 of this Shoreline Master Program shall apply.

## **Part III. General Provisions**

### **3.A Applicability.**

The provisions of this appendix apply to all lands, land uses and development activity ~~in areas of shoreline jurisdiction~~ within the City. No action shall be taken by any person, which results in any alteration of any shoreline jurisdictional critical areas except as consistent with the purposes, objectives, and goals of this SMP.



### **3.B Regulated Activities.**

For any regulated activity, a critical areas report is required to support the requested activity. Land use and development activities in shoreline jurisdictional critical areas shall ensure no net loss of critical area and functions. Regulated activities include, but are not limited to, the following activities consistent with WAC 173-26-221(2)(c)(i)(A).

- (a) For any regulated activity, a critical areas report is required to support the requested activity. All land use and/or development activities on lands containing critical areas are subject to this appendix and are prohibited unless:
- ~~(1) The use or activity is found to be exempt by the Shoreline Administrator or designee per the "allowed activities" sections of this chapter; or~~
  - ~~(2)(1) The use or activity meets the performance standards found in the "requirements" sections of this appendix; or~~
  - ~~(3) It can be demonstrated that the denial of authorization of such an activity would deny all reasonable economic uses, as demonstrated per Section 14.88.310. In such a case, approval in writing shall be issued by the Planning and Community Development Director or designee. Approval of a reasonable economic use must be attached to another type of development permit obtained from the City of Lake Stevens prior to undertaking the regulated activity in the critical area or its buffer.~~
- (b) Land use and development activities include, but are not limited to, the following activities:
- (1) The removal, excavation, grading, or dredging of soil, sand, gravel, minerals, organic matter, or material of any kind.
  - (2) The dumping, discharging, or filling with any material.
  - (3) The draining, flooding, or disturbing of the water level or water table.
  - (4) The driving of pilings.
  - (5) The placing of obstructions.
  - (6) The construction, reconstruction, demolition, or expansion of any structure.
  - (7) The destruction or alteration of vegetation in a critical area through clearing, harvesting, shading, intentional burning, or planting of vegetation that would alter the character of a critical area.
  - (8) Class IV – General Forest Practices under the authority of the 1992 Washington State Forest Practices Act Rules and Regulations per WAC 222-12-030, or as thereafter amended.
  - (9) Activities that result in a significant change of water temperature, a significant change of physical or chemical characteristics of water sources, including quantity, or the introduction of pollutants.
  - (10) Land that is located wholly within a critical area or its buffer may not be subdivided, unless specifically allowed elsewhere in this appendix.



### **3.C Allowed Activities.**

Unless specifically prohibited elsewhere in this appendix or SMP, the following uses are allowed in any shoreline jurisdictional critical area or buffer; provided, that a site/resource-specific report is prepared when the activity may result in a loss of functions and values, to that describes the environmental limitations of and proposed mitigation for the site shall be submitted, reviewed, and approved by the City prior to permit issuance or land use approval:

- (a) Existing and ongoing agricultural activities, provided that they implement applicable Best Management Practices (BMPs) contained in the latest editions of the USDA Natural Resources Conservation Service (NRCS) Field Office Technical Guide (FOTG); or develop a farm conservation plan in coordination with the local conservation district. BMPs and/or farm plans should address potential impacts from livestock, nutrient and farm chemicals, soil erosion and sediment control and agricultural drainage infrastructure. BMPs and/or farm plans should ensure that ongoing agricultural activities minimize their effects on water quality, riparian ecology, salmonid populations and wildlife habitat.
- (b) Those activities and uses conducted pursuant to the Washington State Forest Practices Act and its rules and regulations, WAC 222-12-030, where state law specifically exempts local authority, except those developments requiring local approval for Class IV – General Forest Practice Permits (conversions) as defined in RCW 76.09 and WAC 222-12.
- (c) The harvesting of wild crops in a manner that is not injurious to natural reproduction of such crops and provided the harvesting does not require tilling of soil, planting of crops, chemical applications, or alteration of existing topography, water conditions, or water sources.
- (d) Enhancement of a wetland through the removal of non-native invasive plant species. Removal of invasive plant species shall be restricted to hand removal unless permits from the appropriate regulatory agencies have been obtained for approved mechanical, biological or chemical treatments. All removed plant material shall be taken away from the site and appropriately disposed of. Plants that appear on the Washington State Noxious Weed Control Board list of noxious weeds must be handled and disposed of according to a noxious weed control plan appropriate to that species. Re-vegetation with appropriate native species at natural densities is allowed in conjunction with removal of invasive plant species.
- (e) Educational and, scientific research activities.
- (f) and Public and Private Pedestrian Trails
  - (1) Trails may be construction-constructed and use of nature trails; provided, that they are proposed only within the outer 25 percent of the wetland critical area buffers to wetlands and fish and wildlife and conservation areas, except that trails may be located within the remainder of the critical area buffer when it is demonstrated through the site/resource-specific report that:
    - i. No other alternative for the trail location exists which would provide the same educational and/or scientific research opportunities; and
    - ii. The critical area functions and values will not be diminished as a result of the trail; and
    - iii. The materials used to construct the trail are pervious and will not harm the critical area; and
    - iv. Raised boardwalks using non-treated pilings or treated wood pilings meeting or exceeding the standards outlined in the latest edition of the Western Wood Preservers Institute Best Management Practices for the Use of Treated Wood in the Aquatic and Sensitive Areas may be acceptable.



- v. Land disturbance is minimized to the greatest extent possible including removal of significant trees; and
- vi. Where possible, the number of trails allowed in critical area buffers shall be limited.

(2) Trails proposed in geologically hazardous areas shall be constructed in a manner that does not increase the risk of landslide or erosion in accordance with an approved geotechnical report.

- (g) Navigation aids and boundary markers.
- (h) Site investigative work necessary for land use application submittals such as surveys, soil logs, percolation tests and other related activities. In every case, impacts shall be minimized and disturbed areas shall be immediately restored.
- (i) Normal maintenance, repair, or operation of existing structures, facilities, or improved areas.
- (j) Installation or construction of City road right-of-way; or installation, replacement, operation, repair, alteration, or relocation of all water, natural gas, cable communication, telephone, or other utility lines, pipes, mains, equipment or appurtenances, not including substations or other buildings, only when required by the City and approved by the Shoreline Administrator or designee and when avoidance of critical areas and impact minimization has been addressed during the siting of roads and other utilities and a detailed report/mitigation plan is submitted, reviewed, and approved by the City prior to permit issuance or land use approval.
- (k) Minor expansion of uses or structures existing at the time of adoption of this code, and which are in compliance with all ~~other~~ chapters of the Title 14 of the Lake Stevens Municipal Code this title; provided, that the applicant obtains all required local, State, and Federal permits, including but not limited to a Department of Fish and Wildlife Hydraulic Permit and a Clean Water Act 404 Permit and the expansion does not create a loss of ~~wetland~~-critical area and functions nor pose a significant threat to water quality. A site/resource-specific report and mitigation plan shall be prepared to describe the ~~wetland~~ critical area, function, and water quality and submitted to the City for review and approval prior to permit issuance. For the purposes of this subsection, "minor expansion" refers to an addition to or alteration of a use or structure and shall be limited to a maximum of 1,000 square feet of impervious area.
- (l) Stormwater Management Facilities. ~~Where buffers and setbacks are larger than 50 feet and slopes are less than 15 percent, stormwater management facilities, limited to stormwater d-~~Dispersion outfalls, and bioswales and other low impact facilities, may be allowed within the outer 25 percent of the buffer to wetlands and fish and wildlife and conservation areas, when the location of such facilities will not degrade the function or values of the ~~wetland~~ critical area based on the recommendation of a qualified professional for the specific critical area type. Stormwater management facilities in geologically hazardous areas shall be constructed in a manner that does not increase the risk of landslide or erosion in accordance with an approved geotechnical report.
- (m) Emergency Activities. Those activities that are necessary to prevent an immediate threat to public health, safety, or welfare or pose an immediate risk of damage to private property, and that require remedial or preventative action in a time frame too short to allow for compliance with the requirements of this appendix.
- (n) Development when the subject property is separated from a critical area by pre-existing, intervening, and lawfully created structures, public roads, or other substantial improvements. The pre-existing improvements



must be found to separate the subject property from the critical area or impair the delivery of buffer functions.

### **3.D Classification as a Critical Area.**

Criteria for classification as a critical area will be listed under the applicable sections of this appendix.

#### **Procedures.**

~~Prior to fulfilling the requirements of this chapter, the City of Lake Stevens shall not grant any approval or permission to conduct development or use in a critical area. The Planning and Community Development Director or designee is authorized to adopt administrative procedures for the purpose of carrying out the provisions of this chapter. (Ord. 773, Sec. 2, 2008; Ord. 741, Sec. 2, 2007)~~

### **3.E Submittal Requirements.**

To enable the City to determine compliance with this appendix, at the time of application submittal, the applicant shall file a SEPA Environmental Checklist (if use is subject to SEPA), site/resource-specific reports as specified in Section 23.F, all supplemental application requirements for a shoreline permit described in Chapter 7 of this SMP, and any other pertinent information requested by the Department of Planning and Community Development. The Shoreline Administrator or designee may waive any of these submittal requirements if ~~it is~~ deemed unnecessary to make a compliance determination.

#### **F Site/Resource-Specific Reports.**

Unless waived per Section 23.E, all applications for land use or development permits proposed on properties containing or adjacent to shoreline jurisdictional critical areas or their defined setbacks or buffers shall include site/resource-specific reports prepared to describe the environmental limitations of the site. These reports shall conform in format and content to guidelines prepared by the Department of Planning and Community Development, which is hereby authorized to do so. The report shall be prepared by a qualified professional who is a biologist or a geotechnical engineer as applicable with experience preparing reports for the relevant type of critical area. The report and conclusions present in the shoreline jurisdictional critical area report shall be based on the most current, accurate, and complete scientific or technical information available ~~best available science.~~

#### **G Mitigation/Enhancement Plan Requirements.**

In the event that mitigation and/or enhancement is required, the Department of Planning and Community Development shall require the applicant to provide a mitigation plan for approval and a performance and maintenance bond in a form and amount acceptable to the City in accordance with Section 23.J. The plan shall provide information on land acquisition, construction, maintenance and monitoring of the replaced shoreline jurisdictional critical area that creates a no-net-loss area in function of the original area in terms of acreage, function, habitat, geographic location and setting. ~~The plan shall also include critical areas and buffer impacts and critical areas and proposed buffer areas.~~ All mitigation plans shall include the following items, which shall be submitted by the applicant or a qualified biologist, civil or geotechnical engineer:

(a) Data collected and synthesized for the critical area and/or the newly restored site:

(1) Description of existing site conditions, critical areas and proposed buffers;

(2) Description of proposed impacts to critical areas and buffers and proposed plans to mitigate those impacts; and





(3) Documentation of the most current, accurate, and complete scientific or technical information available or site criteria supporting the proposed mitigation plan.

- (b) Specific goals and objectives describing site function, target species, selection criteria and measures to avoid and minimize impacts ~~which~~ shall include:
- (1) Reducing or eliminating the impact over time by preservation and maintenance operations;
  - (2) Compensating for the impact by replacing, enhancing, or providing substitute resources or environments;
  - (3) Enhancing significantly degraded ~~wetlands-critical areas and buffers~~ in combination with restoration or creation of wetlands and fish and wildlife conservation areas. Such enhancement should be part of a mitigation package that includes replacing the impacted area by meeting appropriate ratio requirements; and
  - (4) Unless it is demonstrated that a higher level of ecological functioning would result from an alternate approach, compensatory mitigation for ecological functions shall be either in-kind and on site, or in-kind and within the same stream reach, sub basin, or drift cell. Mitigation actions shall be conducted within the same sub drainage basin and on the same site as the alteration except as specifically provided for in Sections 34.F and 67.F;
- (c) Performance standards, which shall include criteria for assessing project specific goals and objectives and whether or not the requirements of this appendix have been met;
- (d) Contingency plans which clearly define the course of action or corrective measures needed if performance standards are not met;
- (e) A legal description and a survey prepared by a licensed surveyor of the proposed development site and location of the critical area(s) on the site;
- (f) A scaled site plotplan that indicates the proposed timing, duration and location of construction in relation to zoning setback requirements and sequence of construction phases including cross-sectional details, topographic survey data including showing percent slope, existing and finished grade elevations ~~noted~~ at two-foot intervals or less, mitigation area, and water table elevation with sufficient detail to explain, illustrate and provide for:
- (1) Soil and substrate conditions, topographic elevations, scope of grading and excavation proposal, erosion and sediment treatment and source controls needed for critical area construction and maintenance;
  - (2) Planting plans specifying plant species, types, quantities, location, size, spacing, or density. The planting season or timing, watering schedule, and nutrient requirements for planting, and where appropriate, measures to protect plants from destruction; and
  - (3) Contingency or mid-course corrections plan and a minimum five-year monitoring and replacement plan establishing responsibility for removal of exotic and nuisance vegetation and permanent establishment of the critical area and all component parts. The monitoring plan is subject to the provisions of Sections 23.I and 3.J;
- (g) A clearly defined approach to assess progress of the project, including the measurement of the success of a mitigation project by the presence of native species and an increase in the coverage of native plants over the course of the monitoring period;



- (h) The plan must indicate ownership, size, type, and complete ecological assessment including flora, fauna, hydrology, functions, etc., of the critical area being restored or created; and
- (i) The plan must also provide information on the natural suitability of the proposed site for establishing the replaced critical area, including water source and drainage patterns, topographic position, wildlife habitat opportunities, and value of existing area to be converted.

### **3.H Alternative Mitigation**

The Shoreline Administrator or designee may approve the establishment and use of a mitigation bank or in-lieu fee mitigation program to provide mitigation required by this appendix. The approval may allow deviations from the requirements of Parts IV and VII of this appendix with respect to the treatment of wetlands and fish and wildlife habitat conservation areas or buffers.

- (a) Credits from a mitigation bank may be approved for use as compensation for unavoidable impacts to wetlands and fish and wildlife habitat conservation areas or buffers when:
  - (1) Criteria in sections 4.F and 7.F of this appendix are met;
  - (2) The bank is certified under Chapter 173-700 WAC;
  - (3) The department determines that the mitigation bank provides appropriate compensation for the authorized impacts and that at minimum all proposals using a mitigation bank shall have made reasonable efforts to avoid and minimize impacts to wetlands, fish and wildlife habitat conservation areas and buffers through sequencing;
  - (4) The proposed use of credits is consistent with the terms and conditions of the bank's certification;
  - (5) The compensatory mitigation agreement occurs in advance of authorized impacts;
  - (6) Replacement ratios for projects using bank credits shall be consistent with replacement ratios specified in the bank's certification; and
  - (7) The use of the mitigation bank will result in equivalent treatment of the functions and values of the critical area or buffer to offset the impacts on the project site such that the total net impact will be no net loss of critical area functions and values in the watershed in which the impacts will occur.
- (b) In-lieu fee mitigation shall be established in accordance with the guidance contained in "Guidance on In-lieu Fee Mitigation" (Washington State Department of Ecology, December 2012, or latest edition, Publication #12-06-012) based upon the following order of preference:
  - (1) A City or County approved program that that gives priority to sites that will expand or improve habitat for Lake Stevens and associated tributaries;
  - (2) A City or County approved program that utilizes receiving mitigation sites within the same sub-basin as the approved impact; and
  - (3) A City or County approved program that gives priority to sites within the same sub-basin and/or a predefined service area that includes the City of Lake Stevens.

### **3.I Mitigation Monitoring.**



- (a) All compensatory mitigation projects shall be monitored for the period necessary to establish that performance standards have been met, but in no event for a ~~period~~ less than five years following the acceptance of the installation/construction by the Shoreline Administrator or designee.
- (b) Monitoring reports on the status of the mitigation project shall be submitted to the Planning and Community Development Department. The reports shall be prepared by a qualified consultant and shall include monitoring information on wildlife, vegetation, water quality, water flow, stormwater storage and conveyance, and existing or potential degradation. Reports shall be submitted in accordance with the following schedule:
  - (1) At the time of construction;
  - (2) Thirty days after planting;
  - (3) Early in the growing season of the first year;
  - (4) End of the growing season of the first year;
  - (5) Twice the second year (at the beginning and end of the growing season); and
  - (6) Annually thereafter, to cover a total monitoring period of at least five growing seasons.
- (c) The Shoreline Administrator or designee shall have the authority to extend the monitoring and surety period and require additional monitoring reports and maintenance activities beyond the initial five-year monitoring period for any project that involves one or a combination of the following factors:
  - (1) Creation or restoration of forested wetland or buffer communities;
  - (2) ~~does not~~ Failure to meet the performance standards identified in the mitigation plan;
  - (3) ~~does not~~ Failure to provide adequate replacement for the functions and values of the impacted critical area; or if
  - (4) ~~otherwise additional monitoring~~ Additional monitoring is warranted.

### **3.J Bonding (Security Mechanism).**

- (a) If the development proposal is subject to compensatory mitigation, the applicant shall enter into an agreement with the City to complete the mitigation plan approved by the City and shall post a mitigation performance surety to ensure mitigation is fully functional.
- (b) The surety shall be in the amount of 150 percent of the estimated cost of the uncompleted actions or the estimated cost of restoring the functions and values of the critical area that are at risk, whichever is greater. The surety shall be based on a detailed, itemized cost estimate of the mitigation activity including clearing and grading, plant materials, plant installation, irrigation, weed management, monitoring and all other costs.
- (c) The surety shall be in the form of an assignment of funds, bond, security device, or other means acceptable to the City Finance Director in consultation with the City Attorney.
- (d) The performance surety authorized by this section shall remain in effect until the City determines, in writing, that the permit conditions, code requirements and/or standards bonded for have been met. Once the mitigation installation has been accepted by the Shoreline Administrator or designee ~~or Public Works Director~~, the bond may be reduced to 20 percent of the original mitigation cost estimate and shall become a



maintenance surety. Said maintenance surety shall generally be held by the City for a period of five years to ensure that the required mitigation has been fully implemented and demonstrated to function, and may be held for longer periods under Section [3.I\(c\)](#).

- (e) Depletion, failure, or collection of surety funds shall not discharge the obligation of an applicant to complete required mitigation, maintenance, monitoring, or restoration.
- (f) Public development proposals shall be relieved from having to comply with the bonding requirements of this section if public funds have previously been committed for mitigation, maintenance, monitoring, or restoration.
- (g) Any failure to satisfy critical area requirements established by law or condition including, but not limited to, the failure to provide a monitoring report within 30 days after it is due or comply with other provisions of an approved mitigation plan shall constitute a default. Upon notice of any default, the City may demand immediate payment of any financial guarantees or require other action authorized by the City code or any other law.
- (h) Any funds paid or recovered pursuant to this section shall be used to complete the required mitigation or other authorized action.
- (i) The Shoreline Administrator [or designee](#) may authorize a one-time temporary delay, up to ~~120~~180 days, in completing mitigation activities when environmental conditions could produce a high probability of failure or significant construction difficulties. The delay shall not create or perpetuate hazardous conditions or environmental damage or degradation. The request for the temporary delay shall include a written justification documenting the environmental constraints that preclude implementation of the mitigation plan and shall include a financial guarantee. The justification shall be verified by the City before approval of any delay.
- (j) The provisions of ~~Section LSMC 14.16A.180~~ (Security Mechanisms) shall also apply if necessary to ensure adequate protection of the public interest.

### **3.K Maps and Inventory.**

The approximate location and extent of critical areas in the City are displayed on various inventory maps available at the Department of Planning and Community Development. More data will be included as inventories are completed in compliance with the requirements of the Growth-Shoreline Management Act. Maps and inventory lists are guides to the general location and extent of critical areas. Critical areas not shown are presumed to exist in the City and are protected under all the provisions of this appendix. In the event that any of the designations shown on the maps or inventory lists conflict with the criteria set forth in this appendix, the criteria and site-specific conditions shall control. Other mapping sources may include:

- (a) Washington Department of Fish and Wildlife Priority Habitat and Species maps.
- (b) Washington State Department of Natural Resources official water type reference maps, as amended.
- (c) Anadromous and resident salmonid distribution maps contained in the Habitat Limiting Factors reports published by the Washington Conservation Commission.
- (d) Washington State Department of Natural Resources State Natural Area Preserves and Natural Resource Conservation Area maps.
- (e) Washington State Department of Natural Resources Natural Heritage Program mapping data.



(f) Lake Stevens and/or Snohomish County maps.

**3.L Pesticide Management.**

Pesticide use is not allowed in critical areas, including critical area buffers, unless it is determined by the Shoreline Administrator or designee that there is no alternative to controlling invasive species using integrated pest management practices. If pest control is being proposed as mitigation measures to control invasive species, a pesticide management plan must be submitted to the Planning and Community Development Department. The pesticide management plan must be part of the critical areas report required in Section 3.F for any development proposal, and shall include why there is no other alternative to pesticide use, mitigation of pesticide use, planned application schedules, types of pesticides proposed for use, and a means to prevent or reduce pesticide movement to groundwater and surface water. Any pesticides used within 25 ft of a wetland (100 ft if spraying) have to be listed in the MSDS as non-toxic to fish and aquatic invertebrates. The report shall be prepared by a qualified specialist.

**3.M Building Setbacks.**

Buildings and other structures shall maintain the standard building setbacks per the underlying zoning district, depending on the site orientation, from all critical area buffer tracts or easements or 10-feet from the edges of all critical areas, if no buffers are required, to ensure adequate width for construction staging, maintenance and repair of primary buildings and accessory structures and use of improvements without disturbing the critical area buffer or critical area.

~~Unless otherwise provided, buildings and other structures shall be set back a distance of 10 feet from the edges of all critical area buffers or from the edges of all critical areas, if no buffers are required.~~ The following may be allowed in the building setback area:

- (a) Uncovered decks;
- (b) Building overhangs, if such overhangs do not extend more than 18 inches into the setback area;
- (c) Impervious ground surfaces, such as driveways and patios; provided, such improvements may be subject to water quality regulations as adopted; and
- (d) Accessory structures less than 200 square feet may be setback five feet; and
- ~~(de)~~ Fences and walls are exempt when the fence or wall further separate incompatible uses outside of the critical area and its associated buffer and when any temporary or permanent impacts are mitigated according to this appendix and in compliance with other provisions of Title 14 LSMC, based on the recommendation of a qualified professional for the specific critical area type.

**3.N Fencing and Signage.**

~~Wetland Critical Area~~ Permanent fencing and signage adjacent to a regulated wetland or stream corridor shall be required. Permanent signage may be required for geologically hazardous areas and setback buffers not approved for alteration under Section 6.H.

- (a) Fencing ~~shall be smooth wire or an alternative approved by the Shoreline Administrator.~~



- (1) The applicant shall install permanent fencing so as to not interfere with species migration, including fish runs, and shall be constructed in a manner that minimizes impacts to the critical areas and associated buffer. ~~must be a permanent structure installed in a manner that allows continuous wildlife habitat corridors along critical fish and wildlife areas with a minimum gap of one and one-half feet at the bottom of the fence, and maximum height of three and one-half feet at the top;~~
  - (2) The fence shall be designed and constructed to clearly demarcate the buffer from the developed portion of the site and to limit access of landscaping equipment, vehicles, or other human disturbances; and
  - (3) No pressure treated posts and rails will be used for signage or fencing, unless the posts are treated wood meeting or exceeding the standards outlined in the latest edition of the Western Wood Preservers Institute Best Management Practices for the Use of Treated Wood in the Aquatic and Sensitive Areas.
- (b) Signs designating the presence of a critical area shall be posted along the buffer boundary. The signs shall be posted at a minimum rate of one every 100 lineal feet, or one per lot, whichever provides more coverage. Standard details for signage shall be kept on file at the Planning and Community Development Department.

### **3.O Critical Areas Tracts and Easements.**

- (a) Unless otherwise required in this appendix, native growth protection areas shall be used in all development proposals to delineate and protect the following critical areas and buffers:
- (1) All geologically hazardous areas not approved for alteration and associated setback buffers;
  - (2) All wetlands and buffers; and
  - (3) All fish and wildlife habitat conservation areas and buffers.
- (b) Native growth protection areas created pursuant to this appendix shall be designated on the face of the plat, short plat or other recorded drawing pursuant to Sections 14.16C.105 and 14.18.040 LSMC and shall be protected by one of the following methods:
- (1) Development proposals for subdivisions, short subdivisions, binding site plans and planned residential developments and similar land use actions that segregate property shall use separate critical area tracts to delineate and protect native growth protection areas. The critical area tract shall be held by each lot owner in the development in an undivided interest or held by a Homeowner's Association or other legal entity, which assures the ownership, maintenance, and protection of the tract; or
  - (2) For development proposals that do not segregate lots, the permit holder shall record a native growth protection area easement with the Snohomish County Auditor stating the location of and the limitations associated with all of the critical areas and associated buffers or mitigation sites on the property. Restrictions and limitations shall be stated on the face of the deed applicable to the property and recorded with the Snohomish County auditor.
- (c) Such easements or tracts shall cover the critical area as delineated by its defined boundaries and buffers.





### ~~Dedication of Open Space/Native Growth Protection Area.~~

~~(a) In order to protect critical areas, open space easements or tracts, referred to as a native growth protection area, where proposed as mitigation, shall be dedicated to the City.~~

~~(b) Anyone may offer to dedicate a critical area easement or tract and its buffer to the City even if not proposed as mitigation. The Planning and Community Development Director shall make a determination regarding the City's acceptance of such a dedication, based on consistency with the goals and policies of the adopted Comprehensive Plan.~~

~~(c) Such easements or tracts shall cover the critical area as delineated by its defined boundaries and buffers. (Ord. 773, Sec. 2, 2008; Ord. 741, Sec. 2, 2007)~~

### **3.P Permanent Protection for Streams, Wetlands and Buffers.**

All streams and wetlands under this SMP and their required buffers shall be permanently protected by designating them as native growth protection areas (NGPAs) in accordance with Section 3.O. NGPAs are to be left permanently undisturbed in a substantially or environmentally enhanced natural state. No clearing, grading, filling, building construction or placement, or road construction is allowed except the following:

- (a) On a case by case basis when supported by a critical areas assessment study, crossings for underground utility lines which utilize the shortest alignment possible and for which no alignment that would avoid such a crossing is feasible;
- (b) Removal of hazardous trees by the property owner, when based on a recommendation by a qualified arborist and an assessment of hazardous tree risk study and when approved by the City.

(1) Any trees removed in an NGPA shall be replaced per LSMC 14.76.120, at a 3:1 ratio or at a 1.5:1 ratio when 4-6-foot-tall native evergreen trees are planted with the total count being rounded up to the next whole number.

(2) Any tree removed should only be cut to a point that it does not present a danger to adjacent properties or structures but can provide wildlife habitat.

- (c) Existing legally (on-going) established structures, and non-native or ornamental landscaping, including, but not necessarily limited to, gardens, yards, pastures, and orchards, are not required to be designated as NGPAs.

### **3.Q Density Transfers on Sites Less than Five Acres- Limited on-site Density Transfer for Critical Areas.**

On-site density transfers ~~on sites less than five acres~~ may be permitted in single-family zoning districts when shoreline jurisdictional critical areas are located on the property subject to the following provisions:

- (a) Only the area contained in the following critical areas and their associated buffers ~~of the following wetlands is are~~ eligible to be used in the density transfer calculation:

(1) Category II, III, and IV wetlands ~~with a habitat score of less than 20; and;~~

(2) ~~Category IV wetlands.~~ Fish and Wildlife Conservation areas; and



(3) Geologically hazardous areas, not approved for alteration.

- (b) The development must be proposed to connect to sewer service and sewer service must be available.
- (c) The base density shall be consistent with the densities set forth in LSMC Chapter 14.36 for the zoning districts. The site density shall be calculated using the net area of the subject property divided by the minimum lot size of the applicable zone.
- (d) The overall density of the proposed site may be transferred from the undevelopable portion to the developable part of the site and the development when the development is not using other allowed reductions or modifications to critical areas and buffers defined in this appendix.
- (e) The development shall meet applicable policies, setbacks and other standards of the City except:
  - (1) The minimum lot size of the underlying zoning district may be reduced by thirty percent in order to accommodate the transfer in densities; Lot widths of Chapter 14.48 Table V may be modified to not less than 40 feet in the SR and UR zones and not less than 30 feet in the HUR zone;
  - (2) Lot widths of Chapter 14.48 Table-I may not be less than 40 feet; Lot sizes may be modified to not less than 4,000 square feet in the SR and UR zones and not less than 3,000 square feet in the HUR zone
  - (3) The front setbacks specified in Chapter 14.48 LSMC Table-I may be reduced by five (5) feet, but in no instance may the garage setback be less than 19 feet Setbacks of the zone as specified in Chapter 14.48 Table V may not be modified when using the density transfer provision.
  - (4) The proposed development must be compatible with the character of the area and adjacent uses; and
  - (5) The area to which density is transferred must not be constrained by other critical areas.

**3.R Innovative Development Design.**

A project permit applicant may request approval of an innovative design, which addresses wetland, fish and wildlife habitat conservation area or buffer treatment in a manner that deviates from the standards set forth in Sections 14.88.400 through 14.88.440, Fish and Wildlife Conservation Areas, and Sections 14.88.800 through 14.88.840, Wetlands 4.A through 4.F, Fish and Wildlife Conservation Areas, and Sections 7.A through 7.F, Wetlands under a shoreline variance process.

- (a) An innovative development design will be considered in conjunction with the primary land use project approval or building permit approval, when the project is consistent with subsection (b) of this section. An applicant may include the innovative development design proposal in the project pre-application review packet for review. The Shoreline Administrator shall give preliminary findings on the pre-application and shall only issue a final decision for the design with the project or building permit approval, whichever occurs first.
- (b) The applicant shall demonstrate in a site/resource-specific report required pursuant to Section 3.F how the innovative development design complies with the following requirements:
  - (1) The innovative development design will achieve protection equivalent to or better than the treatment of the functions and values of the critical areas that would be obtained by applying the standard prescriptive measures contained in this appendix and SMP;
  - (2) Applicants for innovative development design are encouraged to must consider measures prescribed in guidance documents, such as watershed conservation plans or other similar conservation plans, and low impact stormwater management strategies which address wetlands, fish and wildlife habitat conservation areas or buffer protection consistent with this appendix and SMP;





- (3) The innovative development design will not be materially detrimental to the public health, safety or welfare or injurious to other properties or improvements located outside of the subject property; and
- (4) Applicants for innovative development design are encouraged to consider measures prescribed in the Puget Sound Action Team 20052012 Technical Guidance Manual for Low Impact Development or as amended.

### **3.S Dedication of Land and/or Easements in Lieu of Park Mitigation.**

The dedication of critical areas and their buffers as open space may not be used to satisfy park mitigation requirements. Park land must be dedicated or fees in lieu of dedication must be paid as set forth in this title. However, if an applicant provides recreation amenities in buffers as allowed under this appendix, the cost of those amenities may be subtracted from the total park mitigation calculated for a given project with prior approval of the Shoreline Administrator.

### **3.T Assessment Relief.**

The Snohomish County Assessor's office considers critical area regulations in determining the fair market value of land. Any owner of an undeveloped critical area who has dedicated an easement or entered into a perpetual conservation restriction with the City of Lake Stevens or a nonprofit organization to permanently control some or all regulated activities in that portion of land assessed consistent with these restrictions shall be considered for exemption from special assessments to defray the cost of municipal improvements such as sanitary sewers, storm sewers, and water mains. (~~Ord. 773, Sec. 2, 2008; Ord. 741, Sec. 2, 2007~~)

## **Part ~~3~~IV. Fish and Wildlife Conservation Areas**

Lake Stevens is a Fish and Wildlife Conservation Area. The shoreline setback in Chapter 5, Section 8.c.3.a shall be used in place of any buffer required for a Fish and Wildlife Conservation Area in all environment designations except the "Natural" designation. Parcels in the "Natural" designation shall use the Fish and Wildlife Conservation Area buffers in this appendix.

### **34.A Classification.**

Fish and wildlife conservation areas include:

- (a) Lands containing priority habitats and species, including plant and/or animal species listed on Federal or State threatened or endangered species lists.
- (b) Naturally occurring ponds under 20 acres and their submerged aquatic beds that provide fish or wildlife habitat. These do not include ponds deliberately designed and created from dry sites such as canals, detention facilities, waste-water treatment facilities, farm ponds, temporary construction ponds (of less than three years' duration), and landscape amenities. However, naturally occurring ponds may include those artificial ponds intentionally created from dry areas in order to mitigate conversion of ponds, if permitted by a regulatory authority.
- (c) Waters of the State, as defined in WAC Title 222, Forest Practices Rules and Regulations. Waters of the State shall be classified using the system in WAC 222-16-030. In classifying waters of the State as fish and wildlife habitats the following shall be used:
  - (1) Species are present which are endangered, threatened or sensitive;



- (2) Existing surrounding land uses are incompatible with salmonid and other game fish habitat;
  - (3) Presence and size of riparian ecosystem;
  - (4) Existing water rights.
- (d) Lakes, ponds, and streams planted with game fish (defined at RCW [77.08.020](#)), including those planted under the auspices of Federal, State, local, or tribal programs, or which support priority fish species as identified by the Department of Fish and Wildlife.
- (e) State natural area preserves and natural resource conservation areas.
- (f) Habitats or species of local importance. Such habitats or species may be locally listed per the process elucidated in Section [4.C.](#)
- (g) Streams shall be classified according to the stream type system as provided in WAC [222-16-030](#), Stream Classification System, as amended.
- (1) Type S Stream. Those streams, within their ordinary high water mark, as inventoried as shorelines of the State under Chapter [90.58](#) RCW and the rules promulgated pursuant thereto.
  - (2) Type F Stream. Those stream segments within the ordinary high water mark that are not Type S streams, and which are demonstrated or provisionally presumed to be used by fish. Stream segments which have a width of two feet or greater at the ordinary high water mark and have a gradient of 16 percent or less for basins less than or equal to 50 acres in size, or have a gradient of 20 percent or less for basins greater than 50 acres in size, are provisionally presumed to be used by fish. A provisional presumption of fish use may be refuted at the discretion of the Shoreline Administrator where any of the following conditions are met:
    - (i) It is demonstrated to the satisfaction of the City that the stream segment in question is upstream of a complete, permanent, natural fish passage barrier, above which no stream section exhibits perennial flow;
    - (ii) It is demonstrated to the satisfaction of the City that the stream segment in question has confirmed, long-term, naturally occurring water quality parameters incapable of supporting fish;
    - (iii) Sufficient information about a geomorphic region is available to support a departure from the characteristics described above for the presumption of fish use, as determined in consultation with the Washington Department of Fish and Wildlife, the Department of Ecology, affected tribes, or others;
    - (iv) The Washington Department of Fish and Wildlife has issued a hydraulic project approval, pursuant to RCW [77.55.100](#), which includes a determination that the stream segment in question is not used by fish; [and](#)
    - (v) No fish are discovered in the stream segment in question during a stream survey conducted according to the protocol provided in the Washington Forest Practices Board Manual, Section 13, Guidelines for Determining Fish Use for the Purpose of Typing waters under WAC [222-16-031](#); provided, that no unnatural fish passage barriers have been present downstream of said stream segment over a period of at least two years.
  - (3) Type Np Stream. Those stream segments within the ordinary high water mark that are perennial and are not Type S or Type F streams. However, for the purpose of classification, Type Np streams include intermittent



dry portions of the channel below the uppermost point of perennial flow. If the uppermost point of perennial flow cannot be identified with simple, nontechnical observations (see Washington Forest Practices Board Manual, Section 23), then said point shall be determined by a qualified professional selected or approved by the City.

- (4) Type Ns Stream. Those stream segments within the ordinary high water mark that are not Type S, Type F, or Type Np streams. These include seasonal streams in which surface flow is not present for at least some portion of a year of normal rainfall that are not located downstream from any Type Np stream segment

#### **4.B Determination of Boundary.**

- (a) The boundaries of fish and wildlife conservation areas shall be determined by the Shoreline Administrator or designee, who may rely on a Departmental approved biological resources survey prepared by a qualified wildlife biologist per the Department's Biological Resources Survey Guidelines. Such a report would be supplied by the applicant of a permit.
- (b) The boundary of the creek, stream, river, lake, or other surface water shall be determined by the Shoreline Administrator or designee, relying on a delineation by a licensed surveyor or other comparable expert. Such boundary shall be contiguous with the 100-year floodplain designations as adopted by the City, or where such a designation has not been adopted by the City, the 100-year floodplain designation of the Federal Emergency Management Agency (FEMA) and the National Flood Insurance Program where it has been delineated (shown on Flood Insurance Rate Maps (FIRM)). Where this information does not exist, the boundary determination shall be made by a licensed surveyor and based upon the same criteria used by FEMA. This determination shall be confirmed by the City Engineer.

#### **4.C Species/Habitats of Local Importance.**

- (a) Species or habitats may be listed as a species or habitat of local importance by the City Council according to the following process:
  - (1) An individual or organization must:
    - (i) Demonstrate a need for special consideration based on:
      - a. Declining populations;
      - b. Sensitivity to habitat manipulation; or
      - c. Commercial or game value or other special value, such as public appeal.
    - (ii) Propose relevant management strategies considered effective and within the scope of this appendix.
    - (iii) Provide species or habitat location(s) on a map.
  - (2) Submitted proposals will be reviewed by the Shoreline Administrator or designee and forwarded to the Departments of Fish and Wildlife and Natural Resources, and/or other local, State, Federal, or tribal agencies or experts for comment and recommendation regarding accuracy of data and effectiveness of proposed management strategies.
  - (3) The City Council will hold a public hearing for proposals found to be complete, accurate, potentially effective, and within the scope of this appendix. Approved nominations will become designated a species or habitat of local importance and will be subject to the provisions of this appendix.



(b) Species or habitats of local importance include:

(1) [None adopted as of May 1, 1995]

**4.D Allowed Activities.**

Except where regulated by other sections of this or any other title or law, the following uses shall be allowed within fish and wildlife conservation areas when the requirements of Section 4.E have been met and mitigation adequate to alleviate any other impacts has been proposed:

- (a) Those activities listed in Section 3.C.
- (b) Activities consistent with the species located there and all applicable State and Federal regulations regarding the species, as determined by the Shoreline Administrator or designee, who may consult with other resource agencies as to their recommendations.
- (c) Bridges and other crossings over streams for public and private rights-of-way.

**4.E Requirements.**

- (a) Except as provided in this subsection, a 50-foot buffer shall be required for all regulated activities adjacent to fish and wildlife conservation areas. All buffers shall be measured from the fish and wildlife conservation area boundary as surveyed in the field. The width of the buffer may be increased depending on the habitat value and the proposed land use.
- (b) Buffer widths may be increased based on recommendations by the Department of Fish and Wildlife based on their Management Recommendations for Priority Habitats and Species.
- (c) To retain the natural functions of streams and stream corridors, the following streamside buffers shall be maintained:
  - (1) For ravines with banks greater than 10 feet in depth, maintain the existing or native vegetation within the ravine and a strip 25 feet from the top of the bank;
  - (2) Where there is no ravine or the bank is less than 10 feet in depth, maintain existing or native vegetation on both sides of the stream as measured from the ordinary high water mark (OHWM), in accordance with Table 4-1, which sets forth the required buffer widths based on classification of stream types:

Table 4-1: Stream Buffer Width

Stream Type	Buffer
S	150 feet
F	100 feet
Np	50 feet
Ns	50 feet



- (d) Widths shall be measured outward in each direction, on the horizontal plane, from the ordinary high water mark, or from the top of the bank if the ordinary high water mark cannot be identified, or from the outer edge of the channel migration zone when present.
- (e) The Shoreline Administrator may modify the buffer widths in the above table in accordance with the following:
- (1) Buffer widths may be increased as necessary to fully protect riparian functions. For example, the buffer may be extended to the outer edge of the floodplain or windward into an area of high tree blow-down potential as determined by an arborist.
  - (2) Buffer widths may be reduced in exchange for restoration and enhancement of degraded areas in accordance with an approved plan, or for buffer averaging in accordance with Section 3.G and subsection (e)(4) of this section.
  - (3) If the stream enters an underground culvert or pipe, and is unlikely to ever be restored aboveground, the Shoreline Administrator may waive the buffer along the undergrounded stream; provided, that where the stream enters and emerges from the pipe the opposite outer edges of the buffer shall be joined by a radius equal to the buffer width, with said radius projecting over the piped stream.
  - (4) Stream buffer widths may be modified by averaging. In no instance shall the buffer width be reduced by more than 25 percent of the standard buffer. Stream buffer width averaging shall only be allowed when the applicant demonstrates the following:
    - (i) A site-specific evaluation and documentation of buffer adequacy is based on consideration of the most current, accurate, and complete scientific or technical information available~~the best available science as described in Section 14.88.235~~; and
    - (ii) A buffer enhancement plan is proposed that would significantly improve the functions and values of the stream buffer(s); and
    - (iii) The averaging will not impair or reduce the habitat, water quality purification and enhancement, stormwater detention, groundwater recharge, shoreline protection and erosion and other functions and values of the stream and buffer.
  - (5) Buffer widths may be modified if the subject property is separated from the stream channel by pre-existing, intervening, and lawfully created structures, public roads, or other substantial pre-existing intervening improvements. The intervening structures, public roads, or other substantial improvements must separate the subject upland property from the stream channel by height or width, preventing or impairing the delivery of buffer functions to the stream channel. In such cases, the reduced buffer width shall reflect the buffer functions that can be delivered to the stream channel.
- ~~(f) Development in the shorelines of State-wide significance is regulated under Appendix B of the City's State-approved Shoreline Master Program (SMP).~~
- (fg) To protect the natural functions and aesthetic qualities of a stream and stream buffer, a detailed temporary erosion control plan which identifies the specific mitigating measures to be implemented during construction to protect the water from erosion, siltation, landslides and hazardous construction materials shall be required. The City shall review the plan with the appropriate State, Federal and tribal agencies and any adjacent jurisdiction.



#### **4.F Mitigation.**

In order to avoid significant environmental impacts, the applicant for a land use or development permit may consider performing the following actions, listed in order of preference. What is considered adequate mitigation will depend on the nature and magnitude of the potential impact as determined in accordance with Section 23.G.

- (a) Dedicate an exclusive open space easement for the protection of wildlife and/or habitat, creeks, streams, rivers, lakes, or other surface water over the creeks, streams, rivers, lakes, or other surface water and a buffer consistent with the standards listed in Section 3.D.4.E. Where such mitigation leads to, or would in the opinion of the Shoreline Administrator lead to a court finding of a taking, the below listed mitigation may be considered.
- (b) Where on-site protection is not possible, dedicate an exclusive easement for the protection of an equivalent (in type and value) waterway over the waterway and a 50-foot buffer on an off-site waterway at a 2:1 ratio. The location of any off-site waterway shall be located as near to the site as possible, in accordance with the following preferred order:
  - (1) Contiguous to the impacted waterway;
  - (2) Within the same drainage basin;
  - (3) Elsewhere within the City;
  - (4) Within the Lake Stevens UGA;
  - (5) Within the region.
- (c) The applicant may propose innovative site design based on the most current, accurate, and complete scientific or technical information available best available science and pursuant to Section 3.R if the innovative development design will achieve protection equivalent to or better than the standard provisions of this appendix. Approval of the innovative site design will be considered in combination with criteria listed in Section 3.R if the design achieves the following:
  - (1) The site design avoids all impacts to the critical area and minimizes buffer impacts; or
  - (2) The site design increases the functions and/or values of the stream channel and buffer with a combination of the following measures:
    - (i) Increasing canopy-cover shade in the riparian zone to maintain cool stream temperatures and regulate micro-climates in the stream-riparian corridor;
    - (ii) Reducing fine sediment input in the stream system through hydrologic retention, filtration and streambank protection;
    - (iii) Stabilizing stream banks, and minimizing stream bank erosion;
    - (iv) Filtering and reducing potential of impact pollutants from groundwater and surface water runoff;
    - (v) Increasing large woody debris and coarse particulate matter into the stream channel for habitat and to moderate stream flow;
    - (vi) Increasing critical wildlife habitat along stream-associated migration corridors;
    - (vii) Increasing in-stream habitat for aquatic, amphibian, invertebrate and resident and/or anadromous fish species.





## Part V. Frequently Flooded Areas

### 5.A Classification.

Classification for flood zones shall be consistent with the regulatory floodplain designations as adopted by the City per Chapter 14.64, Part I, or where such a designation has not been adopted by the City, by the special flood hazard area designations of the Federal Emergency Management Agency and the National Flood Insurance Program. Any such designations adopted by the City shall consider the following criteria if and when designating and classifying these areas:

- (a) Flooding impact to human health, safety, and welfare and to public facilities and services; and
- (b) Documentation including Federal, State and local laws, regulations and programs, local maps and federally subsidized flood insurance programs.

### 5.B Determination of Boundary.

The boundary of a flood zone shall be contiguous with the regulatory floodplain as adopted by the City, per Chapter 14.64, Part I, or where such a designation has not been adopted by the City, the special flood hazard area designations of the Federal Emergency Management Agency (FEMA) and the National Flood Insurance Program where it has been delineated [shown on Flood Insurance Rate Maps (FIRM)]. Where this information does not exist, the boundary determination shall be made by a licensed engineer and based upon the same criteria used by FEMA. The Shoreline Administrator or designee shall confirm this determination.

### 5.C Allowed Activities.

Except where regulated by other sections of this or any other title or law, the following uses shall be allowed within the regulatory floodplain when the requirements of Section 5.D have been met and mitigation adequate to alleviate any other impacts has been proposed:

- (a) Those activities allowed per Section 3.C.
- (b) Those activities allowed per Section 14.64.025.

### 5.D Requirements.

All land uses and development proposals shall comply with the applicable provisions of the Lake Stevens Municipal Code for general and specific flood hazard protection (see Chapter 14.64, Special Flood Hazard Areas, Drainage, and Erosion).

- (a) Development shall not reduce the effective flood storage volume. Reduction of the floodwater storage capacity due to grading, construction, or other regulated activities shall provide compensatory storage per Section 14.64.055(b).
- (b) The final recorded subdivision plat or site plan shall include a notice that the property contains land within the regulatory floodplain including special flood hazard areas and protected areas, as applicable.

### 5.E Mitigation.

If potential flooding impacts from development cannot be avoided by design ~~or by providing on or off-site detention and/or retention ponds, other forms of mitigation may be considered in order to avoid significant environmental impacts. Applicants must provide mitigation plans exploring and analyzing any proposed~~



mitigation measures or if the use is not an allowed or exempt use, the applicant shall provide a habitat impact assessment and/or habitat mitigation plan to mitigate impacts on federal, state or locally protected species and habitat, water quality and aquatic and riparian habitat.

## Part VI. Geologically Hazardous Areas

### **56.A Classification.**

- (a) Geologically hazardous areas include areas susceptible to erosion, sliding, earthquakes, liquefaction, or other geological events. Geologically hazardous areas shall be classified based upon the history or existence of landslides, unstable soils, steep slopes, high erosion potential or seismic hazards. In determining the significance of a geologically hazardous area the following criteria shall be used:
  - (1) Potential economic, health, and safety impact related to construction in the area;
  - (2) Soil type, slope, vegetative cover, and climate of the area;
  - (3) Available documentation of history of soil movement, the presence of mass wastage, debris flow, rapid stream incision, stream bank erosion or undercutting by wave action, or the presence of an alluvial fan which may be subject to inundation, debris flows, or deposition of stream-transported sediments.
- (b) The different types of geologically hazardous areas are defined as follows:
  - (1) Erosion hazard areas are as defined by the USDA Soil Conservation Service, United States Geologic Survey, or by the Department of Ecology Coastal Zone Atlas. The following classes are high erosion hazard areas.
    - (i) Class 3, class U (unstable) includes severe erosion hazards and rapid surface runoff areas;
    - (ii) Class 4, class UOS (unstable old slides) includes areas having severe limitations due to slope; and
    - (iii) Class 5, class URS (unstable recent slides).
  - (2) Landslide hazard areas shall include areas subject to severe risk of landslide based on a combination of geologic, topographic and hydrologic factors. Some of these areas may be identified in the Department of Ecology Coastal Zone Atlas, or through site-specific criteria. Landslide hazard areas include the following:
    - (i) Areas characterized by slopes greater than 15 percent; and impermeable soils (typically silt and clay) frequently interbedded with permeable granular soils (predominantly sand and gravel) or impermeable soils overlain with permeable soils; and springs or groundwater seepage;
    - (ii) Any area which has exhibited movement during the Holocene epoch (from 10,000 years ago to present) or which is underlain by mass wastage debris of that epoch;
    - (iii) Any area potentially unstable due to rapid stream incision, stream bank erosion or undercutting by wave action;
    - (iv) Any area located on an alluvial fan presently subject to or potentially subject to inundation by debris flows or deposition of stream-transported sediments;
    - (v) Any area with a slope of 40 percent or greater and with a vertical relief of 10 or more feet except areas composed of consolidated rock;





- (vi) Any area with slope defined by the United States Department of Agriculture Soil Conservation Service as having a severe limitation for building site development; and
- (vii) Any shoreline designated or mapped as class U, UOS, or URS by the Department of Ecology Coastal Zone Atlas.

(3) Slopes.

- (i) Moderate slopes shall include any slope greater than or equal to 15 percent and less than 40 percent.
  - (ii) Steep slopes shall include any slope greater than or equal to 40 percent.
- (4) Seismic hazard areas shall include areas subject to severe risk of earthquake damage as a result of seismic induced settlement, shaking, slope failure or soil liquefaction. These conditions occur in areas underlain by cohesionless soils of low density usually in association with a shallow groundwater table.

**56.B Determination of Boundary.**

Determination of a boundary of a geologically hazardous area shall be made by the Shoreline Administrator, relying on a geotechnical or similar technical report and other information where available and pertinent. Such reports or information shall be provided by an applicant for an activity or permit at the request of the City.

**56.C Allowed Activities.**

Except where regulated by other sections of this or any other title or law, the following uses shall be allowed within geologically hazardous areas when the requirements of Section 56.D have been met and mitigation adequate to alleviate any other impacts has been proposed:

- (a) Those activities allowed per ~~this SMP~~ Section 3.C.
- (b) Any other use allowed per the zone and shoreline environment designation; provided, that it meets the requirements of Section 56.D and will not have a detrimental impact on the health, safety, and welfare of the public, or will not negatively impact neighboring properties.
- ~~(c) No new development or creation of new lots is allowed that would cause foreseeable risk from geological conditions to people or improvements during the life of the development (WAC 173-26-221(2)(c)(ii)(B)).~~
- ~~(d) No new development is allowed that would require structural shoreline stabilization over the life of the development. Exceptions may be made for the limited instances where stabilization is necessary to protect allowed uses where no alternative locations are available and no net loss of ecological functions will result. (WAC 173-26-221(2)(c)(ii)(C)).~~

**56.D Geological Assessment Requirements.**

Development proposals on or within 200 feet of any areas which are designated as geologically hazardous, or which the City has reason to believe are geologically hazardous based on site-specific field investigation, shall be required to submit a geological assessment.

- (a) The geological assessment shall be submitted with the minimum required content as set forth in subsection (d) of this section and in the format established by the Shoreline Administrator, and shall be consistent with the following:



- (1) A geotechnical letter is required when the geologist or geotechnical engineer finds that no active geological hazard area exists on or within 200 feet of the site.
- (2) A geotechnical report is required when the geologist or geotechnical engineer finds that an active geological hazard area exists on or within 200 feet of the proposed project area.
- (b) The Department shall review the geological assessment and either accept or reject the assessment and require revisions or additional information. When the geological assessment has been accepted, the Department shall issue a decision on the land use permit application.
- (c) A geological assessment for a specific site may be valid for a period of up to five years when the proposed land use activity and site conditions affecting the site are unchanged. However, if any surface and subsurface conditions associated with the site change during the five-year period or if there is new information about a geological hazard, the applicant may be required to submit an amendment to the geological assessment.
- (d) A geological assessment shall include the following minimum information and analysis:
  - (1) A field investigation that may include the use of historical air photo analysis, review of public records and documentation, and interviews with adjacent property owners or others knowledgeable about the area, etc.
  - (2) An evaluation of any areas on the site or within 200 feet of the site that are geologically hazardous as set forth in Section 56.A.
  - (3) An analysis of the potential impacts of the proposed development activity on any potential geological hazard that could result from the proposed development either on site or off site. For landslide hazard areas, the analysis shall consider the run-out hazard of landslide debris to the proposed development that starts upslope whether the slope is part of the subject property or starts off site.
  - (4) Identification of any mitigation measures required to eliminate potentially significant geological hazards both on the proposed development site and any potentially impacted off-site properties. When hazard mitigation is required, the mitigation plan shall specifically address how the proposed activity maintains or reduces the pre-existing level of risk to the site and adjacent properties on a long term basis. The mitigation plan shall include recommendations regarding any long term maintenance activities that may be required to mitigate potential hazards.
  - (5) The geological assessment shall document the field investigations, published data and references, data and conclusions from past geological assessments, or geotechnical investigations of the site, site-specific measurements, tests, investigations, or studies, as well as the methods of data analysis and calculations that support the results, conclusions, and recommendations.
  - (6) The geological assessment shall contain a summary of any other information the geologist identifies as relevant to the assessment and mitigation of geological hazards.
- (e) Geological assessments shall be prepared under the responsible charge of a geologist or geotechnical engineer, and shall be signed, sealed, and dated by the geologist or geotechnical engineer.

#### **56.E Setback Buffer Requirements.**

- (a) The setback buffer width shall be based upon information contained in a geological assessment, and shall be measured on a horizontal plane from a vertical line established at the edge of the geologically hazardous area limits (both from the top and toe of slope). In the event that a specific setback buffer is not included in the



recommendation of the geological assessment, the setback buffer shall be based upon the standards contained in Chapter 18 of the International Building Code (IBC), or as the IBC is updated and amended.

- (1) If the geological assessment recommends setback buffers that are less than the standard buffers that would result from application of Chapter 18 of the IBC, the specific rationale and basis for the reduced buffers shall be clearly articulated in the geological assessment.
- (2) The City may require increased setback buffer widths under any of the following circumstances:
  - (i) The land is susceptible to severe erosion and erosion control measures will not effectively prevent adverse impacts.
  - (ii) The area has a severe risk of slope failure or downslope stormwater drainage impacts.
  - (iii) The increased buffer is necessary to protect public health, safety and welfare based upon findings and recommendations of geological assessment.
- (b) Unless otherwise permitted as part of an approved alteration, the setback buffers required by this subsection shall be maintained in native vegetation to provide additional soil stability and erosion control. If the buffer area has been cleared, it shall be replanted with native vegetation in conjunction with any proposed development activity.
- (c) The City may impose seasonal restrictions on clearing and grading within 200 feet of any geologically hazardous areas.

#### **56.F Allowed Alterations.**

Unless associated with another critical area, the Shoreline Administrator or designee may allow alterations of an area identified as a geologically hazardous area or the setback buffers specified in the IBC if an approved geotechnical report demonstrates that the following and the request is made through a shoreline variance process:

- (a) The proposed development will not create a hazard to the subject property, surrounding properties or rights-of-way, or erosion or sedimentation to off-site properties or bodies of water;
- (b) The proposal addresses the existing geological constraints of the site, including an assessment of soils and hydrology;
- (c) The proposed method of construction will reduce erosion potential, landslide and seismic hazard potential, and will improve or not adversely affect the stability of slopes;
- (d) The proposal uses construction techniques which minimize disruption of existing topography and natural vegetation;
- (e) The proposal is consistent with the purposes and provisions of this chapter-appendix and mitigates any permitted impacts to critical areas in the vicinity of the proposal;
- (f) The proposal mitigates all impacts identified in the geotechnical letter or geotechnical report;
- (g) All utilities and access roads or driveways to and within the site are located so as to require the minimum amount of modification to slopes, vegetation or geologically hazardous areas; and



- (h) The improvements are certified as safe as designed and under anticipated conditions by a geologist or geotechnical engineer.

#### **56.G Prohibited Alterations.**

Modification of geologically hazardous areas shall be prohibited under the following circumstances:

- (a) Where geologically hazardous slopes are located in a stream, wetland, and/or a fish and wildlife habitat conservation area or their required buffers, alterations of the slopes are not permitted, except as allowed in Section 23.C. The required buffer for such slopes shall be determined through the site-specific geological assessment, but in no case shall be less than 25 feet from the top of slopes of 25 percent and greater.
- (b) Any proposed alteration that would result in the creation of, or which would increase or exacerbate existing geological hazards, or which would result in substantial unmitigated geological hazards either on or off site shall be prohibited.
- (c) No new development or creation of new lots is allowed that would cause foreseeable risk from geological conditions to people or improvements during the life of the development (WAC 173-26-221(2)(c)(ii)(B)).
- (d) No new development is allowed that would require structural shoreline stabilization over the life of the development. Exceptions may be made for the limited instances where stabilization is necessary to protect allowed uses where no alternative locations are available and no net loss of ecological functions will result. (WAC 173-26-221(2)(c)(ii)(C)).

#### **56.H Mitigation.**

- (a) In addition to the other requirements of this SMPappendix, as part of any approval of development on or adjacent to geologically hazardous areas or within the setback buffers required by this section:
- (1) The City shall require:
- (i) Geologically hazardous areas not approved for alteration and their setback buffers shall be placed in a native growth protection area as set forth in Section 2.M.3.O.
- (ii) Any geologically hazardous area or required setback buffer that is allowed to be altered subject to the provisions of this appendix shall be subject to a covenant of notification and indemnification/hold harmless agreement in a form acceptable to the City Attorney. Such document shall identify any limitation placed on the approved alterations.
- (2) The City may require:
- (i) The presence of a geologist on the site to supervise during clearing, grading, filling, and construction activities which may affect geologically hazardous areas, and provide the City with certification that the construction is in compliance with the geologist's or geotechnical engineer's recommendations and has met approval of the geologist or geotechnical engineer, and other relevant information concerning the geologically hazardous conditions of the site.
- (ii) Vegetation and other soil stabilizing structures or materials be retained or provided.
- (iii) Long term maintenance of slopes and on-site drainage systems.



- (b) If potential geologic impacts cannot be avoided by adhering to the above requirements and the other requirements of this appendix, other forms of mitigation may be considered. Applicants must provide mitigation plans exploring and analyzing any proposed mitigation measures. What is considered adequate mitigation will depend on the nature and magnitude of the potential impact. For example, some potential risk due to construction in geologically hazardous areas may be reduced through structural engineering design.

## **Part 6. Part VII Wetlands**

### **67.A Purpose**

The purposes of this appendix are to:

- (a) Recognize and protect the beneficial functions performed by wetlands, which include, but are not limited to, providing food, breeding, nesting and/or rearing habitat for fish and wildlife; recharging and discharging ground water; contributing to stream flow during low flow periods; stabilizing stream banks and shorelines; storing storm and flood waters to reduce flooding and erosion; and improving water quality through biofiltration, adsorption, and retention and transformation of sediments, nutrients, and toxicants.
- (b) Regulate land use to avoid adverse effects on wetlands and maintain the functions and values of wetlands throughout Lake Stevens.
- (c) Establish review procedures for development proposals in and adjacent to wetlands.
- (d) Compliance with the provisions of the appendix does not constitute compliance with other federal, state, and local regulations and permit requirements that may be required (for example, HPA permits, Army Corps of Engineers Section 404 permits, NPDES permits). The applicant is responsible for complying with these requirements, apart from the process established in this appendix.

### **67.B Classification Identification and Rating.**

~~Wetlands shall be classified as Category I, II, III, or IV using the Washington State Department of Ecology's Wetland Rating System for Western Washington, Publication No. 04-06-025, or as amended hereafter. Wetland delineations shall be determined in accordance with WAC 173-22-035.~~

- (a) Identification and Delineation. Wetlands, buffers and their boundaries shall be identified and delineated in accordance with the approved federal wetland delineation manual and applicable regional supplement. All areas within the City meeting the wetland designation criteria in that procedure are hereby-designated critical areas and are subject to the provisions of this appendix. Wetland delineations are valid for five years; after such date, the City shall determine whether a revision or additional assessment is necessary. (a)
- Sources used to identify designated wetlands include, but are not limited to:

- (1) United States Department of the Interior, Fish and Wildlife Service, National Wetlands Inventory.
- (2) Areas identified as hydric soils, soils with significant soil inclusions and wet spots with the United States Department of Agriculture/Soil Conservation Service Soil Survey for Snohomish County.
- (3) Washington State Department of Natural Resources, Geographic Information System, Hydrography and Soils Survey Layers.
- (4) City of Lake Stevens Critical Areas Inventory Maps.



~~(a) Category I Criteria:~~

~~(1) Wetlands that represent a unique or rare wetland type; or~~

~~(2) Are more sensitive to disturbance than most wetlands; or~~

~~(3) Are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; or~~

~~(4) Provide a high level of functions.~~

~~(5) Category I wetlands include:~~

~~(i) Estuarine wetlands which are larger than one acre in size.~~

~~(ii) Natural heritage wetlands as identified by the Natural Heritage Program of the Washington Department of Natural Resources.~~

~~(iii) Bogs.~~

~~(iv) Mature and old-growth forested wetlands over one acre in area.~~

~~(v) Wetlands that score 70 or more 23-27 points out of 100 27 using the Western Washington Rating System.~~

~~(c) Category II Criteria:~~

~~(1) Category II wetlands are difficult though not impossible to replace and provide high levels of some functions.~~

~~(2) Category II wetlands include:~~

~~(i) Estuarine wetlands under one acre in area.~~

~~(ii) Wetlands that score between 51 and 69 points out of 100 on the Western Washington Rating System.~~

~~(d) Category III Criteria. Wetlands with a moderate level of functions and with rating system scores between 30 and 50 points out of 100.~~

~~(e) Category IV Criteria. Wetlands with a low level of functions and with rating system scores less than 30 points out of 100.~~

~~(b) Rating. Wetlands shall be rated according to the Washington Department of Ecology wetland rating system, as set forth in the *Washington State Wetland Rating System for Western Washington: 2014 Update* (Ecology Publication #14-06-029, or as revised and approved by Ecology) and in accordance with WAC 173-22-035, which contains the definitions and methods for determining whether the criteria below are met.~~

~~(1) Category I. Category I wetlands represent unique or rare wetland types; are more sensitive to disturbance than most wetlands; are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; or provide a high level of functions. In Lake Stevens Category I wetlands may include:~~

~~(i) Wetlands of high conservation value that are identified by scientists of the Washington Natural Heritage Program/DNR;~~

~~(ii) Bogs;~~





(iii) Mature and old-growth forested wetlands larger than 1 acre; and

(iv) Wetlands that perform many functions well (scoring 23 points or more).

(2) Category II. In Lake Stevens Category II wetlands may include wetlands with a moderately high level of functions (scoring between 20 and 22 points) that are difficult though not impossible to replace and provide high levels of some functions.

(3) Category III. In Lake Stevens Category III wetlands may include:

(i) Wetlands with a moderate level of functions (scoring between 16 and 19 points);

(ii) Can often be adequately replaced with a well-planned mitigation project; and

(iii) Wetlands scoring between 16 and 19 points generally have been disturbed in some ways and are often less diverse or more isolated from other natural resources in the landscape than Category II wetlands.

(4) Category IV. In Lake Stevens Category IV wetlands have the lowest levels of functions (scoring fewer than 16 points) and are often heavily disturbed. These are wetlands that we should be able to replace, or in some cases to improve. These wetlands may provide some important functions, and should be protected to some degree.

(c) Illegal modifications. Wetland rating categories shall not change due to illegal modifications made by the applicant or with the applicant's knowledge.

#### **6.B7.C Determination of Boundary.**

- (a) The Shoreline Administrator or designee, relying on a field investigation supplied by an applicant and applying the wetland definition provided in this appendix, shall determine the location of the wetland boundary. Qualified professional and technical scientists shall perform wetland delineations as part of a wetland identification report in accordance with WAC [173-22-035](#). Criteria to be included in a required wetland identification report may be found in Section [23.G](#), Mitigation/Enhancement Plan Requirements. The applicant is required to show the location of the wetland boundary on a scaled drawing as a part of the permit application.
- (b) When the applicant has provided a delineation of the wetland boundary, the Shoreline Administrator or designee shall verify the accuracy of, and may render adjustments to, the boundary delineation. In the event the adjusted boundary delineation is contested by the applicant, the Shoreline Administrator shall, at the applicant's expense, obtain expert services to render a final delineation.
- (c) The Shoreline Administrator, when requested by the applicant, may waive the delineation of boundary requirement for the applicant and, in lieu of delineation by the applicant, perform the delineation. The Shoreline Administrator or designee shall consult with qualified professional scientists and technical experts or other experts as needed to perform the delineation. The applicant will be charged for the costs incurred. Where the ~~Shoreline Administrator~~ city performs a wetland delineation at the request of the applicant, such delineation shall be considered a final determination.

#### **6.E7.D Allowed Activities.**

Except where regulated by other sections of this appendix, SMP or any other title or law, and provided they are conducted using best management practices, the following uses and activities shall be allowed and regulated



within wetlands and their buffers when the requirements of Sections ~~6D7.E~~ and ~~6E7.F~~ have been met and mitigation adequate to alleviate any other impacts has been proposed:

(a) Those uses listed in Section ~~23.C~~.

~~(b) In Category IV wetlands only, access to developable portions of legal lots where:~~

~~(1) There is no other reasonable method of accessing the property;~~

~~(2) Altering the terrain would not cause drainage impacts to neighboring properties; and~~

~~(3) Not more than 2,500 square feet of wetland is impacted. (Ord. 773, Sec. 2, 2008; Ord. 741, Sec. 2, 2007)~~

~~(b) Conservation or preservation of soil, water, vegetation, fish, shellfish, and/or other wildlife that does not entail changing the structure or functions of the existing wetland.~~

~~(c) Stormwater management facilities. A wetland or its buffer can be physically or hydrologically altered to meet the requirements of an LID, Runoff Treatment or Flow Control BMP if the following criteria are met:~~

~~(1) The location of the stormwater management facility is restricted to the outer 25 percent of the buffer around the wetland;~~

~~(2) There will be "no net loss" of functions and values of the wetland;~~

~~(3) The wetland does not contain a breeding population of any native amphibian species;~~

~~(4) The hydrologic functions of the wetland can be improved;~~

~~(5) The wetland lies in the natural routing of the runoff, and the discharge follows the natural routing, and~~

~~(6) All regulations regarding stormwater and wetland management are followed, including but not limited to local and state wetland and stormwater codes, manuals, and permits;~~

~~(7) Modifications that alter the structure of a wetland or its soils will require permits. Existing functions and values that are lost would have to be compensated/replaced.~~

~~(8) Stormwater LID BMPs required as part of New and Redevelopment projects can be considered within wetlands and their buffers. However, these areas may contain features that render LID BMPs infeasible. A site-specific characterization is required to determine if an LID BMP is feasible at the project site.~~

#### **~~6.D7.E~~ Requirements.**

~~(a) Buffers. Wetland buffers shall be required for all regulated activities adjacent to regulated wetlands as provided in Table ~~14.88-17-1~~, unless modified per subsection (b) or (c) of this section elsewhere in this appendix.~~

~~(1) Any wetland created, restored, or enhanced as compensation for approved wetland alterations shall also include the standard buffer required for the category of the created, restored, or enhanced wetland. All buffers shall be measured from the wetland boundary as surveyed in the field. The width of the wetland buffer zone shall be determined according to wetland category and the proposed land use. These buffers have been established to reflect the impact of low and high intensity uses on wetland functions and values.~~

~~(2) To facilitate long-range planning using a landscape approach, the Shoreline Administrator or designee may pre-assess wetlands using the rating system and establish appropriate wetland buffer widths for~~





such wetlands. The Shoreline Administrator will prepare maps of wetlands that have been pre-assessed in this manner.

(3) All buffers shall be measured perpendicular from the wetland boundary as surveyed in the field. The buffer for a wetland created, restored, or enhanced as compensation for approved wetland alterations shall be the same as the buffer required for the category of the created, restored, or enhanced wetland. Buffers must be fully vegetated in order to be included in buffer area calculations. Lawns, walkways, driveways, and other mowed or paved areas will not be considered buffers or included in buffer area calculations.

(b) The buffer widths in Table 7-1 assume that the standard buffer is vegetated with a native plant community appropriate for the ecoregion. If the existing buffer is unvegetated, sparsely vegetated, or vegetated with invasive species that do not perform needed functions, the buffer should be planted to create the appropriate plant community, or the non-mitigated buffer should be widened to ensure that adequate functions of the buffer are provided.

Table 67-1 Wetland Buffer Requirements

Category	Sub-Category	HS 30-36	HS 21-29	HS <21
I	Based on Total Score	225	165	105
	Bogs	225	190	190
	Forested	225	165	105
II		225	165	105
III		60	165	105
IV		40	40	40

		Buffer width in feet based on habitat scores		
Wetland Category	Buffer Condition*	3-5	6-7	8-9
Category I	Standard	75	110	225
	No Mitigation	100	150	300
Category I	Standard	190		225



<u>(High Value)</u>	<u>No Mitigation</u>	<u>250</u>	<u>300</u>
<u>Category II</u>	<u>Standard</u>	<u>75</u>	<u>110</u>
	<u>No Mitigation</u>	<u>100</u>	<u>150</u>
<u>Category III</u>	<u>Standard</u>	<u>60</u>	<u>110</u>
	<u>No Mitigation</u>	<u>80</u>	<u>150</u>
<u>Category IV</u>	<u>Standard</u>	<u>40</u>	
	<u>No Mitigation</u>	<u>50</u>	

\* The buffer condition directly affects the required buffer width. A standard buffer width is to be used when the buffer is vegetated or will be planted to comply with Section 7.E(b) and Table 7-2; otherwise, the buffer is considered to have no mitigation and an increased buffer is required when limited vegetation exists or no mitigation is proposed to enhance buffer functions.

Table 67-2 Required Measures to minimize impacts to wetlands (measures are required if applicable to a specific proposal)

<u>Disturbance</u>	<u>Required Measures to Minimize Impacts</u>
<u>Lights</u>	<ul style="list-style-type: none"> <li>• <u>Direct lights away from wetland</u></li> </ul>
<u>Noise</u>	<ul style="list-style-type: none"> <li>• <u>Locate activity that generates noise away from wetland</u></li> <li>• <u>If warranted, enhance existing buffer with native vegetation plantings adjacent to noise source</u></li> <li>• <u>For activities that generate relatively continuous, potentially disruptive noise, such as certain heavy industry or mining, establish an additional 10-foot heavily vegetated buffer strip immediately adjacent to the outer wetland buffer</u></li> </ul>
<u>Toxic runoff</u>	<ul style="list-style-type: none"> <li>• <u>Route all new, untreated runoff away from wetland while ensuring wetland is not dewatered</u></li> <li>• <u>Establish covenants limiting use of pesticides within 150-feet of wetland</u></li> <li>• <u>Apply integrated pest management</u></li> </ul>
<u>Stormwater runoff</u>	<ul style="list-style-type: none"> <li>• <u>Retrofit stormwater detention and treatment for roads and existing adjacent development</u></li> <li>• <u>Prevent channelized flow from lawns that directly enters the buffer</u></li> <li>• <u>Use Low Intensity Development techniques, where applicable (for more information refer to the drainage ordinance and</u></li> </ul>
<u>Change in water regime</u>	<ul style="list-style-type: none"> <li>• <u>Infiltrate or treat, detain, and disperse into buffer new runoff from impervious surfaces and new lawns</u></li> </ul>



<u>Pets and human disturbance</u>	<ul style="list-style-type: none"> <li>• <u>Use privacy fencing OR plant dense vegetation to delineate buffer edge and to discourage disturbance using vegetation appropriate for the ecoregion</u></li> <li>• <u>Place wetland and its buffer in a separate tract or protect with a conservation easement</u></li> </ul>
<u>Dust</u>	<ul style="list-style-type: none"> <li>• <u>Use best management practices to control dust</u></li> </ul>
<u>Disruption of corridors or connections</u>	<ul style="list-style-type: none"> <li>• <u>Maintain connections to offsite areas that are undisturbed</u></li> <li>• <u>Restore corridors or connections to offsite habitats by replanting</u></li> </ul>

(~~bc~~) Increased Wetland Buffer Widths. The Shoreline Administrator shall require increased standard buffer zone widths on a case-by-case basis when a larger buffer is necessary to protect wetland functions and values based on local conditions. This determination shall be supported by appropriate documentation showing that it is reasonably related to protection of the functions and values of the regulated wetland. Such determination shall be attached as a permit condition and shall demonstrate that:

- ~~(1) A larger buffer is necessary to maintain viable populations of existing species; or~~
- ~~(2) The wetland is used by species proposed or listed by the Federal Government or the State as endangered, threatened, sensitive, critical or outstanding potential habitat for those species or has unusual nesting or resting sites such as heron rookeries or raptor nesting trees. An applicant must consult with the State Department of Fish and Wildlife to confirm any special recommendations for candidate or monitor species as listed for approval by the Planning and Community Development Director; or~~
- ~~(3) The adjacent land is susceptible to severe erosion and erosion control measures will not effectively prevent adverse wetland impacts, or the adjacent land has minimal vegetative cover or slopes greater than 15-30 percent.~~

(1) The wetland is used by a state or federally listed plant or animal species or has essential or outstanding habitat for those species, or has unusual nesting or resting sites such as heron rookeries or raptor nesting trees; or

(2) The adjacent land is susceptible to severe erosion, and erosion-control measures will not effectively prevent adverse wetland impacts; or

(3) The adjacent land has minimal vegetative cover or slopes greater than 30 percent.

(4) The larger buffer is required to meet no net loss of habitat function.

(~~ed~~) Wetland Buffer ~~Width~~-Averaging. Wetland buffer widths may be modified by averaging with the shoreline variance process. In no instance shall the buffer width be reduced by more than 25 percent of the standard buffer. Wetland buffer width averaging shall be allowed only where the applicant demonstrates all of the following as demonstrated in accordance with an approved critical report:

- (1) The averaging will not impair or reduce the habitat, water quality purification and enhancement, stormwater detention, groundwater recharge, shoreline protection, erosion protection, and other functions and values of the wetland and buffer; ~~and~~



- (2) The buffer is increased adjacent to the higher functioning area and decreased adjacent to lower-functioning area; and
- (23) The total area contained within the wetland buffer after averaging is no less than that contained within the standard buffer prior to averaging.
- (34) The averaging ensures no net loss of habitat function.
- (de) Buffer Conditions. Except as otherwise specified, wetland buffers shall be retained in their natural condition.
- (1) Where buffer disturbance may or has occurred ~~outside of development footprint~~ during construction, revegetation with native wetland vegetation ~~shall~~ may be required ~~appropriate for the ecoregion or with vegetation performing similar functions.~~
- (2) If the existing buffer is unvegetated, sparsely vegetated, or vegetated with invasive species that do not perform needed functions, the buffer should be planted to create the appropriate plant community or the buffer should be widened to ensure that adequate functions of the buffer are provided.
- (e) ~~Permitted Uses in a Wetland Buffer. Regulated activities shall not be allowed in a buffer zone except for the following:~~
- (1) ~~Activities having minimal adverse impacts on buffers and no adverse impacts on regulated wetlands. These may include low intensity, passive recreational activities such as pervious trails, nonpermanent wildlife watching blinds, short-term scientific or educational activities, and sports fishing or hunting;~~
- (2) ~~For Category III and IV wetlands, stormwater management facilities restricted to the outer 25 percent of the buffer around the wetland; or~~
- (3) ~~For Category III and IV wetlands, development having no feasible alternative location, pursuant to sequencing and subject to the mitigation requirements of LSMC 14.88.840.~~
- (f) Buffers may be modified when approved for the purpose of implementing innovative development design in accordance with Section 3.R.

#### **6.E7.F Mitigation.**

The mitigation sequence set forth in ~~WAC 173-26-201(2)(e)~~ this section should be applied after impact avoidance and minimization measures have been taken. ~~Compensatory mitigation for alterations to wetlands shall be used only for impacts that cannot be avoided or minimized and shall achieve equivalent or greater biologic functions. The design for the compensatory mitigation project needs to be appropriate for its location (i.e., position in the landscape). Therefore, compensatory mitigation should not result in the creation, restoration, or enhancement of an atypical wetland. An atypical wetland refers to a compensation wetland (e.g., created or enhanced) that does not match the type of existing wetland that would be found in the geomorphic setting of the site (i.e., the water source(s) and hydroperiod proposed for the mitigation site are not typical for the geomorphic setting).~~

##### **(a) Location and Timing of Mitigation.**

- (1) Restoration, creation, or enhancement actions should be undertaken on or adjacent to the site, or, where restoration, creation, or enhancement of a former wetland is proposed, within the same watershed. In-kind replacement of the impacted wetland is preferred for creation, restoration, or enhancement actions. The City may accept or recommend restoration, creation, or enhancement which is off site and/or out-of-



kind, if the applicant can demonstrate that on-site or in-kind restoration, creation, or enhancement is unfeasible due to constraints such as parcel size or wetland type, or that a wetland of a different type or location is justified based on regional needs or functions. A watershed plan must be submitted if off-site mitigation is proposed;

- (2) Whether occurring on site or off site, the mitigation project shall occur near an adequate water supply with a hydrologic connection to the wetland to ensure a successful wetlands development or restoration;
- (3) Any approved proposal shall be completed before initiation of other permitted activities, unless a phased or concurrent schedule has also been approved by the Planning and Community Development Department;
- (4) Wetland acreage replacement ratios shall be as specified in Table 67-3;
- (5) Credits from a wetland mitigation bank may be approved for use as compensation for unavoidable impacts to wetlands.

(i) This provision may be used when:

- a. The bank is certified under Chapter 173-700 WAC;
- b. The Shoreline Administrator or designee determines that the wetland mitigation bank provides appropriate compensation for the authorized impacts; and
- c. The proposed use of credits is consistent with the terms and conditions of the bank's certification.

(ii) Replacement ratios for projects using bank credits shall be consistent with replacement ratios specified in the bank's certification.

(iii) Credits from a certified wetland mitigation bank may be used to compensate for impacts located within the service area specified in the bank's certification. In some cases, the service area of the bank may include portions of more than one adjacent drainage basin for specific wetland functions.

(b) Mitigation Performance Standards.

(1) All reasonable measures shall be taken to avoid and reduce impacts. When such avoidance and reduction is not reasonable, adverse impacts to wetland functions and values shall be mitigated. Mitigation actions shall be implemented in the preferred sequence identified in Section 1.A(a). Proposals which include less preferred or compensatory mitigation shall demonstrate that:

- (i) All reasonable measures will be taken to reduce impacts and losses to the original wetland;
- (ii) No overall net loss will occur in wetland functions, values and acreage; and
- (iii) The restored, created or enhanced wetland will be as persistent and sustainable as the wetland it replaces.

(c) Wetland Replacement Ratios.

(1) Where wetland alterations are permitted by this appendix, the applicant shall restore or create equivalent areas of wetlands in order to compensate for wetland losses. Equivalent areas shall be



determined according to size, function, category, location, timing factors, and projected success of restoration or creation.

- (2) Where wetland creation is proposed, all required buffers for the creation site shall be located on the proposed creation site. Properties adjacent to or abutting wetland creation projects shall not be responsible for providing any additional buffer requirements.
  - (3) The following acreage replacement ratios shall be used as targets. The Shoreline Administrator may vary these standards if the applicant can demonstrate and the Shoreline Administrator or designee agrees that the variation will provide adequate compensation for lost wetland area, functions and values, or if other circumstances as determined by the Planning and Community Development Department justify the variation. The shoreline variance process shall be used to review any changes in recommended replacement ratios.
  - (4) The qualified scientific professional in the wetlands report may, where feasible, recommend that restored or created wetlands shall be a higher wetland category than the altered wetland.
- (d) The Shoreline Administrator may increase the ratios under the following circumstances:
- (1) Uncertainty exists as to the probable success of the proposed restoration or creation; or
  - (2) A significant period of time will elapse between impact and replication of wetland functions.
- (e) All wetland restoration, creation and/or enhancement projects required pursuant to this appendix either as a permit condition or as the result of an enforcement action shall follow a mitigation plan prepared in conformance to the requirements of Section 23.G, Mitigation/Enhancement Plan Requirements.
- (f) Mitigation ratios for the replacement of impacted wetlands shall be as listed in Table 67-3. However, Table 67-3 shall not apply to bogs, because it is not possible to create or restore bogs due to their unique chemistry and hydrology. Therefore, impacts to bogs are considered to be a loss of functions and shall be avoided.

Table 67-3: Wetland Mitigation Ratios

Affected Wetland	Mitigation Type and Ratio			
Category	Re-establishment or Wetland Creation	Rehabilitation	<del>Re-establishment or Creation (R/C) and Enhancement (E)</del>	Enhancement Only
Category IV	1.5:1	3:1	<del>1:1 R/C and 2:1 E</del>	6:1
Category III	2:1	4:1	<del>1:1 R/C and 2:1 E</del>	8:1
Category II	3:1	6:1	<del>1:1 R/C and 4:1</del>	12:1



			<del>E</del>	
Category I – Forested	6:1	12:1	<del>1:1 R/C and 10:1</del> <del>E</del>	24:1
Category I – Score Based	4:1	8:1	<del>1:1 R/C and 10:1</del> <del>E</del>	16:1
Category I – Bog <del>Natural</del> Heritage Site	Not considered possible	N/A	<del>N/A</del>	N/A

(g) Buffer Mitigation Ratios. Impacts to buffers shall be mitigated at a minimum 1:1 ratio. Compensatory buffer mitigation shall replace those buffer functions lost from development.

(h) The applicant may propose innovative site design based on the best available science and pursuant to Section 3.R if the innovative development design will achieve protection equivalent to or better than the standard provisions of this appendix. Approval of the innovative site design will be considered in combination with criteria listed in Section 3.R if the design achieves the following:

(1) The site design avoids impacts to the critical area; or

(2) The site design increases the functions and/or values of the wetland and buffer with a combination of the following measures:

(i) Improving water quality functions and values of the wetland and buffer by reducing fine sediment and pollutant input in the watershed by increasing hydrologic retention and filtration;

(ii) Improving the hydrologic functions and values of the wetland and buffer by providing increased flood control adjacent to a stream channel or by improving water storage ability in the wetland system to increase groundwater recharge potential; and

(iii) Increasing habitat for aquatic, amphibian and invertebrate species and associated wetland bird and mammal species.

(i) Credit/Debit Method. As an alternative to the mitigation ratios found in the joint guidance *Wetland Mitigation in Washington State Parts I and II* (Ecology Publication #06-06-011a-b, Olympia, WA, March 2006), the Shoreline Administrator or Designee may allow mitigation based on the “credit/debit” method developed by the Department of Ecology in *Calculating Credits and Debits for Compensatory Mitigation in Wetlands of Western Washington: Final Report*, (Ecology Publication #10-06-011, Olympia, WA, March 2012, or as revised).

## **Part VIII. Transfer of Development Rights**

### **8.A Definitions.**

(a) “Development rights” are those rights granted to a property owner under a particular zoning district.

(b) “Transferable rights” include dwelling unit equivalents (density) and commercial/industrial square footage.

### **8.B Intent and General Regulations of Transferring Development Rights (TDR).**



(a) The purpose in allowing the transfer of density is:

(1) To allow for the transfer of development rights out of critical areas into buildable areas; and

(2) To allow a property owner to recover a portion of the development value from property that may be used for a public purpose.

(b) TDR is not a guarantee that full development value can be recovered from a parcel of land designated as a sending area. Certain market forces may limit demand for density transfers including limitations placed on critical area receiving district capacities; particularly where all such districts are built out. Value of development rights shall be determined by the market for said rights and shall in no way be the responsibility of the City of Lake Stevens.

(c) All transfers must be consistent with the policies of the City's Comprehensive Plan and the provisions of this appendix. In particular, land developed within a critical area receiving district through the transfer of development rights shall comply with all use, dimensional, parking, screening, etc., requirements as set forth in this title.

(d) Development rights may be transferred out of areas designated as critical area sending districts and only into areas designated as critical area receiving districts. They may be transferred within or across ownership boundaries.

(e) When development rights are transferred off site, the property owners shall provide and enter into a contract with one another which, at a minimum, shall acknowledge their participation and acceptance.

**8.C Qualifications for Designation of Land as a Critical Area Sending or Receiving District.**

(a) All areas classified as a critical area by this appendix shall be considered critical area sending districts. Additionally, land that does not qualify as a critical area but which has been determined by City Council to be land suitable for a public purpose may be designated as critical area sending districts by the Shoreline Administrator with the concurrence of the majority ownership of the land.

(b) Any parcel or portion of a parcel on which development can occur per this title may be designated as a critical area receiving district by the Shoreline Administrator with the concurrence of the majority ownership of the land.

**8.D Designation Process.**

(a) Critical area sending or receiving districts are considered overlay zones allowed per Section 8.C, Qualifications for Designation of Land as a Critical Area Sending or Receiving District. Designation as a critical area sending or receiving district is the equivalent of a rezone and shall be accomplished by the same process as specified in Section 14.16C.090.

(b) Underlying land use and zoning designations may be changed by the legislative authority granted to the City through its normal Comprehensive Plan amendment or rezoning procedures. However, the land will retain the critical area sending district designation until that designation is specifically removed.

(c) Land designated as a critical area sending or receiving district shall be shown as an overlay district on the Official Zoning Map. The map shall be modified upon each designation or revocation.

(d) Designation or revocation as a critical area sending or receiving district shall be recorded with the Snohomish County recorder's office and shall run with the land.

**8.E Designation Revocation.**





(a) Land that has been designated as a critical area sending district shall retain its designation:

(1) Until all development rights calculated for that parcel have been transferred; or

(2) For a period of three years, whereby the designation may be reviewed for reconsideration. The designation may be continued upon all of the following findings being met:

(i) The property retains the same characteristics that qualified it as a critical area receiving district in the first place.

(ii) The owner(s) of the property desire a continuation of the designation.

(iii) It is still in the public interest to continue the designation.

(b) Land that has been designated a critical area receiving district shall retain its designation until the property has yielded its development potential.

(c) The Council may reconsider designation revocation of a noncritical area when it determines that the property is no longer suitable for public use.

(d) Revocation of a critical area sending or receiving district designation shall not affect the underlying land use designation or zone.

#### **8.F Calculating Transferable Development Rights.**

(a) Maximum transferable development rights shall be calculated for each parcel or portion of a parcel by calculating the theoretical development capacity were the land not classified as a critical area. Theoretical development capacity is calculated based on the requirements of this title, in particular Chapter 14.48, Density and Dimensional Regulations, but also taking into account the requirements of all other chapters (e.g., parking, screening, fire code, building code, etc.).

(b) Only like development rights may be transferred, and may only be transferred to a zone allowing a similar use, e.g., commercial square footage may be transferred out of a commercial district and into another commercial district or an industrial district that allows commercial uses.

## City of Lake Stevens SMP Periodic Update

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### Final SMP Update Report

Prepared on behalf of:



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## Attachments

Attachment A: Periodic Review Checklist



## 1. Introduction

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In accordance with the Washington State Shoreline Management Act (SMA), local jurisdictions with “Shorelines of the State” are required to conduct a periodic review of their Shoreline Master Programs (SMPs) (WAC 173-26-090). The periodic review is intended to keep SMPs current with amendments to state laws, changes to local plans and regulations, changes in local circumstances, and new or improved data and information.

Shorelines of the State in the City of Lake Stevens (City) include Lake Stevens, Catherine Creek, and Little Pilchuck Creek. The City adopted its current SMP in 2013 (Ordinances No. 856 & 889). The SMP includes goals and policies, shoreline environment designations, and development regulations that guide the development and protection of these shorelines.

As a first step in the periodic review process, the current SMP was reviewed to better understand what aspects may require updates. The purpose of the previously issued Draft SMP Update Report was to provide a summary of the review and inform updates to the SMP.

Based on the Draft SMP Update Report, the City has developed an updated draft SMP for submittal to the Washington State Department of Ecology (Ecology) for initial review. This Final SMP Update Report documents how the updated draft SMP addresses the issues identified in the Draft SMP Update Report. The report generally follows the same structure of the Draft SMP Update Report, which was organized into the following sections according to the content of the review.

- **Section 2** identifies gaps in consistency with state laws, rules and implementation guidance. This analysis is based on the Ecology’s Periodic Review Checklist.
- **Section 3** addresses critical areas regulations in shoreline jurisdiction. The City is in the process of updating its Critical Areas Ordinance (CAO), which applies to critical areas outside of shoreline jurisdiction, and expects to adopt an updated CAO later this year. The SMP, in Appendix B, contains its own distinct set of regulations that apply to critical areas within shoreline jurisdiction. Section 3 identifies gaps in consistency between the draft CAO (dated November 20, 2018) and SMA implementation.
- **Section 4** identifies gaps in consistency with the City’s Comprehensive Plan (adopted 2015) and with implementing City development regulations other than those in the CAO. Specifically, the review includes Lake Stevens Municipal Code (LSMC) Title 14, Land Use Code.
- **Section 5** identifies City staff-recommended amendments for the SMP update.

In addition, a new section has been added to this report that was not included the Draft SMP Update Report.

- **Section 6** addresses additional amendments identified since issuance of the Draft SMP Update Report.

Each section of this report presents in a table the review findings set forth in the Draft SMP Update Report along with any associated actions taken for the updated draft SMP. Where actions are identified, they are classified as follows:

- **“Mandatory”** indicates revisions that are required for consistency with state laws.
- **“Recommended”** indicates revisions that improve consistency with state laws, but are not strictly required.
- **“Optional”** indicates revisions that amend the SMP in accordance with state laws, but that are not required or recommended for consistency with state laws.

This document attempts to minimize the use of abbreviations; however, a select few are used to keep the document concise. These abbreviations are compiled below in Table 1-1.

Table 1-1. Abbreviations used in this document.

Abbreviation	Meaning
CAO	Critical Areas Ordinance
City	City of Lake Stevens
Ecology	Washington State Department of Ecology
FEMA	Federal Emergency Management Agency
LSMC	Lake Stevens Municipal Code
RCW	Revised Code of Washington
SMA	Shoreline Management Act
SMP	Shoreline Master Program
WAC	Washington Administrative Code

## 2. Consistency with Recent State Amendments

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As noted above, this section identifies gaps in consistency with state laws, rules and implementation guidance. This analysis is based on a list of recent amendments as summarized by Ecology in its Periodic Review Checklist. A completed version of the Periodic Review Checklist is appended to this report (Attachment A).

Overall, few mandatory amendments are identified, with several more indicated as recommended or optional amendments. In general, the amendments identified in the Periodic Review Checklist are minor in nature. They primarily concern amendments to exemptions, definitions, and administrative procedures.

### 3. Consistency with Critical Areas Ordinance

The City is currently working towards adoption of an updated CAO later this year. The SMP currently contains a distinct set of critical areas regulations in Appendix B, and does not adopt the City's CAO by reference. The City is retaining this approach, using the updated CAO as the basis for an updated SMP Appendix B.

However, the updated CAO contains several provisions that are modified for consistency with the SMA included as the updated SMP Appendix B. Table 3-1 identifies the gaps in consistency between the updated CAO and SMA implementation that were addressed when developing the updated Appendix B. The version of the draft CAO dated November 20, 2018 is reviewed.

Table 3-1. Summary of gaps in consistency with the updated CAO and SMA implementation.

No.	Topic	Review and Relevant Location(s) (from Draft SMP Update Report)	Action
1	Code sections inconsistent with the SMA or Ecology guidance	<p><b>Review:</b> The updated CAO includes several code provisions that are inconsistent with the SMA or Ecology guidance and should be excluded from SMP Appendix B.</p> <p><b>Relevant Location(s):</b></p> <ul style="list-style-type: none"> <li>• <b>Updated CAO</b> <ul style="list-style-type: none"> <li>○ LSMC 14.88.210(a)(1) &amp; (3)</li> <li>○ LSMC 14.88.310</li> <li>○ LSMC 14.88.320</li> <li>○ LSMC 14.88.330</li> <li>○ LSMC 14.88.330(f)</li> </ul> </li> </ul>	<p><b>Mandatory:</b> Excluded the following provisions of the updated CAO from SMP Appendix B:</p> <ul style="list-style-type: none"> <li>• LSMC 14.88.210(a)(1) &amp; (3) (references to exemptions and reasonable use)</li> <li>• LSMC 14.88.230 (compliance)</li> <li>• LSMC 14.88.235 (best available science)</li> <li>• LSMC 14.88.250 (procedures)</li> <li>• LSMC 14.88.310 (reasonable use)</li> <li>• LSMC 14.88.320 (reasonable use)</li> <li>• LSMC 14.88.330 (nonconforming activities)</li> <li>• LSMC 14.88.825 (wetland exemptions)</li> <li>• LSMC 14.88.830(f) (wetland buffer reduction)</li> </ul>



No.	Topic	Review and Relevant Location(s) (from Draft SMP Update Report)	Action
2	Definition of "Qualified Professional"	<p><b><u>Review:</u></b>  The proposed update includes the addition of a definition for "Qualified Professional" in LSMC 14.08, as LSMC 14.88 does not include a distinct set of definitions.</p> <p><b><u>Relevant Location(s):</u></b></p> <ul style="list-style-type: none"> <li>• <b>Updated CAO</b> <ul style="list-style-type: none"> <li>○ LSMC 14.88.100 Definitions (reference to LSMC 14.08 Definitions)</li> </ul> </li> <li>• <b>SMP</b> <ul style="list-style-type: none"> <li>○ Chapter 6 Definitions</li> </ul> </li> </ul>	<p><b><i>Recommended:</i></b> Added the new definition for "Qualified Professional" to SMP Chapter 6 Definitions to carry this definition over to the SMP.</p>
3	Formatting and consistency	<p><b><u>Review:</u></b>  The updated CAO includes internal references to other sections in LSMC 14.88, makes several references to the "Planning and Community Development Director," and makes references to zones/zoning. In many cases these references should be changed in order to adopt the updated CAO as the updated SMP Appendix B.</p> <p><b><u>Relevant Location(s):</u></b></p> <ul style="list-style-type: none"> <li>• <b>Updated CAO</b> <ul style="list-style-type: none"> <li>○ Various locations</li> </ul> </li> </ul>	<p><b><i>Recommended:</i></b> Replaced internal code references with appropriate references within the SMP and/or Appendix B. Replaced references to the "Planning and Community Development Director" with references to the "Shoreline Administrator." Replaced references to zones or zoning with references to environment designations, where appropriate.</p>
4	Applicability to critical areas within shoreline jurisdiction	<p><b><u>Review:</u></b>  The updated CAO properly asserts its applicability to critical areas in Lake Stevens. In order to amend this document for adoption as SMP Appendix B, the sections on purpose and intent and applicability should be modified to clearly establish that the provisions of Appendix B apply to critical areas within shoreline jurisdiction.</p> <p><b><u>Relevant Location(s):</u></b></p> <ul style="list-style-type: none"> <li>• <b>Updated CAO</b></li> </ul>	<p><b><i>Recommended:</i></b> Modified the text in LSMC 14.88.010 to clearly establish the goal of no net loss of acreage or function of shoreline critical areas. Modified the text in LSMC 14.88.200 to clarify that the provisions of SMP Appendix B apply to shoreline critical areas within Lake Stevens.</p>

No.	Topic	Review and Relevant Location(s) (from Draft SMP Update Report)	Action
		<ul style="list-style-type: none"> <li>o LSMC 14.88.010</li> <li>o LSMC 14.88.200</li> </ul>	
5	Geologically hazardous areas	<p><b>Review:</b> The updated CAO does not include certain SMA provisions for geologically hazardous areas in WAC 173-26-221. These provisions are included in Appendix B of the existing SMP.</p> <p><b>Relevant Location(s):</b></p> <ul style="list-style-type: none"> <li>• <b>Existing SMP Appendix B</b> <ul style="list-style-type: none"> <li>o 5.C(c)</li> <li>o 5.C(d)</li> </ul> </li> <li>• <b>Updated CAO</b> <ul style="list-style-type: none"> <li>o LSMC 14.88.620</li> </ul> </li> </ul>	<b>Mandatory:</b> Carried over existing SMP Appendix B regulations 5.C(c) and 5.C(d) to the updated CAO for consistency with WAC 173-26-221.
6	Wetland mitigation requirements	<p><b>Review:</b> The updated CAO does not include language requiring the submittal of a watershed plan if off-site wetland mitigation is proposed as indicated by WAC 173-26-201(2)(e)(ii)(B). This language is included in the existing SMP Appendix B.</p> <p><b>Relevant Location(s):</b></p> <ul style="list-style-type: none"> <li>• <b>Existing SMP Appendix B</b> <ul style="list-style-type: none"> <li>o 6.E(a)(1)</li> </ul> </li> <li>• <b>Updated CAO</b> <ul style="list-style-type: none"> <li>o LSMC 14.88.840(a)(1)</li> </ul> </li> </ul>	<b>Recommended:</b> Added language from current SMP Appendix B (at 6.E(a)(1)) that states “A watershed plan must be submitted if off-site mitigation is proposed;” to the updated SMP Appendix B.
7	Buffers for Fish and Wildlife Habitat Conservation Areas	<p><b>Review:</b> The updated CAO does not include a preamble that exists in the existing SMP Appendix B that clarifies the applicability of shoreline buffers and Fish and Wildlife Habitat Conservation Areas buffers.</p> <p><b>Relevant Location(s):</b></p> <ul style="list-style-type: none"> <li>• <b>Existing SMP Appendix B</b> <ul style="list-style-type: none"> <li>o Part 3</li> </ul> </li> <li>• <b>Updated CAO</b> <ul style="list-style-type: none"> <li>o LSMC 14.88 Part IV</li> </ul> </li> </ul>	<b>Recommended:</b> Added preamble from existing SMP Appendix B Part 3 to updated CAO for clarity in SMP implementation.

## 4. Consistency with Comprehensive Plan and Other Development Regulations

Table 4-1 identifies gaps in consistency with the City's Comprehensive Plan and development regulations, including LSMC Title 14, Land Use Code. In general, the review found that cross-references and consistency between these documents could be strengthened to improve clarity and application of the SMP.

Table 4-1. Summary of gaps in consistency with LSMC Title 14, Land Use Code, and the Lake Stevens Comprehensive Plan.

No.	Topic	Review and Relevant Location(s) (from Draft SMP Update Report)	Action
<b>Comprehensive Plan</b>			
1	Shoreline Element	<p><b>Review:</b> Under state law, the goals and policies of an SMP are considered an element of a jurisdiction's Comprehensive Plan. The Lake Stevens SMP indicates that its policies constitute the Shoreline Element of the City's Comprehensive Plan. While the Environmental and Natural Resources Element of the Comprehensive Plan includes a discussion of the SMP, as well as a goal (4.2) and associated policies related to implementing the SMA; it does not explicitly establish the policies of the SMP as an element of the plan.</p> <p><b>Relevant Location(s):</b></p> <ul style="list-style-type: none"> <li>• <b>Comprehensive Plan</b> <ul style="list-style-type: none"> <li>○ Chapter 4</li> </ul> </li> <li>• <b>SMP</b> <ul style="list-style-type: none"> <li>○ 3.B.1.c</li> </ul> </li> </ul>	<p><b>Recommended:</b> During the next update of the Comprehensive Plan, the City will explicitly indicate in the Comprehensive Plan that the policies in the SMP constitute the Shoreline Element of the City's Comprehensive Plan.</p>
<b>Development Regulations</b>			
2	Permit filing procedures	<p><b>Review:</b> Title 14 Land Use Code, indicates that the shoreline permit appeal comment period is 21 days from</p>	<p><b>Mandatory:</b> The City will update LSMC 14.16B for consistency with legislative amendments during a</p>

No.	Topic	Review and Relevant Location(s) (from Draft SMP Update Report)	Action
		<p>the date of receipt, as defined in RCW 90.58.180. Section 2 of this report recommends updating the SMP to reference the date of filing, as defined by RCW 90.58.140(6), in accordance with legislative updates made since adoption of the SMP. The associated language in Title 14 should also be updated.</p> <p><b>Relevant Location(s):</b></p> <ul style="list-style-type: none"> <li>• <b>LSMC</b> <ul style="list-style-type: none"> <li>○ 14.16B.710(h)</li> <li>○ 14.16B.720(b)</li> </ul> </li> </ul>	code cleanup process planned for the future.
3	Definitions	<p><b>Review:</b></p> <p>The relationship between the definitions in LSMC 14.08.010 and SMP Chapter 6 could be made more explicit.</p> <p><b>Relevant Location(s):</b></p> <ul style="list-style-type: none"> <li>• <b>LSMC</b> <ul style="list-style-type: none"> <li>○ 14.08.010 Definitions</li> </ul> </li> <li>• <b>SMP</b> <ul style="list-style-type: none"> <li>○ Chapter 6 Definitions</li> </ul> </li> </ul>	<b>Recommended:</b> Introduced SMP Chapter 6 with the following text: "Unless otherwise defined in this chapter, the definitions provided in LSMC 14.08.010 shall apply. If there is a conflict, the definitions in this chapter shall govern."

## 5. Staff-recommended Amendments

City planning staff proposed several amendments to the SMP. Table 5-1 discusses the more significant amendments. Other minor staff-recommended amendments are not included in the table.

Table 5-1. Staff recommendations.

No.	Topic	Review and Relevant Location(s) (from Draft SMP Update Report)	Action
1	Shoreline environment designations	<p><b>Review:</b></p> <p>The SMP includes tables of parcel numbers to indicate the extents of shoreline environment</p>	<b>Recommended:</b> Removed parcel number tables from the SMP. Updated shoreline environment designation maps to address the

No.	Topic	Review and Relevant Location(s) (from Draft SMP Update Report)	Action
		<p>designations. These tables are not required. The City can rely solely on maps to indicate shoreline environment designation boundaries. City staff have also noted that the shoreline environment designation maps will need to be updated based on the Downtown Plan and Rhodora annexation.</p> <p><b>Relevant Location(s):</b></p> <ul style="list-style-type: none"> <li>• <b>SMP</b> <ul style="list-style-type: none"> <li>○ Chapter 2</li> <li>○ Appendix A</li> </ul> </li> </ul>	<p>Downtown Plan (after further review, no changes were needed to address the completed Rhodora annexation). The redesignation of several parcels from Shoreline Residential to high intensity are justified because the existing development pattern in the downtown area is either high density residential, which was permitted in the Shoreline Residential designation or a mix of residential and commercial, which will be allowed in the High Intensity designation. The properties where the designation is increasing in intensity, is separated from the shoreline by a collector road that functionally separates the shoreline from the upland uses. The mixed-uses allowed in the high intensity designation are consistent with the recently adopted downtown subarea plan which is part of the City of Lake Stevens Comprehensive plan. The other redesignation is of a couple of parcels from Shoreline Residential to Urban Conservancy which is a less intensive designation and recognizes the City owned parcels being developed as a park and has the current City Hall offices. This change in designation promotes public access to the shoreline and further protects natural shoreline processes, recognizing exiting development patterns and is consistent with the City's comprehensive plan and long-term goals for public parks.</p>

No.	Topic	Review and Relevant Location(s) (from Draft SMP Update Report)	Action
2	Shoreline stabilization	<p><b>Review:</b> Shoreline stabilization section could better distinguish maintenance versus replacement of shoreline stabilization and related regulations. Additional flexibility for replacing bulkheads should be considered if consistent with the SMA. Section should be reviewed for overall consistency with WAC 173-26-231.</p> <p><b>Relevant Location(s):</b></p> <ul style="list-style-type: none"> <li>• <b>SMP</b> <ul style="list-style-type: none"> <li>○ 4.C.2</li> </ul> </li> </ul>	<p><b>Recommended:</b> Revised shoreline stabilization provisions to clarify what constitutes maintenance and what constitutes replacement, and what regulations are applicable. Provided more flexible approaches for replacing bulkheads if consistent with the SMA. Reviewed the shoreline stabilization section for overall consistency with WAC 173-26-231 and revised as needed.</p>
3	Development standards for new docks	<p><b>Review:</b> City staff have noted inconsistencies between the text and the figures that are included in the SMP Chapter 4.</p> <p><b>Relevant Location(s):</b></p> <ul style="list-style-type: none"> <li>• <b>SMP</b> <ul style="list-style-type: none"> <li>○ 4.C.3.c.24.c</li> <li>○ 4.C.3.d.24.i</li> </ul> </li> </ul>	<p><b>Recommended:</b> Updated the text and figures in SMP Chapter 4 for consistency with each other.</p>
4	Stormwater manual	<p><b>Review:</b> Chapter 5 of the SMP contains a reference to the 2005 Stormwater Manual, as amended. This manual has been updated since the adoption of the SMP.</p> <p><b>Relevant Location(s):</b></p> <ul style="list-style-type: none"> <li>• <b>SMP</b> <ul style="list-style-type: none"> <li>○ 5.C.8.c.3.b</li> </ul> </li> </ul>	<p><b>Recommended:</b> Updated section to reference the 2012 Stormwater Management Manual for Western Washington, as amended in 2014.</p>
5	Waterfront deck or patio provisions	<p><b>Review:</b> SMP could be simpler if sections related to residential decks and patios were combined.</p> <p><b>Relevant Location(s):</b></p> <ul style="list-style-type: none"> <li>• <b>SMP</b> <ul style="list-style-type: none"> <li>○ 5.C.8.c.3.d &amp; e</li> </ul> </li> </ul>	<p><b>Recommended:</b> Combined sections 5.C.8.c.3.d and 5.C.8.c.3.e for increased simplicity and clarity.</p>

No.	Topic	Review and Relevant Location(s) (from Draft SMP Update Report)	Action
6	Nonconforming overwater structures	<p><b>Review:</b>  Current regulations tend to preserve the existing configurations of nonconforming structures, even when alternative configurations might be preferable for both the applicant and the environment. Consider opportunities for more flexibility with regards to nonconforming overwater structures if consistent with the SMA.</p> <p><b>Relevant Location(s):</b></p> <ul style="list-style-type: none"> <li>• <b>SMP</b> <ul style="list-style-type: none"> <li>○ 4.C.3</li> </ul> </li> </ul>	<p><b>Recommended:</b> Amended overwater structures regulations to provide more flexibility as applied to nonconforming structures if consistent with the SMA.</p>
7	Repair and replacement of piers/docks	<p><b>Review:</b>  SMP currently has separate sections for replacement or repair of existing piers/docks.</p> <p><b>Relevant Location(s):</b></p> <ul style="list-style-type: none"> <li>• <b>SMP</b> <ul style="list-style-type: none"> <li>○ 4.C.3.c.25 &amp; 28-32</li> </ul> </li> </ul>	<p><b>Recommended:</b> Integrated pier/dock repair and replacement sections for consistency and clarity.</p>
8	Existing uses	<p><b>Review:</b>  Existing Structures and Development section of Chapter 7 includes provisions related to existing uses, which would be more appropriately located in the Nonconforming Uses and Lots section.</p> <p><b>Relevant Location(s):</b></p> <ul style="list-style-type: none"> <li>• <b>SMP</b> <ul style="list-style-type: none"> <li>○ 7.G &amp; H</li> </ul> </li> </ul>	<p><b>Recommended:</b> Removed provisions related to existing uses from the Existing Structures and Development section of Chapter 7. Provisions were not relocated to the Nonconforming Uses and Lots section as existing provisions in that section adequately addressed the content.</p>
9	Residential shoreline access	<p><b>Review:</b>  SMP lacks specifics regarding access paths for shoreline residences.</p> <p><b>Relevant Location(s):</b></p> <ul style="list-style-type: none"> <li>• <b>SMP</b> <ul style="list-style-type: none"> <li>○ 5.C.8.</li> </ul> </li> </ul>	<p><b>Recommended:</b> In the Residential Development section of Chapter 5, added language specifying the allowance for access paths for shoreline residences and associated standards. Ensured the standards allow for ADA access when needed.</p>
10	Residential landscaping	<p><b>Review:</b></p>	<p><b>Recommended:</b> In the Residential Development section of Chapter 5,</p>

No.	Topic	Review and Relevant Location(s) (from Draft SMP Update Report)	Action
		SMP lacks specificity regarding allowances for common types of residential landscaping work.  <b>Relevant Location(s):</b> • <i>SMP</i> ○ 5.C.8.	added language clarifying allowed landscaping work, such as grading and landscape walls.
11	Maintenance of residential development	<b>Review:</b> Management policies for the Shoreline Residential environment do not currently mention maintenance.  <b>Relevant Location(s):</b> • <i>SMP</i> ○ 2.C.4.c	<b>Recommended:</b> Clarified the allowance for maintenance in the management policies for the Shoreline Residential environment.

## 6. Additional Amendments

Since the issuance of the Draft SMP Update Report, a few additional aspects of the SMP that merit revision have been identified. These aspects are identified in Table 6-1.

Table 6-1. Additional amendments identified since issuance of the Draft SMP Update Report.

No.	Topic	Review and Relevant Location(s)	Action
1	Stormwater management	<b>Review:</b> Several sections of the SMP feature outdated references to the “City of Lake Stevens Surface Water Management Plan.”  <b>Relevant Location(s):</b> • <i>SMP</i> ○ Various locations	<b>Recommended:</b> Changed outdated references to the “City of Lake Stevens Surface Water Management Plan” to refer to the 2014 Stormwater Management Program.
2	Wood treatment	<b>Review:</b> Provisions related to wood treatment should be reviewed for clarity and to ensure consistency with recent agency guidance.  <b>Relevant Location(s):</b> • <i>SMP</i> ○ Various locations	<b>Recommended:</b> Revised provisions related to wood treatment for clarity and consistency with recent agency guidance.



No.	Topic	Review and Relevant Location(s)	Action
3	Shoreline variance	<p><b><u>Review:</u></b>  SMP contains some language that could better distinguish between the applicability of variances and shoreline variances.</p> <p><b><u>Relevant Location(s):</u></b></p> <ul style="list-style-type: none"> <li>• <b><i>SMP</i></b> <ul style="list-style-type: none"> <li>○ 3.B.1.a.2</li> </ul> </li> </ul>	<p><b><i>Recommended:</i></b> Amended the language in 3.B.1.a.2 to better distinguish between the applicability of variances and shoreline variances.</p>



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LAKE STEVENS CITY COUNCIL  
**STAFF REPORT**

**Council Agenda Date:** June 11, 2019

**Subject:** 2019 Pavement Overlay – Award of Contract

<b>Contact / Department:</b>	Eric Durpos	<b>Budget</b>	\$222,393.40
	Department of Public Works	<b>Impact:</b>	<u>Incl. contingency</u>

**RECOMMENDATION(S)/ACTION REQUESTED OF COUNCIL:** Award the 2019 Pavement Overlay project to Lakeside Industries Inc in an amount of \$172,393.43 with an authorized administrative contingency of \$50,000 for a total amount of \$222,393.40.

**SUMMARY/BACKGROUND:**

The asphalt pavement overlay is a regular part of street surface preservation and an amount of \$222,393.40 was included for this work in the 2019 budget. This year's overlay project includes a grind and overlay of 91<sup>st</sup> Ave SE from North of 15<sup>th</sup> Pl SE to just south of 8<sup>th</sup> St SE, near Lake Stevens Middle School and Skyline Elementary School.

The city released the request for bid on May 1, 2019 and opened bids on May 23, 2019. The city received six (6) responsive bids with the lowest bid coming from Lakeside Industries, Inc. from Monroe at \$172,393.40 and the highest bid from Granite Construction Company from Everett at \$248,153.00. The engineer's estimate for this project was \$233,000.

The remainder of the unallocated funds, within the approved 2019 overlay budget (\$400,000), will be rolled over into the 2020 Pavement Overlay project, or into the first crack sealing program for Lake Stevens.

The contractor will be placing variable message boards at each end of the project prior to construction as a reminder to the businesses and general public. The city will be contacting the property owners in the area to inform them of the impending construction. To reduce the impacts to local traffic, the contracting schedule is to occur during the summer months when school is out. Work is expected to be completed prior by the end of August.

**APPLICABLE CITY POLICIES:** NA

**BUDGET IMPACT:** \$222,393.40 including \$50,000 contingency.

**ATTACHMENTS:**

- ▶ Exhibit A: Public Works Contract
- ▶ Exhibit B: Project Vicinity Map
- ▶ Exhibit C: Bid Summary Table

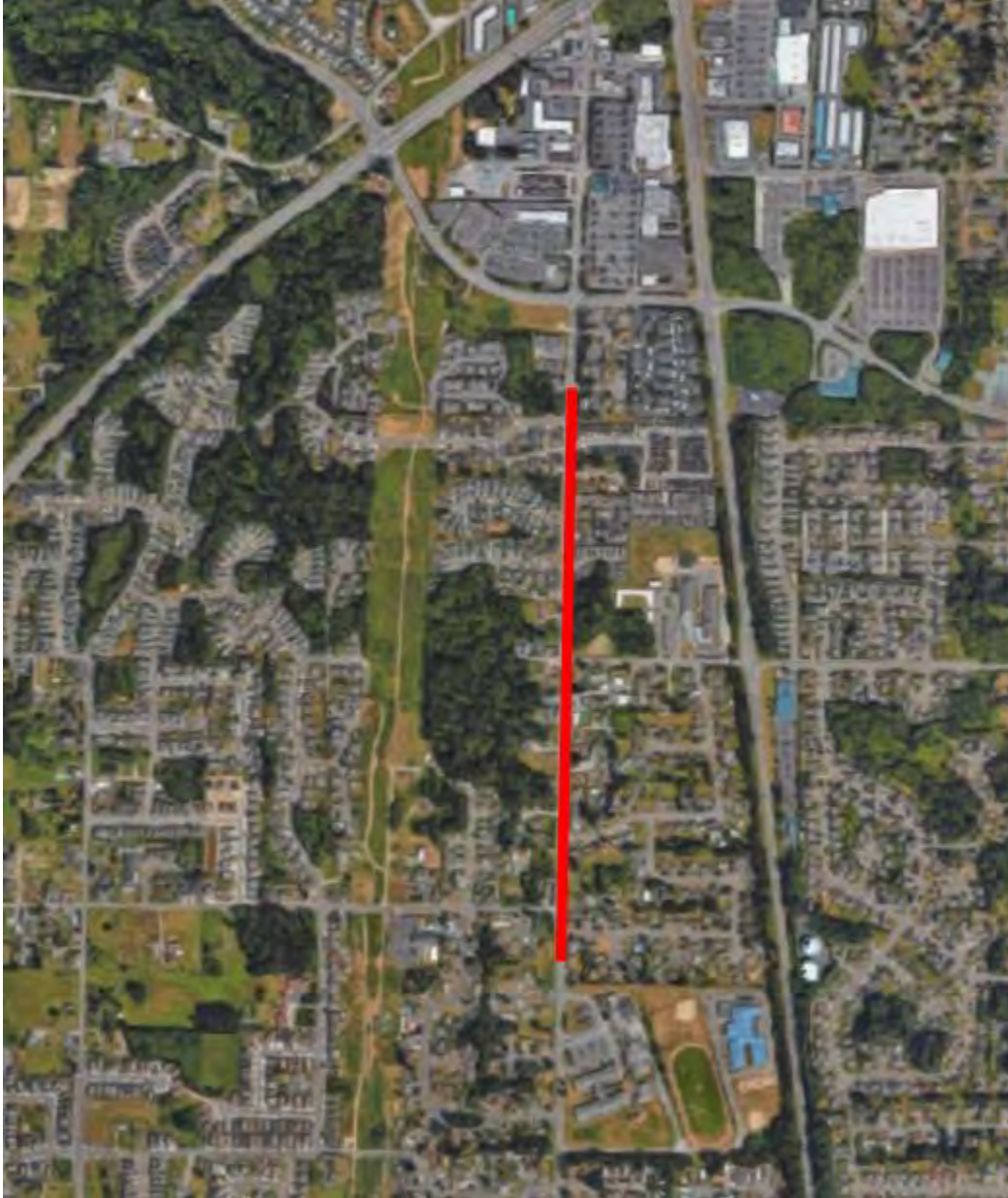
## EXHIBIT A

### Public Works Contract

## EXHIBIT B

### Project Vicinity Map

91<sup>st</sup> Ave SE from Meridian to 8<sup>th</sup> St SE



## **EXHIBIT C**

### **Bid Summary Table**

Attachment A

**SMALL PUBLIC WORKS CONTRACT (Under \$300,000)**

**THIS SMALL PUBLIC WORKS CONTRACT** (“Contract”) is made and entered into this \_\_\_\_\_ day of June 2019, by and between the City of Lake Stevens, Washington, a Washington State municipal corporation (“City”), and Lakeside Industries, Inc., a Washington corporation.

**WHEREAS**, the City desires to accomplish certain public works entitled 2019 Pavement Overlay (“the Project”) having an estimated cost of \$300,000 or less; and

**WHEREAS**, the City solicited written Bid Proposals for the Project; and

**WHEREAS**, whereas the City received and reviewed written Bid Proposals for the Project, and has determined that Contractor is the lowest responsive bidder; and

**WHEREAS**, the Contractor and the City desire to enter into this Contract for the Project in accordance with the terms and conditions of this Contract.

**NOW, THEREFORE**, in consideration of the terms, conditions and agreements contained herein, the City and Contractor agree as follows:

**1. Scope of Work—the Project.**

The Contractor shall perform, carry out and complete the 2019 Pavement Overlay (“Project”) in accordance with this Contract and the incorporated Contract Documents specified in Section 2. The Project shall be completed no later than September 31, 2019.

**2. Contract Documents.**

The following documents are incorporated into the Contract by this reference:

- A. ☒ Plans and Contract Drawings.
- B. ☐ Scope of Work.
- C. ☒ Proposal/Bid Submittal (attached).
- D. ☒ 2018 Standard Specifications for Road, Bridge, and Municipal Construction (WSDOT/APWA) (“Standard Specifications”) (referenced but not attached).
- E. ☒ WSDOT Amendments to the Standard Specifications (referenced but not attached)
- F. ☐ 2010 APWA Supplement General Special Provisions (referenced but not attached).
- G. ☒ City of Lake Stevens Engineering Standards (referenced but not attached)
- H. ☒ Addenda (**if any**)
- I. ☐ Payment and Performance Bond (attached).
- J. ☐ Retainage Bond (attached) (optional-see Section 5).

## Attachment A

In the event of any inconsistencies or conflicts between the language of this Contract and these incorporated documents, the language of the Contract shall prevail over the language of the documents.

### 3. **Commencement of Work.**

Work shall not proceed under this Contract until the Contractor has met following conditions:

- A. Contract has been signed and fully executed by the parties.
- B. The Contractor has provided the City with the certificates of insurance required under Section 22.
- C. The Contractor has obtained a City of Lake Stevens Business License.
- D. The Contractor has provided the City with satisfactory documentation that Contractor is licensed and bonded as a contractor in the Washington State.

These conditions shall be satisfied within ten (10) calendar days of the City's Notice of Award of the Contract to the Contractor. Upon satisfaction of these conditions, the City shall issue a Notice to Proceed and Contractor shall commence work within five (5) calendar days of the date of said Notice.

### 4. **Time is of the Essence/Liquidated Damages.**

Time is of the essence in the performance of this Contract. The Contractor shall diligently pursue the Project work to physical completion by the date specified in Section 1. If said work is not completed within the time specified, the Contractor agrees to pay the City as liquidated damages the sum set forth in Section 1-08.9 of the Standard Specifications for each and every calendar day said work remains uncompleted after expiration of the specified time.

### 5. **Payment for Project.**

- A. **Total Contract Sum for Project.** Excluding approved change orders, the City shall pay the Contractor for satisfactory completion of the Project under the Contract a total Contract Sum not to exceed \$172,393.40 (one hundred seventy-two thousand, three hundred ninety-three dollars and forty cents) in accordance with the bid price in the bid Proposal or proposal price in the Proposal and including all applicable Washington State Sales Tax. The total Contract Sum includes all expenses and costs incurred in planning, designing and constructing the Project, including, but not limited to, applicable sales and use taxes, costs and expenses for overhead, profit, labor, materials, supplies, permits, subcontractors, consultants, and professional services necessary to construct and complete the Project.
- B. **Payments shall be for Performance of Project Work.** Payments for work provided hereunder shall be made following the performance of such work, unless otherwise permitted by law and approved in writing by the City. No payment shall be made for any work rendered by the Contractor except as identified and set forth in this Contract.
- C. **Right to Withhold Payments if Work is Unsatisfactory.** If during the course of the Contract, the work rendered does not meet the requirements set forth in the Contract, the Contractor shall correct or modify the required work to comply with the requirements of the



## Attachment A

Contract. The City shall have the right to withhold payment for such work until it meets the requirements of the Contract.

D. **Payments.** Subject to F below, progress payments shall be based on the timely submittal by the Contractor of the City's standard payment request form. The form shall be appropriately completed and signed by the Contractor. Applications for payment not signed and/or completed shall be considered incomplete and ineligible for payment consideration. The City shall initiate authorization for payment after receipt of a satisfactorily completed payment request form and shall make payment to the Contractor within approximately thirty (30) calendar days thereafter.

E. **Payments for Alterations and/or Additions.** Requests for change orders and/or payments for any alterations in or additions to the work provided under this Contract shall be in accordance with the change order process set forth in Section 1-04.4 of the Standard Specifications.

F. **Final Payment.** Pursuant to RCW Chapter 60.28, a sum equal to five percent (5%) of the monies earned by the Contractor will be retained from payments made by the City to the Contractor under this Contract. This retainage shall be used as a trust fund for the protection and payment (1) to the State with respect to taxes imposed pursuant to RCW Title 82 and (2) the claims of any person arising under the Contract.

Monies retained under the provisions of RCW Chapter 60.28 shall, at the option of the Contractor, be:

1. Retained in a fund by the City; or
2. Deposited by the City in an escrow (interest-bearing) account in a bank, mutual saving bank, or savings and loan association (interest on monies so retained shall be paid to the Contractor). Deposits are to be in the name of the City and are not to be allowed to be withdrawn without the City's written authorization. The City will issue a check representing the sum of the monies reserved, payable to the bank or trust company. Such check shall be converted into bonds and securities chosen by the Contractor as the interest accrues.

At or before the time the Contract is executed, the Contractor shall designate the option desired. The Contractor in choosing option (2) agrees to assume full responsibility to pay all costs that may accrue from escrow services, brokerage charges or both, and further agrees to assume all risks in connection with the investment of the retained percentages in securities. The City may also, at its option, accept a bond in lieu of retainage.

Release of the retainage will be made sixty (60) calendar days following the Final Acceptance of the Project provided the following conditions are met:

1. A release has been obtained from the Washington State Department of Revenue.
2. Affidavits of Wages Paid for the Contractor and all Subcontractors are on file with the Contracting Agency (RCW 39.12.040).
3. A certificate of Payment of Contributions Penalties and Interest on Public Works Contract is received from the Washington State Employment Security Department.

## Attachment A

4. Washington State Department of Labor and Industries (per Section 1-07.10 of the Standard Specifications) shows the Contractor is current with payments of industrial insurance and medical premiums.

5. All claims, as provided by law, filed against the retainage have been resolved.

6. If requested by the City, the Contractor shall provide the City with proof that insurance required under Section 22 remains in effect.

G. **Final Acceptance.** Final Acceptance of the Project occurs when the Public Works Director has determined that the Project is one hundred percent (100%) complete and has been constructed in accordance with the Plans and Specifications.

H. **Payment in the Event of Termination.** In the event this Contract is terminated by the either party, the Contractor shall not be entitled to receive any further amounts due under this Contract until the work specified in the Scope of Work is satisfactorily completed, as scheduled, up to the date of termination. At such time, if the unpaid balance of the amount to be paid under the Contract exceeds the expense incurred by the City in finishing the work, and all damages sustained by the City or which may be sustained by the City or which may be sustained by the reason of such refusal, neglect, failure or discontinuance of Contractor performing the work, such excess shall be paid by the City to the Contractor. If the City's expense and damages exceed the unpaid balance, Contractor and his surety shall be jointly and severally liable therefore to the City and shall pay such difference to the City. Such expense and damages shall include all reasonable legal expenses and costs incurred by the City to protect the rights and interests of the City under the Contract.

I. **Maintenance and Inspection of Financial Records.** The Contractor and its subcontractors shall maintain reasonable books, accounts, records, documents and other evidence pertaining to the costs and expenses allowable, and the consideration paid under this Contract, in accordance with reasonable and customary accepted accounting practices. All such books of account and records required to be maintained by this Contract shall be subject to inspection and audit by representatives of City and/or of the Washington State Auditor at all reasonable times, and the Contractor shall afford the proper facilities for such inspection and audit to the extent such books and records are under control of the Contractor, and all Project Contracts shall similarly provide for such inspection and audit rights. Such books of account and records may be copied by representatives of City and/or of the Washington State Auditor where necessary to conduct or document an audit. The Contractor shall preserve and make available all such books of account and records in its control for a period of three (3) years after final payment under this Contract, and Bunker Repair Project subcontracts shall impose similar duties on the subcontractors.

### 6. **Term of Contract.**

The term of this Contract shall commence upon full execution of this Contract by the City and Contractor and shall terminate upon final payment by the City to the Contractor, unless sooner terminated by either party under Section 7 or applicable provision of the Contract.

Attachment A

**7. Termination of Contract.**

A. Except as otherwise provided under this Contract, either party may terminate this Contract upon ten (10) working days' written notice to the other party in the event that said other party is in default and fails to cure such default within that ten-day period, or such longer period as provided by the non-defaulting party. The notice of termination shall state the reasons therefore and the effective date of the termination.

B. The City may also terminate this Contract in accordance with the provisions of Section 1-08.10 of the Standard Specifications.

**8. Status of Contractor.**

The Contractor is a licensed, bonded and insured contractor as required and in accordance with the laws of the State of Washington. Contractor is acting as an independent contractor in the performance of each and every part of this Contract. No officer, employee, volunteer, and/or agent of either party shall act on behalf of or represent him or herself as an agent or representative of the City. Contractor and its officers, employees, volunteers, agents, contractors and/or subcontractors shall make no claim of City employment nor shall claim against the City any related employment benefits, social security, and/or retirement benefits. Nothing contained herein shall be interpreted as creating a relationship of servant, employee, partnership or agency between Contractor and the City.

**9. Permits.**

The Contractor will apply for, pay for and obtain any and all City, county, state and federal permits necessary to commence, construct and complete the Project. All required permits and associated costs shall be included in the Total Contract Sum for Project.

**10. Business License Required.**

The Contractor shall obtain a City of Lake Stevens business license prior to commencement of work under this Contract.

**11. Work Ethic.**

The Contractor shall perform all work and services under and pursuant to this Contract in timely, professional and workmanlike manner.

**12. City Ownership of Work Products.**

All work products (reports, maps, designs, specifications, etc.) prepared by or at the request of Contractor regarding the planning, design and construction of the Project shall be the property of the City. Contractor shall provide the City with paper and electronic copies of all work products in possession or control of Contractor at the request of final payment from Contractor or upon written request from the City.

**13. Job Safety.**

A. **General Job Safety.** Contractor shall take all necessary precaution for the safety of employees on the work site and shall comply with all applicable provisions of federal, state and

## Attachment A

local regulations, ordinances and codes. Contractor shall erect and properly maintain, at all times, as required by the conditions and progress of the work, all necessary safeguards for the protection of workers and the public and shall post danger signs warning against known and unusual hazards.

B. **Trench Safety Systems.** The Contractor shall ensure that all trenches are provided with adequate safety systems as required by RCW Chapter 49.17 and WAC 296-155-650 and -655. The Contractor is responsible for providing the competent person and registered professional engineer required by WAC 296-155-650 and -655.

### 14. **Prevailing Wages.**

Contractor shall pay its employees, and shall require its subcontractors to pay their employees, prevailing wages as required by and in compliance with applicable state and/or federal law and/or regulations, including but not limited to RCW Chapter 39.12 and RCW Chapter 49.28. Prior to final payment under this Contract, Contractor shall certify in writing that prevailing wages have been paid for all work on the Project as required and in accordance with applicable law and/or regulations.

### 15. **Taxes and Assessments.**

The Contractor shall be solely responsible for compensating its employees, agents, and/or subcontractors and for paying all related taxes, deductions, and assessments, including, but not limited to, applicable use and sales taxes, federal income tax, FICA, social security tax, assessments for unemployment and industrial injury, and other deductions from income which may be required by law or assessed against either party as a result of this Contract.

### 16. **Nondiscrimination Provision.**

During the performance of this Contract, the Contractor shall comply with all applicable equal opportunity laws and/or regulations and shall not discriminate on the basis of race, age, color, sex, sexual orientation, religion, national origin, creed, veteran status, marital status, political affiliation, or the presence of any sensory, mental or physical handicap. This provision shall include but not be limited to the following: employment, upgrading, demotion, transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, selection for training, and the provision of work and services under this Contract. The Contractor further agrees to maintain notices, posted in conspicuous places, setting forth the provisions of this nondiscrimination clause. The Contractor understands that violation of this provision shall be cause for immediate termination of this Contract and the Contractor may be barred from performing any services or work for the City in the future unless the Contractor demonstrates to the satisfaction of the City that discriminatory practices have been eliminated and that recurrence of such discriminatory practices is unlikely.

### 17. **The Americans with Disabilities Act.**

The Contractor shall comply, and shall require its subcontractors to comply, with the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 et seq. (ADA), and its implementing regulations, and Washington State's anti-discrimination law as contained in RCW Chapter 49.60 and its implementing regulations, with regard to the work and services provided pursuant to this Contract. The ADA provides comprehensive civil rights to individuals with disabilities in the area of employment, public accommodations, public transportation, state and local government services, and telecommunications.

Attachment A

**18. Compliance With Law.**

The Contractors shall perform all work and services under and pursuant to this Contract in full compliance with any and all applicable laws, rules, and regulations adopted or promulgated by any governmental agency or regulatory body, whether federal, state, local, or otherwise.

**19. Guarantee of Work.**

A. The Contractor guarantees and warrants all of its work, materials, and equipment provided and utilized for this Project to be free from defects for a period of one (1) year from the date of final acceptance of the Project work. The Contractor shall remedy any defects in its Project work, and the materials, and equipment utilized in the Project and pay for any damages resulting therefrom which shall appear within a period of one (1) year from the date of final acceptance of the Project work unless a longer period is specified. The City will give notice of observed defects with reasonable promptness.

B. The guarantee/warranty period shall be suspended from the time a significant defect is first documented by the City until the work or equipment is repaired or replaced by the Contractor and accepted by the City. In the event that fewer than ninety (90) calendar days remain in the guarantee period after acceptance of such repair or replacement (after deducting the period of suspension above), the guarantee period shall be extended to allow for at least ninety (90) calendar days guarantee of the work from the date of acceptance of such repair or equipment.

C. The Contractor shall also provide the City with manufacturer's warranties for all components, materials and equipment installed as part of the Project.

D. Any repairs or replacement required during the warranty period shall be performed within 30 calendar days following notification by the City.

**20. Contractor's Risk of Loss.**

It is understood that the whole of the work under this Contract is to be done at the Contractor's risk, and that he has familiarized himself with all existing conditions and other contingencies likely to affect the work, and has made his bid accordingly, and that he shall assume the responsibility and risk of all loss or damage to materials or work which may arise from any cause whatsoever prior to completion.

**21. Indemnification and Hold Harmless.**

A. The Contractor shall indemnify, defend and hold the City, its elected officials, agents, officers and/or employees and volunteers harmless from and against any and all claims, demands, liabilities, losses, costs, damages or expenses of any nature whatsoever (including all costs and attorneys' fees) to or by third parties arising from, resulting from or connected with the work and services performed or to be performed under this Contract by the Contractor and/or its directors, officers, agents, employees, consultants, and/or subcontractors to the fullest extent permitted by law and subject to the limitations provided below.

B. The Contractor's duty to indemnify the City shall not apply to liability for damages arising out of bodily injury to persons or damage to property caused by or resulting from the sole negligence of the City or its elected officials, agents, officers and/or employees.

## Attachment A

C. The Contractor's duty to indemnify the City for liability for damages arising out of bodily injury to persons or damage to property caused by or resulting from the concurrent negligence of (a) the City and/or its elected officials, agents, officers and/or employees, and (b) the Contractor and/or its directors, officers, agents, employees, consultants, and/or subcontractors, shall apply only to the extent of negligence of Contractor and/or its directors, officers, agents, employees, consultants, and/or subcontractors.

D. Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Contractor and the City, its officers, officials, employees, and volunteers, the Contractor's liability hereunder shall be only to the extent of the Contractor's negligence.

It is further specifically and expressly understood that the indemnification provided herein constitutes the Contractor's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties.

E. Nothing contained in this section or Contract shall be construed to create a liability or a right of indemnification by any third party.

F. The provisions of this section shall survive the expiration or termination of this Contract with respect to any event occurring prior to such expiration or termination.

## 22. **Insurance.**

### A. **Insurance Term.**

The Contractor shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise, as required in this Section, without interruption from or in connection with the performance commencement of the Contractor's work through the term of the work hereunder by the Contractor, their agents, representatives, employees or subcontractors contract and for thirty (30) days after the Physical Completion date, unless otherwise indicated herein.

### B. **No Limitation.**

Contractor's maintenance of insurance, its scope of coverage and limits as required herein shall not be construed to limit the liability of the Contractor to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity.

### C. **Minimum Scope of Insurance.**

Contractors required insurance shall be of the types and coverage as stated below:

1. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be written on at least as broad as Insurance Services Office (ISO) form CA Automobile 00 01 or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage.

2. Commercial General Liability insurance shall be written on at least as broad as ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, stop gap liability, independent contractors, products-completed operations,

## Attachment A

personal injury and advertising injury, and liability assumed under an insured contract. The Commercial General Liability insurance shall be endorsed to provide the per project general aggregate limit using ISO form CG 25 03 05 09 or an equivalent endorsement. There shall be no exclusion for liability arising from explosion, collapse or underground property damage. The City shall be named as an additional insured under the Contractor's Commercial General Liability insurance policy with respect to the work performed for the City using ISO Additional Insured endorsement CG 20 10 10 01 and Additional Insured- Completed Operations endorsement CG 20 37 10 01 or substitute endorsements providing at least as broad of coverage.

3. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington

4. ☐ Required. Builders Risk insurance covering interests of the City, the Contractor, Subcontractors, and Sub-contractors in the work. Builders Risk insurance shall be on a special perils policy form and shall insure against the perils of fire and extended coverage and physical loss or damage including flood, earthquake, theft, vandalism, malicious mischief, and collapse. The Builders Risk insurance shall include coverage for temporary buildings, debris removal and damage to materials in transit or stored off-site. This Builders Risk insurance covering the work will have a deductible of \$5,000 for each occurrence, which will be the responsibility of the Contractor. Higher deductibles for flood and earthquake perils may be accepted by the City upon written request by the Contractor and written acceptance by the City. Any increased deductibles accepted by the City will remain the responsibility of the Contractor. The Builders Risk insurance shall be maintained until final acceptance of the work by the City.

5. ☐ Required. Contractors Pollution Liability insurance covering losses caused by pollution conditions that arise from the operations of the Contractor. Contractors Pollution Liability insurance shall be written in an amount of at least \$1,000,000 per loss, with an annual aggregate of at least \$1,000,000. Contractors Pollution Liability shall cover bodily injury, property damage, cleanup costs and defense including costs and expenses incurred in the investigation, defense, or settlement of claims.

If the Contractors Pollution Liability insurance is written on a claims-made basis, the Contractor warrants that any retroactive date applicable to coverage under the policy precedes the effective date of this contract; and that continuous coverage will be maintained or an extended discovery period will be exercised for a period of three (3) years beginning from the time that work under the contract is completed.

The City shall be named by endorsement as an additional insured on the Contractors Pollution Liability insurance policy.

If the scope of services as defined in this contract includes the disposal of any hazardous materials from the job site, the Contractor must furnish to the City evidence of Pollution Liability insurance maintained by the disposal site operator for losses arising from the insured facility accepting waste under this contract. Coverage certified to the Public Entity under this paragraph must be maintained in minimum amounts of \$1,000,000 per loss, with an annual aggregate of at least \$1,000,000.

## Attachment A

Pollution Liability coverage at least as broad as that provided under ISO Pollution Liability-Broadened Coverage for Covered Autos Endorsement CA 99 48 shall be provided, and the Motor Carrier Act Endorsement (MCS 90) shall be attached.

### D. **Minimum Amounts of Insurance.**

The Contractor shall maintain the following insurance limits:

1. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.
2. Commercial General Liability insurance shall be written with limits no less than \$3,000,000 each occurrence, \$3,000,000 general aggregate and a \$2,000,000 products-completed operations aggregate limit.
3. ☐ Required. Builders Risk insurance shall be written in the amount of the completed value of the project with no coinsurance provisions.
4. ☐ Required. Contractors Pollution Liability shall be written in the amounts set forth above.

### E. **City Full Availability of Contractor Limits.**

If the Contractor maintains higher insurance limits than the minimums shown above, the City shall be insured for the full available limits of Commercial General and Excess or Umbrella liability maintained by the Contractor, irrespective of whether such limits maintained by the Contractor are greater than those required by this contract or whether any certificate of insurance furnished to the City evidences limits of liability lower than those maintained by the Contractor.

### F. **Other Insurance Provisions.**

The Contractor's insurance coverage shall be primary insurance with respect to the City. Any insurance, self-insurance, or insurance pool coverage maintained by the City shall be in excess of the Contractor's insurance and shall not contribute with it.

### G. **Acceptability of Insurers.**

Insurance is to be placed with insurers with a current A.M. Best rating of not less than A:VII.

### H. **Verification of Coverage.**

The Contractor shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the Automobile Liability and Commercial General Liability insurance of the Contractor before commencement of the work. Throughout the term of this Contract, upon request by the City, the Contractor shall furnish certified copies of all required insurance policies, including endorsements, required in this contract and evidence of all subcontractors' coverage.



## Attachment A

☐ Required. Before any exposure to loss may occur, the Contractor shall file with the City a copy of the Builders Risk insurance policy that includes all applicable conditions, exclusions, definitions, terms and endorsements related to this Project.

☐ Required. Before any exposure to loss may occur, the Contractor shall file with the City a copy of the Pollution Liability insurance that includes all applicable conditions, exclusions, definitions, terms and endorsements related to this Project.

### **I. Contractor's Insurance for Other Losses.**

The Contractor shall assume full responsibility for all loss or damage from any cause whatsoever to any tools, Contractor's employee owned tools, machinery, equipment, or motor vehicles owned or rented by the Contractor, or the Contractor's agents, suppliers or subcontractors as well as to any temporary structures, scaffolding and protective fences.

### **J. Subcontractors.**

The Contractor shall include all subcontractors as insured under its policies or shall furnish separate certifications and endorsements for each subcontractor. All coverage for subcontractors shall be subject to all of the same insurance requirements as stated herein for the Contractor.

The Contractor shall cause each and every Subcontractor to provide insurance coverage that complies with all applicable requirements of the Contractor-provided insurance as set forth herein. The Contractor shall ensure that the City is an additional insured on each and every Subcontractor's Commercial General liability insurance policy using an endorsement at least as broad as ISO Additional Insured endorsement CG 20 38 04 13.

### **K. Waiver of Subrogation.**

The Contractor and the City waive all rights against each other, any of their subcontractors, lower tier subcontractors, agents and employees, each of the other, for damages caused by fire or other perils to the extent covered by Builders Risk insurance or other property insurance obtained pursuant to the Insurance Requirements Section of this Contract or other property insurance applicable to the work. The policies shall provide such waivers by endorsement or otherwise.

### **L. Notice of Cancellation of Insurance.**

The Contractor shall provide the City and all Additional Insureds for this work with written notice of any policy cancellation within two business days of their receipt of such notice.

### **M. Failure to Maintain Insurance.**

Failure on the part of the Contractor to maintain the insurance as required shall constitute a material breach of contract, upon which the City may, after giving five (5) business days' notice to the Contractor to correct the breach, immediately terminate the contract or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the City on demand, or at the sole discretion of the City, offset against funds due the Contractor from the City.

Attachment A

**23. Assignment and Subcontractors.**

A. The Contractor shall not assign this Contract or any interest herein, nor any money due to or to become due hereunder, without first obtaining the written consent of the City.

B. The Contractor shall not subcontract any part of the services to be performed hereunder without first obtaining the consent of the City and complying with the provisions of this section.

C. In the event the Contractor does assign this Contract or employ any subcontractor, the Contractor agrees to bind in writing every assignee and subcontractor to the applicable terms and conditions of the Contract documents.

D. The Contractor shall, before commencing any work, notify the City in writing of the names of any proposed subcontractors. The Contractor shall not employ any subcontractor or other person or organization (including those who are to furnish the principal items or materials or equipment), whether initially or as a substitute, against whom the City may have reasonable objection. Each subcontractor or other person or organization shall be identified in writing to the City by the Contractor prior to the date this Contract is signed by the Contractor. Acceptance of any subcontractor or assignee by the City shall not constitute a waiver of any right of the City to reject defective work or work not in conformance with the contract documents. If the City, at any time, has reasonable objection to a subcontractor or assignee, the Contractor shall submit an acceptable substitute.

E. The Contractor shall be fully responsible for all acts and omissions of its assignees, subcontractors and of persons and organization directly or indirectly employed by it and of persons and organizations for whose acts any of them may be liable to the same extent that it is responsible for the acts and omissions of person directly employed by it.

F. The Contract does not and shall not create or be construed to create any relationship, contractual or otherwise, between the City and any subcontractor or assignee. Nothing in the Contract shall create any obligation on the part of the City to pay or to assure payment of any monies due any subcontractor or assignee.

**24. Severability.**

A. If a court of competent jurisdiction holds any part, term or provision of this Contract to be illegal or invalid, in whole or in part, the validity of the remaining provisions shall not be affected, and the parties' rights and obligations shall be construed and enforced as if the Contract did not contain the particular provision held to be invalid.

B. If any provision of this Contract is in direct conflict with any statutory provision of the State of Washington, that provision which may conflict shall be deemed inoperative and null and void insofar as it may conflict, and shall be deemed modified to conform to such statutory provision.

**25. Integration and Supersession.**

This Contract sets forth all of the terms, conditions, and Contracts of the parties relative to the Project, and supersedes any and all such former Contracts which are hereby declared terminated and of no further force and effect upon the execution and delivery hereof. There are no terms, conditions, or Contracts with respect thereto except as provided herein, and no amendment or modification of this

## Attachment A

Contract shall be effective unless reduced to writing and executed by the parties. In the event of any conflicts or inconsistencies between this Contract and the Declaration, the terms of this Contract shall control in all cases.

### **26. Non-Waiver.**

A waiver by either party hereto of a breach of the other party hereto of any covenant or condition of this Contract shall not impair the right of the party not in default to avail itself of any subsequent breach thereof. Leniency, delay or failure of either party to insist upon strict performance of any Contract, covenant or condition of this Contract, or to exercise any right herein given in any one or more instances, shall not be construed as a waiver or relinquishment of any such Contract, covenant, condition or right.

### **27. Survival.**

Any provision of this Contract which imposes an obligation after termination or expiration of this Contract shall survive the term or expiration of this Contract and shall be binding on the parties to this Contract.

### **28. Contract Representatives and Notices.**

This Contract shall be administered for the City by the Cory Nau (Senior Engineer), and shall be administered for the Contractor by the Contractor's Contract Representative, Richard Norman (President). Unless stated otherwise herein, all notices and demands shall be in writing and sent or hand-delivered to the parties at their addresses as follows:

#### To City:

City of Lake Stevens  
Attn: City Clerk  
1812 Main Street (Physical Address)  
Post Office Box 257 (Mailing Address)  
Lake Stevens, WA 98258  
Telephone: (425) 622-9400

#### To Contractor

Lakeside Industries, Inc  
Attn: Jason Dempsey, Operation Manager  
P.O. Box 247  
Monroe, WA 98272  
Telephone: (425) 743-1289

or to such addresses as the parties may hereafter designate in writing. Notices and/or demands shall be sent by registered or certified mail, postage prepaid, or hand-delivered. Such notices shall be deemed effective when mailed or hand-delivered at the addresses specified above.

### **29. Third Parties.**

The City and Contractor are the only parties to this Contract and are the only parties entitled to enforce its terms. Nothing in this Contract gives, is intended to give, or shall be construed to give or provide, any right or benefit, whether directly or indirectly or otherwise, to third persons.

### **30. Governing Law.**

This Contract shall be governed by and construed in accordance with the laws of the State of Washington.

Attachment A

**31. Venue.**

The venue for any action to enforce or interpret this Contract shall lie in the Superior Court of Washington for Snohomish County, Washington.

**32. Attorney Fees.**

Should either the City or the Contractor commence any legal action relating to the provisions of this Contract or the enforcement thereof, the prevailing party shall be awarded judgment for all costs of litigation including, but not limited to, costs, expert witnesses, and reasonable attorney fees.

**33. Authority.**

The person executing this Agreement on behalf of Contractor represents and warrants that he or she has been fully authorized by Contractor to execute this Agreement on its behalf and to legally bind Contractor to all the terms, performances and provisions of this Agreement. The person executing this Contractor on behalf of the City represents and warrants that he or she has been fully authorized by the City to execute this Contractor on its behalf and to legally bind the City to all the terms, performances and provisions of this Contractor.

**34. Counterparts and Signatures.**

This Contract may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same Contract. Digital, electronic, and PDF signatures will constitute an original in lieu of the "wet" signature.

**35. ☐ Debarment and Uniform Guidance.** If this contract involves the use, in whole or in part, of federal award(s), the Contractor must certify that it, and its subcontractors, have not been and are not currently on the Federal or the Washington State Debarment List and if the Contractor or its subcontractors become listed on the Federal or State Debarment List, the City will be notified immediately. Additionally, if this contract involves the use, in whole or in part, of federal award(s), provisions (A)-(K) in Appendix II to Part 200 of the Uniform Guidance (2 CFR Ch. 11 (1-1-14 edition)) are hereby incorporated, as applicable, as if fully set forth herein. See attached Exhibit \_\_\_, if applicable.

**IN WITNESS WHEREOF**, the parties hereto have caused this Contract to be executed the day and year first hereinabove written.

CITY OF LAKE STEVENS

LAKESIDE INDUSTRIES, INC.

By: \_\_\_\_\_  
Mayor

By: \_\_\_\_\_  
Jason Dempsey, Operation Manager

Attest:

\_\_\_\_\_  
Kathy Pugh, City Clerk

## Attachment A

Approved as to Form:

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Greg Rubstello, City Attorney

Acknowledgement of Waiver of Contractor's Industrial Insurance Immunity:

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City

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Contractor

ATTACHMENTS:

EXHIBIT A: Bid Proposal Documents

## **PART 2 – BID PROPOSAL & DOCUMENTS**

The documents contained within this section constitute the formal proposal from the bidder to the City for this project. Failure of the bidder to submit all pages contained in PART 2 with its bid and to accurately complete all applicable forms may be grounds for the Owner to consider the bid non-responsive.

Lakeside Industries

## STATEMENT OF BIDDER'S QUALIFICATIONS

Each Bidder submitting a bid on the **19001-2019 Pavement Overlay** shall, upon notification by the CONTRACTING AGENCY to do so, provide the following information and submit it with the bid proposal.

Bidder's Name: Lakeside Industries, Inc.

Business Address: P.O. Box 247 Monroe, WA 98272

Phone Number: (425) 743-1289 Fax Number: (360) 794-3399

Washington State Department of Labor and Industries Workmen's Compensation Account No.:  
700,227-00

Washington State Department of Licenses Contractor's Registration No.: LAKEST\*274JD

Expiration Date: 7/31/2020

Number of years Bidder has been engaged in the construction business under the present firm name stated above: 47

Gross dollar amount of work currently under contract: \$ 30,494,425.00

Gross dollar amount of contracts not completed: \$ 9,902,190.00

Type or types of construction work performed by Bidder: Asphalt Paving

List five (5) projects similar in nature to the **2019 Pavement Overlay** that have been completed by the Bidder within the last 10 years and the gross dollar amount of each project:

	Project Name	Agency	Contact and Phone No.	Year Completed	Bid Amount
2016 Snohomish	County Overlay & ADA Program	Snohomish County Public Works	Hamid Aslani 425-754-0895	2016	\$ 8,181,998.00
2017 "	" "	" "	" "	2017	\$ 9,925,741.00
2018 "	" "	" "	" "	2018	\$ 8,265,118.00
	WSDOT Contract 9060 SR528	WSDOT	Dave Lindberg 425-225-8743	2017	\$ 2,467,995.00
	WSDOT Contract 9025 US2	" "	Mark Sawyer 425-225-8773	2017	\$ 3,054,339.05

List five (5) pieces of equipment which are anticipated to be used on this project by the Bidder and note which items are owned by the Bidder and which are to be leased or rented from others:

1. 40244 - 2017 Cat AP555 P Model Paver (owned)

2. 45435 - 2018 Dynapac cc5200 Roller (owned)
3. 45436 - 2018 Cat CB34-MB Roller (owned)
4. 13019 - 2003 Peterbilt Distributor (owned)
5. 20225 - 2016 Peterbilt 365 Super Dump (owned)

Bank references: Wells Fargo: 205 108th Ave NE Ste 800 Bellevue, WA 98004  
Melissa Loo 425-362-1745

Have you changed bonding companies within the last three (3) years? No

If so, why (optional)? N/A

How many general superintendents or other responsible employees in a supervisory position does the Bidder currently employ and how long have they been with the firm?

Three: Bob Mock - 25 years, Dean Nelson - 15 years, Stacy Pierce - 10 years

Name of Superintendent to be used on the project and how long with your company:

Bob Mock - 25 years

List five (5) projects similar in nature to the **2019 Pavement Overlay** that have been completed by the proposed superintendent within the last ten (10) years, including reference names and telephone numbers:

<u>Project Name</u>	<u>Agency</u>	<u>Contact &amp; Phone No.</u>	<u>Year Completed</u>	<u>Bid Amount</u>
<u>2016 Snohomish County Overlay &amp; ADA Program</u>	<u>Snohomish County Public Works</u>	<u>Hamid Aslam 425-754-0695</u>	<u>2016</u>	<u>\$ 8,181,998.00</u>
<u>2017 "</u>	<u>" "</u>	<u>" "</u>	<u>" 2017</u>	<u>\$ 9,925,741.00</u>
<u>2018 "</u>	<u>" "</u>	<u>" "</u>	<u>" 2018</u>	<u>\$ 8,265,118.00</u>
<u>WSDOT Contract 9060 SR528</u>	<u>WSDOT</u>	<u>Dave Lindberg 425-225-8743</u>	<u>2017</u>	<u>\$ 2,467,995.00</u>
<u>WSDOT Contract 9025 US2</u>	<u>WSDOT</u>	<u>Mark Sawyer 425-225-8773</u>	<u>2017</u>	<u>\$ 3,054,339.65</u>

Have you ever sued or been sued by the client on any public works contract for a special district, municipality, county, or state government? No

Who? N/A

For what reason? N/A



N/A

Disposition of case, if settled: N/A

In addition, the undersigned Bidder certifies that Bidder is, at the time of bidding, a licensed general contractor in a state in the United States, and shall be, throughout the period of the contract, licensed by the State of Washington to do the type of work required under the terms of the Plans and Specifications. Bidder further certifies the Bidder is skilled and regularly engaged in the general class and type of work called for in the Plans and Specifications.

Bidder certifies that Bidder is competent and knowledgeable of the nature, extent, and inherent conditions of the work to be performed. Bidder further acknowledges that there are certain peculiar and inherent conditions existent in the construction of the particular facilities which may create, during the construction program, unusual or peculiar unsafe conditions hazardous to persons and property. Bidder expressly acknowledges that Bidder is aware of such peculiar risks and certifies that Bidder has the skill and experience to foresee and to adopt protective measures to adequately and safely perform the construction work with respect to such unusual and peculiar hazards.

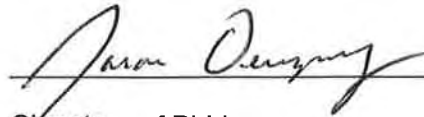
Signed this 23<sup>rd</sup> day of May, 20 19.

Lakeside Industries, Inc.

Name of Bidder

LAKEST\* 274JD - Washington

Contractor's License No. and State



Signature of Bidder

Operations Manager

Title of Signatory

## COMPLETION TIME AND LIQUIDATED DAMAGES

It is understood and agreed that all work required to complete this project and to achieve the implied intent of the Plans and Specifications pertaining to it shall be completed within **twenty (20) working**

**days** from and after the date to be stated in the Notice to Proceed in accordance with Section 1-08.5 of these Special Provisions.

It is further understood and agreed that the Owner may deduct liquidated damages from payments due or to become due to the Contractor as specified in Section 1-08.9 of the 2018 WSDOT Standard Specifications and these Special Provisions, and Amendments thereto for each working day in excess of the working days stipulated in the paragraph above for the work that remains unfinished.

**BID PROPOSAL**  
**FOR**  
**2019 Pavement Overlay**  
*City of Lake Stevens Project No. 19001*  
**LAKE STEVENS, WASHINGTON**

Date: May 23<sup>rd</sup>, 2019

TO: Mayor Spencer and City Council Members  
1812 Main Street  
Lake Stevens, WA 98258

BIDDER: Lakeside Industries, Inc.

The undersigned declares that they have examined the location of the project site and the conditions of work; and have carefully read and thoroughly understand the contract documents entitled: "**2019 Project Overlay**" including the "Bid Procedures and Conditions", "Specifications and Conditions" and "Contract Forms", governing the work embraced in this project and the method by which payment will be made for said work. The Undersigned hereby propose to undertake and complete the work embraced in this project in accordance with said contract documents, and agree to accept as payment for said work, the schedules of lump sums and unit prices as set forth in the "Bid" below.

The undersigned acknowledge that payment will be based on the actual work performed and material used as measured or provided for in accordance with the said contract documents, and that no additional compensation will be allowed for any taxes not included in each lump sum or unit price.

  
Signature

## BIDDER IDENTIFICATION

The name of the Bidder submitting this proposal, the address and phone number to which all communications concerned with this proposal shall be made, and the number which has been assigned indicating the Bidder is licensed to do business in the State of Washington are as follows:

Firm Name: Lakeside Industries, Inc.  
Address: P.O. Box 247  
Monroe, WA 98272  
Telephone: 425-743-1289 Contractor's Number: LAKE SI \* 274JD

The firm submitting this proposal is a: ☐ Sole Proprietorship  
☐ Partnership  
☒ Corporation

The names and titles of the principal officers of the corporation submitting this proposal, or of the partnership, or of all persons interested in this proposal as principals are as follows:

<u>Timothy Lee / CEO</u>	<u></u>
<u>Michael Lee / President</u>	<u></u>
<u>Dax Woolston / CFO</u>	<u></u>
<u>Jason Dempsey / Manager</u>	<u></u>

NOTE: Signatures of this proposal must be identified above. Failure to identify the Signatures will be cause for considering the proposal irregular and for subsequent rejection of the Bid.

# **BID SCHEDULE: Project #: 19001- 2019 Pavement Overlay**

The following bid prices shall include all material, labor, tools and equipment required for the completion of the described work. Prices for all items, all extensions and the total amount bid must be shown. The project must be bid in its entirety, including all bid items as specifically listed in the proposal, in order to be considered a responsive bid. Where conflict occurs between the unit price and total amount bid for any item, the unit price shall prevail and the totals shall be corrected to conform thereto. All entries must be typed or entered in ink. Entries that are not submitted typed or in ink may be considered a non-responsive bid. The estimated quantities shown are intended to provide a common proposal for all bidders.

**Bidder Name:** Lakeside Industries, Inc.


Item #	Description	Specs.	Estimated Quantity	Unit	Unit Price	Bid Item Total
A1	MOBILIZATION	1-09	1.0	LS	\$7,000.00	\$7,000.00
A2	PROJECT TEMPORARY TRAFFIC CONTROL	1-10	1.0	LS	\$8,500.00	\$8,500.00
A3	FLAGGERS	1-10.3(1)A	200.0	HR	\$65.00	\$13,000.00
A4	PORTABLE CHANGEABLE MESSAGE SIGN	1-10.3(3)C	750.0 <del>200.0</del>	HR	\$3.75	\$2,812.50
A5	INLET PROTECTION	6471	29.0	EA	\$53.00	\$1,537.00
A6	PLANING BITUMIONOUS PAVEMENT	5-04.3(14)	7040.0	SY	\$3.15	\$22,176.00
A7	EROSION/WATER POLLUTION CONTROL	8-01	1.0	FA	\$3,000.00	\$3,000.00
A8	HMA Cl. 1/2 In PG 64-22	5-04.5	870.2	TON	\$89.50	\$77,882.90
A9	TEMPORARY PAVEMENT MARKING - SHORT DURATION	5-04/8-23	2200.0	LF	\$0.60	\$1,320.00
A10	PAINTED LINE	8-22	6600.0	LF	\$0.60	\$3,960.00
A11	PLASTIC CROSSWALK LINE	8-22	480.0	SF	\$7.00	\$3,360.00

Item #	Description	Specs.	Estimated Quantity	Unit	Unit Price	Bid Item Total
A12	ADJUST MANHOLE	7-05.3(1)	13.0	EA	\$565.00	\$7,345.00
A13	OVERLAY PATCHING	SPEC-SECT 5	1	FA	\$2,500.00	\$2,500.00
A14	PERMANENT SIGNING	8-21	1.0	LS	\$3,000.00	\$3,000.00
A15	ASPHALT COST PRICE ADJUSTMENT	5-04.5	1.0	CAL	\$5,000.00	\$5,000.00
A16	RESOLVED UNANTICIPATED CONFLICTS	8-32	1	FA	\$10,000	\$10,000
<b>BID AMOUNT FOR PROJECT #19001: 2019 PAVEMENT OVERLAY</b>					<b>\$172,393.40</b>	

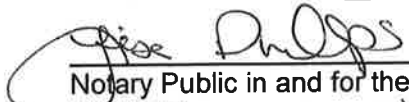
The bidder, by signing and submitting this bid, does hereby **acknowledge receipt of Addenda** numbered 1 to 3.

IN WITNESS hereto, the undersigned bidder:

- a) Agrees to the conditions of this bid;
- b) Certifies that this bid has not been restricted, modified or conditioned;
- c) Acknowledges receipt of addenda 1 to 3;
- d) Attests to the absence of collusion in the Non-Collusion Affidavit above and agrees to be bound by its provisions;
- e) Certifies and agrees concerning non-segregated facilities in the Non-Segregated Facilities statement above;
- f) Covenants, stipulates and agrees in accordance with the Anti-Discrimination Certification above;
- g) Declares, accepts and understands in accordance with the Bidder's Declarations and Understanding above;
- h) Agrees as to Washington State Sales Tax as above;
- i) Understands and agrees as to the completion time and liquidated damages as above, and
- j) With the full authority of the firm submitting this bid has signed below this 23<sup>rd</sup> day of May, 20 19.

X   
Signature of bidder  
Jason Dempsey  
Printed Name  
Operations Manager  
Title  
Lakeside Industries Inc.  
Company Name  
Address at which to direct correspondence:  
P.O. Box 247  
\_\_\_\_\_  
City Monroe State WA Zip 98272  
Phone: 425 - 743 - 1289  
Fax: 360 - 794 - 3399  
Email: jason.dempsey@lakesideindustries.com  
License No.: LAKE SI \* 274 JD

Sworn before me this 23 day of May, 2019.

  
Notary Public in and for the State  
Of Washington residing at Woodinville



## PROOF OF AUTHORITY TO SIGN BID

The party by whom this bid is submitted and by whom the contract will be entered into, in case the award is made to said party, is

Firm Name Lakeside Industries, Inc.

- ☒ Corporation  
☐ Partnership  
☐ Individual

Doing business at P.O. Box 247 Monroe, WA 98272  
Address City/State

Which is the address to which all communications concerned with this bid and contract should be sent.

The name of the president, treasurer, and manager of the bidding corporation, or the names of all persons and parties interested in this bid as partners or principals are as follows:

<u>Name/Title</u>	<u>Address</u>
<u>Timothy Lee / CEO</u>	<u>P.O. Box 7016 Issaquah, WA 98027</u>
<u>Michael Lee / President</u>	<u>" "</u>
<u>Dax Woolston / CFO</u>	<u>" "</u>
<u>Jason Dempsey / Manager</u>	<u>P.O. Box 247 Monroe, WA 98272</u>

### If Sole Proprietor or Partnership

IN WITNESS hereto, the undersigned has set his (its) hand this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Signature of bidder

\_\_\_\_\_  
Title



**If Corporation**

IN WITNESS WHEREOF, the undersigned corporation has caused this instrument to be executed and its seal affixed by its duly authorized officers this 23<sup>rd</sup> day of May, 2019.

[Signature]  
Secretary

By [Signature]  
Title Operations Manager

Lakeside Industries, Inc.  
Name of Corporation

- NOTE:
1. If the bidder is a co-partnership, so state, giving the name under which business is transacted.
  2. If the bidder is a corporation, only a duly authorized official may execute this Bid Proposal. This proof of authority must be notarized.

Sworn before me this 23 day of May, 2019.

[Signature]  
Notary Public in and for the State  
Of Washington residing at  
Woodinville



## BID DEPOSIT

A Bid Deposit shall be made payable to the City of Lake Stevens in the amount of five percent (5%) of the Total Bid Amount(s) for all schedules, based upon the Lump Sum or Bid Schedule quantities at the unit prices, including applicable taxes, and in the form indicated below and on the following page.

- ☐ Cashier's Check
- ☐ Certified Check
- ☒ Bid Bond

Amount: \$ \_\_\_\_\_

## Proposed Contract Performance Bond Surety

If the bidder is awarded a construction contract on this bid, the Surety who will provide the Contract Performance Bond will be Parker Smith Feek

Whose address is:

2233 112<sup>th</sup> Ave NE  
Street  
Bellevue WA 98004  
City State Zip Code  
Phone: 425-709-3625

**DEPOSIT OR BID BOND FORM**

**DEPOSIT STATEMENT**

Herewith find deposit in the form of certified check or cashier's check in the amount of \$ \_\_\_\_\_, which amount is not less than five percent of the total bid.

SIGN HERE \_\_\_\_\_

\*\*\*\*\*

**BID BOND**

**KNOW ALL MEN BY THESE PRESENTS:**

That we, Lakeside Industries, Inc., as Principal, and Travelers Casualty and Surety Company of America, as Surety, are held firmly bound unto the CITY OF LAKE STEVENS, Washington, as Obligee, in the penal sum of Five Percent (5%) of the Total Amount Bid--- Dollars, for the payment of which the Principal and the Surety bind themselves, their heirs, executors, administrators, successors, and assigns, jointly and severally by these presents.

The condition of this obligation is such that, if the Obligee shall make any award to the Principal for Project #: 19001-2019, \*according to the terms of the bid made by the Principal therefore, the Principal shall duly make and enter into a contract with the Obligee in accordance with the terms of said proposal or bid and award and shall give bond for the faithful performance thereof, with Surety or Sureties approved by the Obligee, or if the Principal shall, in case of failure to so do, pay and forfeit to the Obligee the penal amount of the deposit specified in the call for bids, then this obligation shall be null and void; otherwise, it shall be and remain in full force and effect, and the Surety shall forthwith pay and forfeit to the Obligee, as penalty and liquidated damages, the amount of this bond.

\* Pavement Overlay

SIGNED, SEALED, AND DATED THIS 23rd DAY OF May, 2019  
Lakeside Industries, Inc.

Principal  
Travelers Casualty and Surety Company of America  
Susan B. Larson  
Susan B. Larson, Attorney-in-Fact Surety

\_\_\_\_\_, 20\_\_\_\_

Received return of deposit in the sum of \$ \_\_\_\_\_



**Travelers Casualty and Surety Company of America**  
**Travelers Casualty and Surety Company**  
**St. Paul Fire and Marine Insurance Company**

**POWER OF ATTORNEY**

**KNOW ALL MEN BY THESE PRESENTS:** That Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company are corporations duly organized under the laws of the State of Connecticut (herein collectively called the "Companies"), and that the Companies do hereby make, constitute and appoint **Susan B. Larson, of Bellevue, Washington**, their true and lawful Attorney-in-Fact to sign, execute, seal and acknowledge any and all bonds, recognizances, conditional undertakings and other writings obligatory in the nature thereof on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

**IN WITNESS WHEREOF**, the Companies have caused this instrument to be signed, and their corporate seals to be hereto affixed, this **3rd day of February, 2017**.



State of Connecticut

City of Hartford ss.

By: \_\_\_\_\_

*Robert L. Raney*  
Robert L. Raney, Senior Vice President

On this the **3rd day of February, 2017**, before me personally appeared **Robert L. Raney**, who acknowledged himself to be the Senior Vice President of Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company, and that he, as such, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

**In Witness Whereof**, I hereunto set my hand and official seal

My Commission expires the **30th day of June, 2021**



*Marie C. Tetreault*  
Marie C. Tetreault, Notary Public

This Power of Attorney is granted under and by the authority of the following resolutions adopted by the Boards of Directors of Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company, which resolutions are now in full force and effect, reading as follows:

**RESOLVED**, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President, any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary may appoint Attorneys-in-Fact and Agents to act for and on behalf of the Company and may give such appointee such authority as his or her certificate of authority may prescribe to sign with the Company's name and seal with the Company's seal bonds, recognizances, contracts of indemnity, and other writings obligatory in the nature of a bond, recognizance, or conditional undertaking, and any of said officers or the Board of Directors at any time may remove any such appointee and revoke the power given him or her; and it is

**FURTHER RESOLVED**, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President may delegate all or any part of the foregoing authority to one or more officers or employees of this Company, provided that each such delegation is in writing and a copy thereof is filed in the office of the Secretary; and it is

**FURTHER RESOLVED**, that any bond, recognizance, contract of indemnity, or writing obligatory in the nature of a bond, recognizance, or conditional undertaking shall be valid and binding upon the Company when (a) signed by the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary and duly attested and sealed with the Company's seal by a Secretary or Assistant Secretary; or (b) duly executed (under seal, if required) by one or more Attorneys-in-Fact and Agents pursuant to the power prescribed in his or her certificate or their certificates of authority or by one or more Company officers pursuant to a written delegation of authority; and it is

**FURTHER RESOLVED**, that the signature of each of the following officers: President, any Executive Vice President, any Senior Vice President, any Vice President, any Assistant Vice President, any Secretary, any Assistant Secretary, and the seal of the Company may be affixed by facsimile to any Power of Attorney or to any certificate relating thereto appointing Resident Vice Presidents, Resident Assistant Secretaries or Attorneys-in-Fact for purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, and any such Power of Attorney or certificate bearing such facsimile signature or facsimile seal shall be valid and binding upon the Company and any such power so executed and certified by such facsimile signature and facsimile seal shall be valid and binding on the Company in the future with respect to any bond or understanding to which it is attached.

I, **Kevin E. Hughes**, the undersigned, Assistant Secretary of Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company, do hereby certify that the above and foregoing is a true and correct copy of the Power of Attorney executed by said Companies, which remains in full force and effect.

Dated this **23rd** day of **May**, 2019



*Kevin E. Hughes*  
Kevin E. Hughes, Assistant Secretary

**To verify the authenticity of this Power of Attorney, please call us at 1-800-421-3880.**  
**Please refer to the above-named Attorney-in-Fact and the details of the bond to which the power is attached.**



## PROPOSAL SIGNATURE AND ADDENDUM ACKNOWLEDGEMENT

The Bidder is hereby advised that by signature of this proposal, he/she is deemed to have acknowledged all requirements and signed all certificates contained herein. The undersigned hereby agrees to pay labor not less than the prevailing rates of wages or less than the hourly minimum rate of wages as specified in the Specifications and Conditions, for this project. A proposal guaranty in an amount of five percent (5%) of the total bid, based upon the approximation estimate of quantities at the above prices and in the form as indicated below, is attached hereto:

☐ CASH IN THE AMOUNT OF \_\_\_\_\_ Dollars  
☐ CASHIER'S CHECK IN THE AMOUNT OF \_\_\_\_\_ Dollars  
☐ CERTIFIED CHECK IN THE AMOUNT OF \_\_\_\_\_ Dollars  
(Payable to the City of Lake Stevens)  
☒ PROPOSAL BOND IN THE AMOUNT OF 5% OF THE BID.

Receipt is hereby acknowledged by addendum(s) No(s). 1, 2, and 3.

### SIGNATURE OF AUTHORIZED OFFICIAL(S)

(PROPOSAL MUST BE SIGNED)

[Signature]  
SIGNATURE:  
Lakeside Industries, Inc.  
FIRM NAME:

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF SNOHOMISH )

On this 23<sup>rd</sup> day of May 20 19, before me personally appeared Jason Dempsey to me personally known to be the person described in and who executed the above instrument and who acknowledged that he had the authority to submit this proposal on behalf of said firm.



NOTARY PUBLIC, in and for the State of Washington,  
Residing at: Woodinville  
My Commission Expires: 10-25-20

This proposal form is not transferable and any alteration of the firm's name entered hereon without prior permission from the City of Lake Stevens will be cause for considering the proposal irregular and for subsequent rejection of the Bid.

Local Agency Name <b>City of Lake Stevens</b>
Local Agency Address <b>1812 Main Street Lake Stevens, WA 98258</b>

## Local Agency Subcontractor List

*Prepared in compliance with RCW 39.30.060 as amended*

### To Be Submitted with the Bid Proposal

Project Name -----

Failure to list subcontractors with whom the bidder, if awarded the contract, will directly subcontract for performance of the work of heating, ventilation and air conditioning, plumbing, as described in Chapter 18.106 RCW, and electrical, as described in Chapter 19.28 RCW or naming more than one subcontractor to perform the same work will result in your bid being non-responsive and therefore void.

Subcontractor(s) with whom the bidder will directly subcontract that are proposed to perform the work of heating, ventilation and air conditioning, plumbing, as described in Chapter 18.106 RCW, and electrical as described in Chapter 19.28 RCW ~~will be~~ listed below. The work to be performed is to be listed below the subcontractor(s) name.

To the extent the Project includes one or more categories of work referenced in Rev 39.30.050, and no subcontractor is listed below to perform such work, the bidder certifies that the work will either (1) be performed by the bidder itself, or (2) be performed by a lower tier subcontractor who will not contract directly with the bidder.

Subcontractor Name  
Work to be Performed

N/A

Subcontractor Name  
Work to be Performed

Subcontractor Name  
Work to be Performed

Subcontractor Name  
Work to be Performed

Subcontractor Name  
Work to be Performed

\* Bidder's are notified that is the opinion of the enforcement agency that PVC or metal conduit, junction boxes, etc, are considered electrical equipment and therefore considered part of electrical work, even if the installation is for future use and no wiring or electrical current is connected during the project.

**Failure to return this Declaration as part of the bid proposal package  
will make the bid nonresponsive and ineligible for award.**

## **NON-COLLUSION DECLARATION**

**I, by signing the proposal, hereby declare, under penalty of  
perjury under the laws of the United States that the following  
statements are true and correct:**

1. That the undersigned person(s), firm, association or corporation has (have) not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with the project for which this proposal is submitted.
2. That by signing the signature page of this proposal, I am deemed to have signed and to have agreed to the provisions of this declaration.

## **NOTICE TO ALL BIDDERS**

To report rigging activities call:

**1-800-424-9071**

The U.S. Department of Transportation (USDOT) operates the above toll-free "hotline" Monday through Friday, 8:00 a.m. to 5:00 p.m., eastern time. Anyone with knowledge of possible bid rigging, bidder collusion, or other fraudulent activities should use the "hotline" to report such activities.

The "hotline" is part of USDOT's continuing effort to identify and investigate highway construction contract fraud and abuse and is operated under the direction of the USDOT Inspector General. All information will be treated confidentially and caller anonymity will be respected.

JD

## Certification of Compliance with Wage Payment Statutes

**This form must be submitted with the Bid Proposal or as a Supplement to the Bid no later than 24 hours after the time for delivery of the Bid Proposal, as provided for in Section 1-02.9 of the Contract Provisions.**

The bidder hereby certifies that, within the three-year period immediately preceding the bid solicitation date of May 23<sup>rd</sup>, 2019, the bidder is not a "willful" violator, as defined in RCW 49.48.082, of any provision of chapters 49.46, 49.48, or 49.52 RCW, as determined by a final and binding citation and notice of assessment issued by the Department of Labor and Industries or through a civil judgment entered by a court of limited or general jurisdiction.

I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Lakeside Industries, Inc.  
Bidder's Business Name

[Signature]  
Signature of Authorized Official\*

Jason Dempsey  
Printed Name

Operations Manager  
Title

5/23/19  
Date

Monroe  
City

WA  
State

Check One:

Sole Proprietorship ☐ Partnership ☐ Joint Venture ☐ Corporation ☒

State of Incorporation, or if not a corporation, State where business entity was formed:

Washington

If a co-partnership, give firm name under which business is transacted:

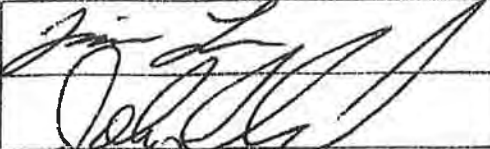
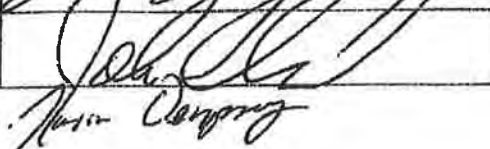
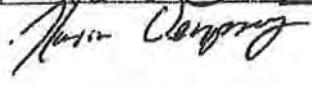
*\* If a corporation, proposal must be executed in the corporate name by the president or vice-president (or any other corporate officer accompanied by evidence of authority to sign). If a co-partnership, proposal must be executed by a partner.*



**Lakeside Industries, Inc.**  
**AUTHORIZED SIGNATURES**  
**-MONROE Division-**

List the name and title of those individuals in your organization who are authorized to execute proposals, contracts, bonds and other documents and/or instruments on behalf of the organization. Specify if more than one signature is required.

**Note:** Signature must appear next to name.

NAME	SIGNATURE	TITLE
LEE, JAIME		DIVISION MANAGER
CARMICHAEL, JOHN		PROJECT MANAGER
DEMPSEY, JASON		PROJECT MANAGER

The undersigned, being duly sworn, deposes and says that the foregoing is a true statement of facts concerning the individual, corporation, co-partnership or joint venture herein named, as of the date indicated:

**LAKESIDE INDUSTRIES, INC.**  
(Name of Firm, be exact)

  
(Authorized Signature(s))

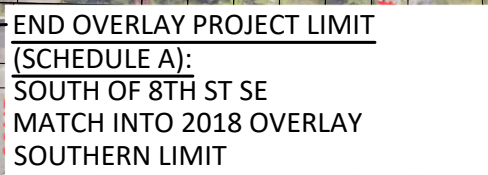
Sworn to before me this

18 day of April 2016

  
Notary Public







PROJECT LENGTH:  
APPROX = 2,200 LF

BEGIN OVERLAY PROJECT LIMIT  
(SCHEDULE A):  
NORTH OF 15TH PL SE



**CITY OF LAKE STEVENS  
PUBLIC WORKS  
DEPARTMENT**

# 2019 PAVEMENT OVERLAY PROJECT

## 91ST AVE SE (15TH PL SE TO 8TH ST SE)

Drawing No.	
VIC MAP	
Sheet No.	
1	1
	Of Total



## ATTACHMENT C

**Project Title:** 2019 Pavement Overlay  
**Project Number:** 19001  
**Bid Opening:** May 23rd, 2019

**Engineering Estimate** \$ 232,929.60

**Bidders Name:**

Lakeside Industries Inc	\$ 172,393.40	Low Bidder
JB Asphalt	\$ 210,001.00	adjust for calculation error
NorthShore Paving Inc	\$ 219,193.00	
Quilceda Paving	\$ 219,757.50	
Fidalgo Paving & Construction LLC	\$ 246,930.50	
Granite	\$ 248,153.00	



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LAKE STEVENS CITY COUNCIL  
**STAFF REPORT**

**Council Date:** **Agenda** June 11, 2019

**Subject:** Resolution No. 2019-11 Surplus Real Property

<b>Contact Person/Department:</b>	Russ Wright, Community Development Director	<b>Budget Impact:</b>	Revenue from sales
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**RECOMMENDATION(S)/ACTION REQUESTED OF COUNCIL:**

**Approve Resolution 2019-11** - A resolution of the city of Lake Stevens, Washington authorizing the City Council to surplus portions of real property along the 20<sup>th</sup> Street SE Corridor commonly known as the Ridgeline property and authorizing the mayor or designee to convey or sell real property pursuant to Chapter 2.98 LSMC.

**SUMMARY/BACKGROUND:** The city acquired the Ridgeline property through a property trade in May 2017. The Ridgeline parcels are listed in Exhibit A and depicted in Exhibit B of the resolution.

Lake Stevens Municipal Code (LSMC) 2.98.010 authorizes the City Council to surplus real property when it is not needed for some present or future municipal use and if it can be sold for a reasonable return.

The Ridgeline property contains two parcels totalling approximately 13.33 acres (580,655 sq feet). The city would surplus portions of these properties for commercial uses, minus areas retained for right-of-way purposes for the construction of 91st Ave and 24th Street SE and critical area protection. The final surplus area will be determined following the completion of a binding site plan or boundary line adjustment.

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**APPLICABLE CITY POLICIES:** Chapter 2.98 LSMC

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**BUDGET IMPACT:** Revenue from sales will be put in a dedicated capital fund for infrastructure improvements identified in the 20<sup>th</sup> Street SE Corridor subarea

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**ATTACHMENTS:**

- Resolution 2019-11
- Exhibit A: Ridgeline property parcel numbers
- Exhibit B: Ridgeline property map

CITY OF LAKE STEVENS  
LAKE STEVENS, WASHINGTON

**RESOLUTION NO. 2019-11**

**A RESOLUTION OF THE CITY OF LAKE STEVENS, WASHINGTON AUTHORIZING THE CITY COUNCIL TO SURPLUS PORTIONS OF ASSESSOR PARCEL NOS. 00457000002102 and 0045700000220, COMMONLY REFERRED TO AS THE RIDGELINE PROPERTY, AND AUTHORIZING THE MAYOR OR DESIGNEE TO CONVEY OR SELL REAL PROPERTY PURSUANT TO CHAPTER 2.98 OF THE LAKE STEVENS MUNICIPAL CODE.**

**WHEREAS**, the city acquired the Ridgeline property through a property trade in May 2017; and

**WHEREAS**, Lake Stevens Municipal Code (LSMC) 2.98.010 authorizes the City Council to surplus real property when it is not needed for some present or future municipal use and if it can be sold for a reasonable return; and

**WHEREAS**, LSMC 2.98.020 authorizes the Mayor to dispose of surplus property for a reasonable return or to benefit the public interest by sealed bid, auction, negotiated sale or special disposition; and

**WHEREAS**, the City Council has determined that portions of the property identified in Exhibit A and shown in Exhibit B are no longer needed for present or future municipal uses; and

**WHEREAS**, the City Council deems it to be in the public interest to sell or convey real property where the property is no longer useful to the City; and

**WHEREAS**, any proceeds from the sale of this property will go into a dedicated capital project fund to be spent on infrastructure improvements, including but not limited to road improvements, pedestrian improvements, utility improvements and/or stormwater improvements for the development of 91<sup>st</sup> Ave SE, 24<sup>th</sup> Street SE and associated improvements identified in the 20<sup>th</sup> Street SE Corridor Subarea Plan; 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

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF LAKE STEVENS, WASHINGTON AS FOLLOWS:**

**Section 1.** The City Council hereby authorizes the Mayor or the Mayor's designee to sell or dispose of the property identified in Exhibit A and shown in Exhibit B, minus areas retained for right-of-way purposes for the construction of 91st Ave and 24th Street SE and critical area protection, according to the provisions of Chapter 2.98 LSMC including determining fair market value and appropriate process for disposition thereof.

**Section 2.** The City Council hereby resolves that any proceeds from the sale of this property will go into a dedicated capital project fund to be spent on infrastructure improvements, including but not limited to road improvements, pedestrian improvements, utility improvements and/or stormwater improvements for the

development of 91st Ave SE, 24th Street SE and associated improvements identified in the 20th Street SE Corridor Subarea Plan.

PASSED by the City Council of the City of Lake Stevens, Washington this 11<sup>th</sup> day of June, 2019.

---

John Spencer, Mayor

ATTEST:

---

Kathy Pugh, City Clerk

## EXHIBIT A

List of properties or portions of properties identified by parcel number under the legal ownership of the City of Lake Stevens: 00457000002102 and 00457000002201.



Exhibit B: Ridgeline property map



City Property - Parcel Map



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LAKE STEVENS CITY COUNCIL  
**STAFF REPORT**

**Council Agenda Date:** 11<sup>th</sup> June 2019

**Subject:** 18012 – North Cove Park Plaza and Pavilion – Construction Contract Award

**Contact** Aaron Halverson, Capital Projects **Budget Impact:** \$4,140,168.50  
**Person/Department:** Coordinator, Public Works

**RECOMMENDATION(S)/ACTION REQUESTED OF COUNCIL:** Authorize the Mayor to execute a Public Works Contract with Colacurcio Brothers, Inc. of Blaine, WA in the amount of \$4,140,168.50 (Schedule A and B, Plaza and Pavilion Building) to construct the North Cove Park Plaza and Pavilion Project.

**SUMMARY/BACKGROUND:** Bids for this project were opened at 10:00 AM on June 6<sup>th</sup>, 2019. The City received a low base bid from Colacurcio Brothers, Inc. of Blaine, WA of \$4,140,168.50. There were also two additive alternative bids of \$104,787.95 for the water feature and \$214,40.00 for the north plaza. The Administration requests award of the base bid (Schedule A and B, Plaza and Pavilion Building) of \$4,140,168.50.

This project consists of construction of a 5,500 square foot pavilion with covered patios and walks, street frontage including street luminaires and street trees, a plaza area (Schedule A) surrounding the pavilion building (Schedule B) and Veterans Memorial area to the south. The additive alternatives included a water feature (Schedule C) west of the pavilion building and an additional northern plaza area (Schedule D) at the intersection of Main Street and North Lakeshore Drive. The project was designed by LDC, Inc. of Woodinville, WA, Design West Engineering of Edmonds, WA and Upstate Engineering of Mountlake Terrace, WA.

The call for bids was advertised on May 16<sup>th</sup> and May 23<sup>rd</sup>, 2019 in the Daily Journal of Commerce and the Everett Daily Herald. The City has reviewed bids, verified references for the low bidder and completed debarment checks. The Administration recommends award of this contract.

Construction is anticipated to begin in late June 2019. The contract allows 120 working days to complete the required work.

**APPLICABLE CITY POLICIES:**

**BUDGET IMPACT:** A grant administered through the Washington State Department of Commerce for \$3.1 million will fund the construction of the pavilion and site improvements. Of the \$3.1 million grant, \$2.55 million is allocated to this construction project while the remainder is allocated for adjacent property acquisition. The remaining contract amount will be funded with mitigation fees. Funding this construction contract will require that the City postpone development of Frontier Heights Park to 2020.

**ATTACHMENTS:**

- ▶ Attachment A: Public Works Contract
- ▶ Attachment B: Bid Tabulation
- ▶ Attachment C: North Cove Park Summary

## ATTACHMENT A

### PUBLIC WORKS CONTRACT

This Contract is made and entered into in duplicate this \_\_\_\_ day of June, 2019 by and between the City of Lake Stevens, a non-charter code city of the State of Washington, hereinafter referred to as "the City", and Colacurcio Brothers, Inc., a Washington corporation, ("Contractor").

WITNESSETH:

Whereas, the City desires to have certain public work performed as hereinafter set forth, requiring specialized skills and other supportive capabilities; and

Whereas, the Contractor represents that it is qualified and possesses sufficient skills and the necessary capabilities to perform the services set forth in this Contract.

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

1. Scope of Work.

The Contractor shall do all work and furnish all tools, materials, and equipment in order to accomplish the following project:

***North Cove Park Plaza and Pavilion  
Project: 18012***

in accordance with and as described in

- A. this Contract, and
- B. the Project Manual, which include the attached plans, Specifications, Special Provisions, submittal requirements, attachments, addenda (if any), Bid Form, Performance and Payment Bond, and
- C. the Standard Specifications for Road, Bridge, and Municipal Construction prepared by the Washington State Department of Transportation, as may be specifically modified in the attached Specifications and/or Special Provisions, hereinafter referred to as "the standard specifications",
- D. ☐ City of Lake Stevens Engineering Standards (referenced but not attached)
- E. Other \_\_\_\_\_
- F. Addenda (If any)

and shall perform any alterations in or additions to the work provided under this Contract and every part thereof.

The Contractor shall provide and bear the expense of all equipment, work, and labor of any sort whatsoever that may be required for the transfer of materials and for constructing and completing the work provided for in this Contract, except as may otherwise be provided in the Project Manual.

2. Time for Performance and Liquidated Damages / Termination of Contract.

- A. Time is of the essence in the performance of this Contract and in adhering to the time frames specified herein. The Contractor shall commence work within ten (10) calendar days after notice to proceed from the City, and said work shall be physically completed within **120** working days after said notice to proceed, unless a different time frame is expressly provided in writing by the City.
- B. If said work is not completed within the time for physical completion, the Contractor may be required at the City's sole discretion to pay to the City liquidated damages as set forth in the Project Manual, for each and every day said work remains uncompleted after the expiration of the specified time.
- C. Termination of Contract.
  - 1. Except as otherwise provided under this Contract, either party may terminate this Contract upon ten (10) working days' written notice to the other party in the event that said other party is in default and fails to cure such default within that ten-day period, or such longer period as provided by the non-defaulting party. The notice of termination shall state the reasons therefore and the effective date of the termination.
  - 2. The City may also terminate this Contract in accordance with the provisions of Section 1-08.10 of the Standard Specifications.

3. Compensation and Method of Payment.

- A. The City shall pay the Contractor for work performed under this Contract as detailed in the bid, as incorporated in the Project Manual.
- B. Payments for work provided hereunder shall be made following the performance of such work, unless otherwise permitted by law and approved in writing by the City. No payment shall be made for any work rendered by the Contractor except as identified and set forth in this Contract.
- C. Progress payments shall be based on the timely submittal by the Contractor of the City's standard payment request form.
- D. Payments for any alterations in or additions to the work provided under this Contract shall be in accordance with the Request For Information (RFI) and/or

Construction Change Order (CCO) process as set forth in the Project Manual. Following approval of the RFI and/or CCO, the Contractor shall submit the standard payment request form(s).

- E. The Contractor shall submit payment requests with a completed Application for Payment form, an example of which is included in the Attachments to this Contract. This form includes a lien waiver certification and shall be notarized before submission. Applications for payment not signed or notarized shall be considered incomplete and ineligible for payment consideration. The City shall initiate authorization for payment after receipt of a satisfactorily completed payment request form and shall make payment to the Contractor within approximately thirty (30) days thereafter.

4. Independent Contractor Relationship.

The relationship created by this Contract is that of independent contracting entities. No agent, employee, servant, or representative of the Contractor shall be deemed to be an employee, agent, servant, or representative of the City, and the employees of the Contractor are not entitled to any of the benefits the City provides for its employees. The Contractor shall be solely and entirely responsible for its acts and the acts of its agents, employees, servants, subcontractors, or representatives during the performance of this Contract. The Contractor shall assume full responsibility for payment of all wages and salaries and all federal, state, and local taxes or contributions imposed or required, including, but not limited to, unemployment insurance, workers compensation insurance, social security, and income tax withholding.

5. Prevailing Wage Requirements.

The Contractor shall comply with applicable prevailing wage requirements of the Washington State Department of Labor & Industries, as set forth in Chapter 39.12 RCW and Chapter 296-127 WAC. The Contractor shall document compliance with said requirements and shall file with the City appropriate affidavits, certificates, and/or statements of compliance with the State prevailing wage requirements. The Washington State Prevailing Wage Rates For Public Works Contracts, Snohomish County, incorporated in this Contract have been established by the Department of Labor & Industries and are included as an Attachment to this Contract. The Contractor shall also ensure that any subcontractors or agents of the Contractor shall comply with the prevailing wage and documentation requirements as set forth herein.

6. Indemnification and Hold Harmless.

- A. The Contractor shall defend, indemnify, and hold harmless the City, its officers, officials, employees, and volunteers against and from any and all claims, injuries, damages, losses, or suits, including attorney fees, arising out of or in connection with the performance of this Contract, except for injuries and damages caused by the sole negligence of the City.

- B. The Contractor's duty to indemnify the City shall not apply to liability for damages arising out of bodily injury to persons or damage to property caused by or resulting from the sole negligence of the City or its elected officials, agents, officers and/or employees.
- C. The Contractor's duty to indemnify the City for liability for damages arising out of bodily injury to persons or damage to property caused by or resulting from the concurrent negligence of (a) the City and/or its elected officials, agents, officers and/or employees, and (b) the Contractor and/or its directors, officers, agents, employees, consultants, and/or subcontractors, shall apply only to the extent of negligence of Contractor and/or its directors, officers, agents, employees, consultants, and/or subcontractors
- D. Should a court of competent jurisdiction determine that this Contract is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Contractor and the City, its officers, officials, employees, and volunteers, the Contractor's liability hereunder shall be only to the extent of the Contractor's negligence.

It is further specifically and expressly understood that the indemnification provided herein constitutes the Contractor's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties.

- E. Nothing contained in this section or Contract shall be construed to create a liability or a right of indemnification by any third party.
- F. The provisions of this section shall survive the expiration or termination of this Contract.

7. Insurance.

A. **Insurance Term.**

The Contractor shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise, as required in this Section, without interruption from or in connection with the performance commencement of the Contractor's work through the term of the work hereunder by the Contractor, their agents, representatives, employees or subcontractors contract and for thirty (30) days after the Physical Completion date, unless otherwise indicated herein.

B. **No Limitation**

Contractor's maintenance of insurance, its scope of coverage and limits as required herein shall not be construed to limit the liability of the Contractor to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity.

**C. Minimum Scope of Insurance.**

Contractors required insurance shall be of the types and coverage as stated below:

1. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be written on at least as broad as Insurance Services Office (ISO) form CA Automobile 00 01 or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage.

2. Commercial General Liability insurance shall be written on at least as broad as ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, stop gap liability, independent contractors, products-completed operations, personal injury and advertising injury, and liability assumed under an insured contract. The Commercial General Liability insurance shall be endorsed to provide the per project general aggregate limit using ISO form CG 25 03 05 09 or an equivalent endorsement. There shall be no exclusion for liability arising from explosion, collapse or underground property damage. The City shall be named as an additional insured under the Contractor's Commercial General Liability insurance policy with respect to the work performed for the City using ISO Additional Insured endorsement CG 20 10 10 01 and Additional Insured- Completed Operations endorsement CG 20 37 10 01 or substitute endorsements providing at least as broad of coverage.

3. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington

4. ☒ Required. Builders Risk insurance covering interests of the City, the Contractor, Subcontractors, and Sub-contractors in the work. Builders Risk insurance shall be on a special perils policy form and shall insure against the perils of fire and extended coverage and physical loss or damage including flood, earthquake, theft, vandalism, malicious mischief, and collapse. The Builders Risk insurance shall include coverage for temporary buildings, debris removal and damage to materials in transit or stored off-site. This Builders Risk insurance covering the work will have a deductible of \$5,000 for each occurrence, which will be the responsibility of the Contractor. Higher deductibles for flood and earthquake perils may be accepted by the City upon written request by the Contractor and written acceptance by the City. Any increased deductibles accepted by the City will remain the responsibility of the Contractor. The Builders Risk insurance shall be maintained until final acceptance of the work by the City.

5. ☐ Required. Contractors Pollution Liability insurance covering losses caused by pollution conditions that arise from the operations of the Contractor. Contractors Pollution Liability insurance shall be written in an amount of at least \$1,000,000 per loss, with an annual aggregate of at least \$1,000,000. Contractors Pollution Liability shall cover bodily injury, property damage, cleanup costs and



defense including costs and expenses incurred in the investigation, defense, or settlement of claims.

If the Contractors Pollution Liability insurance is written on a claims-made basis, the Contractor warrants that any retroactive date applicable to coverage under the policy precedes the effective date of this contract; and that continuous coverage will be maintained or an extended discovery period will be exercised for a period of three (3) years beginning from the time that work under the contract is completed.

The City shall be named by endorsement as an additional insured on the Contractors Pollution Liability insurance policy.

If the scope of services as defined in this contract includes the disposal of any hazardous materials from the job site, the Contractor must furnish to the City evidence of Pollution Liability insurance maintained by the disposal site operator for losses arising from the insured facility accepting waste under this contract. Coverage certified to the City under this paragraph must be maintained in minimum amounts of \$1,000,000 per loss, with an annual aggregate of at least \$1,000,000.

Pollution Liability coverage at least as broad as that provided under ISO Pollution Liability-Broadened Coverage for Covered Autos Endorsement CA 99 48 shall be provided, and the Motor Carrier Act Endorsement (MCS 90) shall be attached.

**D. Minimum Amounts of Insurance.**

The Contractor shall maintain the following insurance limits:

1. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.
2. Commercial General Liability insurance shall be written with limits no less than \$3,000,000 each occurrence, \$3,000,000 general aggregate and a \$2,000,000 products-completed operations aggregate limit.
3. ☐ Required. Builders Risk insurance shall be written in the amount of the completed value of the project with no coinsurance provisions.
4. ☐ Required. Contractors Pollution Liability shall be written in the amounts set forth above.

**E. City Full Availability of Contractor Limits.**

If the Contractor maintains higher insurance limits than the minimums shown above, the City shall be insured for the full available limits of Commercial General and Excess or Umbrella liability maintained by the Contractor, irrespective of whether such limits

maintained by the Contractor are greater than those required by this contract or whether any certificate of insurance furnished to the City evidences limits of liability lower than those maintained by the Contractor.

**F. Other Insurance Provisions.**

The Contractor's insurance coverage shall be primary insurance with respect to the City. Any insurance, self-insurance, or insurance pool coverage maintained by the City shall be in excess of the Contractor's insurance and shall not contribute with it.

**G. Acceptability of Insurers.**

Insurance is to be placed with insurers with a current A.M. Best rating of not less than A:VII.

**H. Verification of Coverage.**

The Contractor shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the Automobile Liability and Commercial General Liability insurance of the Contractor before commencement of the work. Throughout the term of this Contract, upon request by the City, the Contractor shall furnish certified copies of all required insurance policies, including endorsements, required in this contract and evidence of all subcontractors' coverage.

☒ Required. Before any exposure to loss may occur, the Contractor shall file with the City a copy of the Builders Risk insurance policy that includes all applicable conditions, exclusions, definitions, terms and endorsements related to this Project.

☐ Required. Before any exposure to loss may occur, the Contractor shall file with the City a copy of the Pollution Liability insurance that includes all applicable conditions, exclusions, definitions, terms and endorsements related to this Project.

**I. Contractor's Insurance for Other Losses.**

The Contractor shall assume full responsibility for all loss or damage from any cause whatsoever to any tools, Contractor's employee owned tools, machinery, equipment, or motor vehicles owned or rented by the Contractor, or the Contractor's agents, suppliers or subcontractors as well as to any temporary structures, scaffolding and protective fences.

**J. Subcontractors.**

The Contractor shall include all subcontractors as insured under its policies or shall furnish separate certifications and endorsements for each subcontractor. All coverage for subcontractors shall be subject to all of the same insurance requirements as stated herein for the Contractor.

The Contractor shall cause each and every Subcontractor to provide insurance coverage that complies with all applicable requirements of the Contractor-provided insurance as set forth herein. The Contractor shall ensure that the City is an additional insured on each and

every Subcontractor's Commercial General liability insurance policy using an endorsement at least as broad as ISO Additional Insured endorsement CG 20 38 04 13.

**K. Waiver of Subrogation.**

The Contractor and the City waive all rights against each other, any of their subcontractors, lower tier subcontractors, agents and employees, each of the other, for damages caused by fire or other perils to the extent covered by Builders Risk insurance or other property insurance obtained pursuant to the Insurance Requirements Section of this Contract or other property insurance applicable to the work. The policies shall provide such waivers by endorsement or otherwise.

**L. Notice of Cancellation of Insurance.**

The Contractor shall provide the City and all Additional Insureds for this work with written notice of any policy cancellation within two business days of their receipt of such notice.

**M. Failure to Maintain Insurance**

Failure on the part of the Contractor to maintain the insurance as required shall constitute a material breach of contract, upon which the City may, after giving five business days' notice to the Contractor to correct the breach, immediately terminate the contract or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the City on demand, or at the sole discretion of the City, offset against funds due the Contractor from the City.

**8. Compliance with Laws.**

The Contractor shall comply with all applicable federal, state, and local laws, including regulations for licensing, certification, and operation of facilities and programs, and accreditation and licensing of individuals, and any other standards or criteria as set forth in the Project Manual.

The Contractor shall pay any applicable business and permit fees and taxes which may be required for the performance of the work.

The Contractor shall comply with all legal and permitting requirements as set forth in the Project Manual.

**9. Non-discrimination.**

During the performance of this Contract, the Contractor shall comply with all applicable equal opportunity laws and/or regulations and shall not discriminate on the basis of race, age, color, sex, sexual orientation, religion, national origin, creed, veteran status, marital status, political affiliation, or the presence of any sensory, mental or physical handicap. This provision shall include but not be limited to the following: employment, upgrading, demotion, transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, selection for training, and the provision of work and services under this Contract. The Contractor further agrees to maintain notices, posted in conspicuous places, setting forth the provisions of this nondiscrimination clause. The Contractor understands that violation of this provision shall be

cause for immediate termination of this Contract and the Contractor may be barred from performing any services or work for the City in the future unless the Contractor demonstrates to the satisfaction of the City that discriminatory practices have been eliminated and that recurrence of such discriminatory practices is unlikely.

- A. The parties will maintain open hiring and employment practices and will welcome applications for employment in all positions from qualified individuals who are members of the above-stated minorities.
- B. The parties will comply strictly with all requirements of applicable federal, state or local laws or regulations issued pursuant thereto, relating to the establishment of nondiscriminatory requirements in hiring and employment practices and assuring the service of all patrons and customers without discrimination with respect to the above-stated minority status.

10. Assignment and Subcontractors.

- A. The Contractor shall not assign this Contract or any interest herein, nor any money due to or to become due hereunder, without first obtaining the written consent of the City.
- B. The Contractor shall not subcontract any part of the services to be performed hereunder without first obtaining the consent of the City and complying with the provisions of this section.
- C. In the event the Contractor does assign this contract or employ any subcontractor, the Contractor agrees to bind in writing every assignee and subcontractor to the applicable terms and conditions of the contract documents.
- D. The Contractor shall, before commencing any work, notify the Owner in writing of the names of any proposed subcontractors. The Contractor shall not employ any subcontractor or other person or organization (including those who are to furnish the principal items or materials or equipment), whether initially or as a substitute, against whom the Owner may have reasonable objection. Each subcontractor or other person or organization shall be identified in writing to the Owner by the Contractor prior to the date this Contract is signed by the Contractor. Acceptance of any subcontractor or assignee by the Owner shall not constitute a waiver of any right of the Owner to reject defective work or work not in conformance with the contract documents. If the Owner, at any time, has reasonable objection to a subcontractor or assignee, the Contractor shall submit an acceptable substitute.
- E. The Contractor shall be fully responsible for all acts and omissions of its assignees, subcontractors and of persons and organization directly or indirectly employed by it and of persons and organizations for whose acts any of them may be liable to the same extent that it is responsible for the acts and omissions of person directly employed by it.

- F. The divisions and sections of the specifications and the identifications of any drawings shall not control the Contractor in dividing the work among subcontractors or delineating the work to be performed by any specific trade.
- G. Nothing contained in the contract documents shall create or be construed to create any relationship, contractual or otherwise, between the Owner and any subcontractor or assignee. Nothing in the contract documents shall create any obligation on the part of the Owner to pay or to assure payment of any monies due any subcontractor or assignee.
- H. The Contractor hereby assigns to the City any and all claims for overcharges resulting from antitrust violations as to goods and materials purchased in connection with this Contract, except as to overcharges resulting from antitrust violations commencing after the date of the bid or other event establishing the price of this Contract. In addition, the Contractor warrants and represents that each of its suppliers and subcontractors shall assign any and all such claims for overcharges to the City in accordance with the terms of this provision. The Contractor further agrees to give the City immediate notice of the existence of any such claim.
- I. In addition to all other obligations of the contractor, if the contractor does employ any approved subcontractor, the contractor shall supply to every approved subcontractor a copy of the form, provided in the project manual, to establish written proof that each subcontract and lower-tier subcontract is a written document and contains, as a part, the current prevailing wage rates. The contractor, each approved subcontractor and each approved lower-tier subcontractor shall complete and deliver the form directly to the City.

11. Contract Administration and Notices.

This Contract shall be administered for the City by the **Aaron Halverson, Capital Projects Coordinator**, and shall be administered for the Contractor by the Contractor's Contract Representative, **Insert Name of Contractor Representative**. Unless stated otherwise herein, all notices and demands shall be in writing and sent or hand-delivered to the parties at their addresses as follows:

To City:

City of Lake Stevens  
Attn: City Clerk  
1812 Main Street (Physical Address)  
Post Office Box 257 (Mailing Address)  
Lake Stevens, WA 98258  
Telephone: 425-622-6400

To Contractor

Colacurcio Brothers, Inc.  
Attn: **Name & Title of Binding Officer**  
3287 H Street Road  
Blaine, WA 98230-9206  
Telephone: 360-332-4044

or to such addresses as the parties may hereafter designate in writing. Notices and/or demands shall be sent by registered or certified mail, postage prepaid, or hand-delivered. Such notices shall be deemed effective when mailed or hand-delivered at the addresses specified above.

12. Interpretation and Venue. This Contract shall be interpreted and construed in accordance with the laws of the State of Washington. The venue of any litigation between the parties regarding this Contract shall be Snohomish County, Washington.

13. Severability.

A. If a court of competent jurisdiction holds any part, term or provision of this Contract to be illegal or invalid, in whole or in part, the validity of the remaining provisions shall not be affected, and the parties' rights and obligations shall be construed and enforced as if the Contract did not contain the particular provision held to be invalid.

B. If any provision of this Contract is in direct conflict with any statutory provision of the State of Washington, that provision which may conflict shall be deemed inoperative and null and void insofar as it may conflict, and shall be deemed modified to conform to such statutory provision.

14. Non-Waiver.

A waiver by either party hereto of a breach of the other party hereto of any covenant or condition of this Contract shall not impair the right of the party not in default to avail itself of any subsequent breach thereof. Leniency, delay or failure of either party to insist upon strict performance of any Contract, covenant or condition of this Contract, or to exercise any right herein given in any one or more instances, shall not be construed as a waiver or relinquishment of any such Contract, covenant, condition or right.

15. Survival.

Any provision of this Contract which imposes an obligation after termination or expiration of this Contract shall survive the term or expiration of this Contract and shall be binding on the parties to this Contract.

16. Authority.

The person executing this Agreement on behalf of Contractor represents and warrants that he or she has been fully authorized by Contractor to execute this Agreement on its behalf and to legally bind Contractor to all the terms, performances and provisions of this Agreement. The person executing this Contractor on behalf of the City represents and warrants that he or she has been fully authorized by the City to execute this Contractor on its behalf and to legally bind the City to all the terms, performances and provisions of this Contractor.

17. ☐ **Debarment and Uniform Guidance.** If this contract involves the use, in whole or in part, of federal award(s), the Contractor must certify that it, and its subcontractors, have not been and are not currently on the Federal or the Washington State Debarment List and if the Contractor or its subcontractors become listed on the Federal or State Debarment List, the City will be notified immediately. Additionally, if this contract involves the use, in whole or in part, of federal award(s), provisions (A)-(K) in Appendix II to Part 200 of the Uniform Guidance (2 CFR Ch. 11 (1-1-14 edition)) are hereby incorporated, as applicable, as if fully set forth herein. See attached **Exhibit**, if applicable.

**IN WITNESS WHEREOF**, the parties hereto have caused this Contract to be executed the day and year first hereinabove written.

CITY OF LAKE STEVENS

COLACURCIO BROTHERS, INC.

By: \_\_\_\_\_  
John Spencer, Mayor

By: \_\_\_\_\_  
\_\_\_\_\_  
*Printed Name & Title*

Attest:

\_\_\_\_\_  
Kathy Pugh, City Clerk

Approved as to Form:

\_\_\_\_\_  
Greg Rubstello, City Attorney

## PERFORMANCE and PAYMENT BOND

Bond to the City of Lake Stevens

Bond # \_\_\_\_\_

### KNOW ALL MEN BY THESE PRESENTS:

That we, the undersigned, \_\_\_\_\_ as Principal, and \_\_\_\_\_ a corporation, organized and existing under the laws of the State of Washington, as a surety corporation, and qualified under the laws of the State of Washington to become surety upon bonds of contractors with municipal corporations as surety, are jointly and severally held and firmly bound to the **City of** \_\_\_\_\_ in the penal sum of \$ \_\_\_\_\_ for the payment of which sum on demand we bind ourselves and our successors, heirs, administrators or personal representatives, as the case may be.

This obligation is entered into pursuant to the statutes of the State of Washington and the ordinances of the City of \_\_\_\_\_.

Dated at \_\_\_\_\_, Washington, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

The conditions of the above obligation are such that:

**WHEREAS**, the City of \_\_\_\_\_ has let or is about to let to the said \_\_\_\_\_ the above bounded Principal, a certain contract, the said contract being numbered 18012, and providing for **North Cove Park and Pavilion** (which contract is referred to herein and is made a part hereof as though attached hereto), and

**WHEREAS**, the said Principal has accepted, or is about to accept, the said contract, and undertake to perform the work therein provided for in the manner and within the time set forth; now, therefore,

If the said Principal, \_\_\_\_\_, shall faithfully perform all of the provisions of said contract in the manner and within the time therein set forth, or within such extensions of time as may be granted under said contract, and shall pay all laborers, mechanics, subcontractors and materialmen, and all persons who shall supply said Principal or subcontractors with provisions and supplies for the carrying on of said work, and shall indemnify and hold the City of \_\_\_\_\_ harmless from any damage or expense by reason of failure of performance as specified in said contract or from defects appearing or developing in the material or workmanship provided or performed under said contract within a period of one year after its acceptance thereof by the City of \_\_\_\_\_, then and in that event, this obligation shall be void; but otherwise, it shall be and remain in full force and effect.

Signed this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

By \_\_\_\_\_

By \_\_\_\_\_

Title \_\_\_\_\_

Title \_\_\_\_\_

Surety Address \_\_\_\_\_

Agent Address \_\_\_\_\_

Surety Contact and Phone Number \_\_\_\_\_

Agent Contact and Phone Number \_\_\_\_\_



## ESCROW AGREEMENT for RETAINED PERCENTAGE

### *Project Name*, Project **XX-XX**

Escrow No.: \_\_\_\_\_ City of \_\_\_\_\_ Contract No. **XX-XX**  
Completion Date: \_\_\_\_\_

TO:

THIS ESCROW AGREEMENT is for the investment of the retained percentage of the above contract, in accordance with chapter 60.28 of the Revised Code of Washington. It is limited to FDIC insured Washington State Chartered Banks who are covered by the State of Washington Public Deposit Protection Act.

The undersigned, \_\_\_\_\_, (as "Contractor"), has directed the CITY OF LAKE STEVENS (as "City"), to deliver to you its warrants which shall be payable to you and/or the contractor. The warrants are to be held and disposed of by you in accordance with the following instruction:

#### INSTRUCTIONS

- Upon delivery the warrants shall be endorsed by you and forwarded to the City for collection. You shall use the monies to purchase investments selected by the Contractor and approved by the City. You may follow the last written direction received by you from the Contractor, for each purchase, provided the direction otherwise conforms with this agreement. Acceptable investments are:
  - Bills, certificates, notes or bonds of the United States;
  - Other obligations of the United States or its agencies;
  - Obligations of any corporation wholly owned by the Government of the United States;
  - Indebtedness of the Federal National Mortgage Association;
  - Time deposits in commercial banks;
  - Other investments, except stocks, selected by the Contractor, subject to express prior written consent of the City.
- The investments shall be in a form which allows you alone to reconvert them into money if you are required to do so by the City.
- The investments must mature on or prior to the date set for the completion of the contract, including extension there of or thirty (30) days following the final acceptance of the work.
- When interest on the investments accrues and is paid, you shall collect the interest and forward it to the Contractor unless otherwise directed by the Contractor.
- You are not authorized to deliver to the Contractor all or any part of the investments held by you pursuant to this agreement (or any monies derived from the sale of such investments, or the negotiation of the City's warrants) **except** in accordance with the written instructions from the City. Compliance with such instructions shall relieve you of any further liability related thereto.
- In the event the City orders you, in writing, to reconvert the investments and return all monies, you shall do so within thirty (30) days of receipt of the order.
- The Contractor agrees to compensate you for your services in accordance with your current published schedule of applicable escrow fees. Payment of all fees shall be the sole responsibility of the Contractor and shall not be deducted from any monies placed with you pursuant to this agreement until and unless the City directs the release to the Contractor of the investments and monies held hereunder, whereupon you shall be entitled to

reimburse yourself from such monies for the entire amount of your fee.

- This agreement shall not be binding until signed by both parties and accepted by you.
- This document contains the entire agreement between you, the Contractor, and the City, with respect to this Escrow, and you are not a party to, nor bound by any instrument or agreement other than this. You shall not be required to take notice of any default or any other matter, nor be bound by nor required to give notice or demand, nor required to take any action whatever except as herein expressly provided. You shall not be liable for any loss or damage not caused by your own negligence or willful misconduct.

#### CONTRACTOR

Federal Tax I.D. No. \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_

DATE: \_\_\_\_\_

#### CITY OF LAKE STEVENS

By: \_\_\_\_\_

Title: \_\_\_\_\_

DATE: \_\_\_\_\_

THE ABOVE ESCROW AGREEMENT RECEIVED AND  
ACCEPTED on the \_\_\_\_ day of \_\_\_\_\_ 20\_\_.

#### BANK

By: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_

#### DISTRIBUTION:

City Clerk  
Financial Institution  
Contractor  
File Copy

ATTACHMENT B

City of Lake Stevens

Project Title: 18012 - North Cove Park Plaza and Pavilion  
Description: Bid Tabulation

Project No.: 18012  
Date: 6/6/2019  
Prepared by: Jessica Knoepfle  
Reviewed by: Erik Mangold

BIDS

					Engineering Estimate		Colacurcio Brothers (Low Bid)		A1 Landscape and Construction	
Item #	SPEC. SECTION	ITEM	UNITS	QUANTITY	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT
PREPARATION										
A1	SP 1-04.4 (1)	Minor Change	EST	1	\$ 25,000.00	\$ 25,000.00	\$ 25,000.00	\$ 25,000.00	\$ 25,000.00	\$ 25,000.00
A2	SP 1-05.18	Record Drawings	LS	1	\$ 2,500.00	\$ 2,500.00	\$ 2,500.00	\$ 2,500.00	\$ 2,500.00	\$ 2,500.00
A3	STD 1-07.15	SPCC Plan	LS	1	\$ 600.00	\$ 600.00	\$ 1,000.00	\$ 1,000.00	\$ 4,400.00	\$ 4,400.00
A4	SP 1-08.3	Type B progress Schedule	LS	1	\$ 7,000.00	\$ 7,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00
A5	STD 1-09.7	Mobilization	LS	1	\$ 100,000.00	\$ 100,000.00	\$ 175,000.00	\$ 175,000.00	\$ 274,500.00	\$ 274,500.00
A6	SP 2-02	Removal of Structures and Obstructions	LS	1	\$ 4,500.00	\$ 4,500.00	\$ 10,000.00	\$ 10,000.00	\$ 45,780.00	\$ 45,780.00
A7	SP 2-02.3	Saw cutting	LF	369	\$ 3.00	\$ 1,107.00	\$ 6.00	\$ 2,214.00	\$ 4.00	\$ 1,476.00
A8	SP 2-02.3	Removing Existing Pipe	LF	120	\$ 10.00	\$ 1,200.00	\$ 30.00	\$ 3,600.00	\$ 12.00	\$ 1,440.00
A9	SP 2-02.3	Removing Existing Drainage Structure	EA	3	\$ 600.00	\$ 1,800.00	\$ 250.00	\$ 750.00	\$ 350.00	\$ 1,050.00
A10	SP 2-02.3	Removing Cement Conc. Curb & Gutter	LF	284	\$ 5.00	\$ 1,420.00	\$ 10.00	\$ 2,840.00	\$ 11.00	\$ 3,124.00
A11	SP 2-02.3	Removing Cement Conc. Sidewalk	SY	210	\$ 17.00	\$ 3,570.00	\$ 20.00	\$ 4,200.00	\$ 21.00	\$ 4,410.00
A12	SP 2-02.3	Removing Asphalt Conc. Pavement	TON	259	\$ 10.00	\$ 2,590.00	\$ 50.00	\$ 12,950.00	\$ 88.00	\$ 22,792.00
A13	STD 2-11	Trimming and Cleanup	LS	1	\$ 3,500.00	\$ 3,500.00	\$ 5,000.00	\$ 5,000.00	\$ 3,500.00	\$ 3,500.00
DRAINAGE										
A14	STD 2-09.3 (2)	Structure Excavation Cl. B Incl. Haul	CY	127	\$ 32.00	\$ 4,064.00	\$ 50.00	\$ 6,350.00	\$ 70.00	\$ 8,890.00
A15	STD 2-09.3 (3) D	Shoring or Extra Excavation Cl. B	SF	1421	\$ 3.00	\$ 4,263.00	\$ 1.00	\$ 1,421.00	\$ 6.00	\$ 8,526.00
A16	STD 7-04	Schedule A Storm Sewer Pipe 8 in. Diam	LF	278	\$ 45.00	\$ 12,510.00	\$ 50.00	\$ 13,900.00	\$ 77.00	\$ 21,406.00
A17	STD 7-04	Schedule A Storm Sewer Pipe 12 in. Diam	LF	103	\$ 65.00	\$ 6,695.00	\$ 60.00	\$ 6,180.00	\$ 90.00	\$ 9,270.00
A18	SP 7-05	Solid Locking Covers	EA	3	\$ 350.00	\$ 1,050.00	\$ 600.00	\$ 1,800.00	\$ 900.00	\$ 2,700.00
A19	STD 7-05.3	Adjust Catch Basin	EA	2	\$ 660.00	\$ 1,320.00	\$ 900.00	\$ 1,800.00	\$ 1,200.00	\$ 2,400.00
A20	STD 7-05	Catch Basin Type 1	EA	9	\$ 1,210.00	\$ 10,890.00	\$ 2,300.00	\$ 20,700.00	\$ 3,200.00	\$ 28,800.00
A21	STD 7-05	Catch Basin Type 2	EA	2	\$ 2,000.00	\$ 4,000.00	\$ 3,700.00	\$ 7,400.00	\$ 6,500.00	\$ 13,000.00
A22	SP 7-05	ADA Grate For Rectangular Frames	EA	9	\$ 600.00	\$ 5,400.00	\$ 600.00	\$ 5,400.00	\$ 900.00	\$ 8,100.00
A23	SP 7-05	Connect to Drainage Structure	EA	1	\$ 1,200.00	\$ 1,200.00	\$ 1,700.00	\$ 1,700.00	\$ 890.00	\$ 890.00
A24	SP 8-28	Infiltration Gallery	LS	1	\$ 30,000.00	\$ 30,000.00	\$ 20,000.00	\$ 20,000.00	\$ 32,100.00	\$ 32,100.00
A25	SP 7-06	Control Structure	EA	1	\$ 10,000.00	\$ 10,000.00	\$ 5,600.00	\$ 5,600.00	\$ 11,400.00	\$ 11,400.00
SURFACING										
A26	STD 4-04	Crushed Surfacing Base Course	TON	455	\$ 32.00	\$ 14,560.00	\$ 38.00	\$ 17,290.00	\$ 66.00	\$ 30,030.00
A27	STD 4-04	Crushed Surfacing Top Course	TON	48	\$ 32.00	\$ 1,536.00	\$ 38.00	\$ 1,824.00	\$ 70.00	\$ 3,360.00
HOT MIX ASPHALT										
A28	STD 5-04	HMA Cl. 1/2 in. PG. 64-22	TON	69	\$ 126.00	\$ 8,694.00	\$ 250.00	\$ 17,250.00	\$ 250.00	\$ 17,250.00
EROSION CONTROL AND PLANTING										
A29	SP 8-01	Erosion/Water Pollution Control (2 to 1.9% EST)	EST	1	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00
A30	STD 8-01	ECS Lead	Day	90	\$ 100.00	\$ 9,000.00	\$ 50.00	\$ 4,500.00	\$ 220.00	\$ 19,800.00
A31	STD 8-01	Inlet Protection	EA	8	\$ 105.00	\$ 840.00	\$ 60.00	\$ 480.00	\$ 185.00	\$ 1,480.00
A32	STD 8-01	High Visibility Silt Fence	LF	939	\$ 5.00	\$ 4,695.00	\$ 5.50	\$ 5,164.50	\$ 12.00	\$ 11,268.00
A33	STD 8-01	High Visibility Fence	LF	1046	\$ 5.00	\$ 5,230.00	\$ 3.50	\$ 3,661.00	\$ 10.00	\$ 10,460.00
A34	SP 7-12	Adjust Water Valve Box	EA	1	\$ 500.00	\$ 500.00	\$ 735.00	\$ 735.00	\$ 550.00	\$ 550.00
A35	STD 8-02	Fine Compost	CY	28	\$ 50.00	\$ 1,400.00	\$ 85.00	\$ 2,380.00	\$ 80.00	\$ 2,240.00
A36	SP 8-02	Topsoil Type A	CY	42	\$ 58.00	\$ 2,436.00	\$ 85.00	\$ 3,570.00	\$ 70.00	\$ 2,940.00

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TRAFFIC										
A37	SP 1-10	Project Temporary Traffic Control	LS	1	\$ 8,500.00	\$ 8,500.00	\$ 10,000.00	\$ 10,000.00	\$ 11,000.00	\$ 11,000.00
A38	STD 8-04	Cement Conc. Traffic Curb and Gutter	LF	284	\$ 27.00	\$ 7,668.00	\$ 42.00	\$ 11,928.00	\$ 55.00	\$ 15,620.00
A39	SP 8-14	Cement Conc. Sidewalk	SY	2866	\$ 84.00	\$ 240,744.00	\$ 85.00	\$ 243,610.00	\$ 70.00	\$ 200,620.00
A40	SP 8-20	Illumination System Complete	LS	1	\$ 285,000.00	\$ 285,000.00	\$ 335,000.00	\$ 335,000.00	\$ 380,000.00	\$ 380,000.00
A41	STD 8-21	Permanent Signing	LS	1	\$ 2,000.00	\$ 2,000.00	\$ 1,200.00	\$ 1,200.00	\$ 6,500.00	\$ 6,500.00
A42	STD 8-21	Paint Line	LF	300	\$ 5.00	\$ 1,500.00	\$ 2.30	\$ 690.00	\$ 2.00	\$ 600.00
A43	STD 8-22	Plastic Stop Line	LF	13	\$ 35.00	\$ 455.00	\$ 20.00	\$ 260.00	\$ 50.00	\$ 650.00
A44	STD 8-22	Plastic Crosswalk Line	SF	108	\$ 10.00	\$ 1,080.00	\$ 18.00	\$ 1,944.00	\$ 70.00	\$ 7,560.00
A45	STD 8-22	Plastic Yield Marker	EA	8	\$ 50.00	\$ 400.00	\$ 280.00	\$ 2,240.00	\$ 100.00	\$ 800.00
OTHER ITEMS										
A49	SP 8-12	Coated Chain Link Fence	LF	329	\$ 37.00	\$ 12,173.00	\$ 70.00	\$ 23,030.00	\$ 78.00	\$ 25,662.00
A50	SP 8-31	Final Cleaning	LS	1	\$ 3,000.00	\$ 3,000.00	\$ 2,800.00	\$ 2,800.00	\$ 16,900.00	\$ 16,900.00
A51	SP 8-30	Bollard Type 1 (Removable)	EA	9	\$ 650.00	\$ 5,850.00	\$ 700.00	\$ 6,300.00	\$ 2,500.00	\$ 22,500.00
A52	SP 8-02	PSIPE Plantings	LS	1	\$ 18,744.00	\$ 18,744.00	\$ 52,000.00	\$ 52,000.00	\$ 8,760.00	\$ 8,760.00
A53	SP	Granite Boulder	EA	2	\$ 400.00	\$ 800.00	\$ 100.00	\$ 200.00	\$ 800.00	\$ 1,600.00
A54	SP	Irrigation System Complete	LS	1	\$ 40,000.00	\$ 40,000.00	\$ 15,000.00	\$ 15,000.00	\$ 15,870.00	\$ 15,870.00
A55	SP	Irrigation 4" Diameter Sleeve	LF	332	\$ 30.00	\$ 9,960.00	\$ 16.00	\$ 5,312.00	\$ 22.00	\$ 7,304.00
A56	STD 8-01	Seeding, Fertilizing and Mulching	AC	0.10	\$ 5,000.00	\$ 500.00	\$ 10,000.00	\$ 1,000.00	\$ 6,500.00	\$ 650.00
A57	STD 8-14	Cement Conc. Curb Ramp Type Single Directional B	EA	2	\$ 4,750.00	\$ 9,500.00	\$ 3,200.00	\$ 6,400.00	\$ 3,100.00	\$ 6,200.00
A58	STD 8-06	Cement Conc. Driveway Entrance Type 3	SY	17	\$ 85.00	\$ 1,445.00	\$ 140.00	\$ 2,380.00	\$ 120.00	\$ 2,040.00
A59	SP 8-06	Cement Conc. Driveway Approach	SY	55	\$ 85.00	\$ 4,675.00	\$ 100.00	\$ 5,500.00	\$ 145.00	\$ 7,975.00
SCHEDULE B - PAVILION BUILDING (STATE SALES TAX - RULE 170 APPLIES)							SCHEDULE B		SCHEDULE B	
Item #	SPEC. SECTION	ITEM	UNITS	QUANTITY	UNIT PRICE	AMOUNT	AMOUNT		AMOUNT	
STRUCTURES										
B1	Plans & CSI Specs	Pavilion Building Complete	LS	1	\$ 1,600,000.00	\$ 1,600,000.00	\$ 2,763,500.00	\$ 2,763,500.00	\$ 2,826,000.00	\$ 2,826,000.00
SCHEDULE C - WATER FEATURE, ADD ALTERNATIVE NO. 1 (STATE SALES TAX - RULE 170 APPLIES)							SCHEDULE C - WATER FEATURE		SCHEDULE C - WATER FEATURE	
Item #	SPEC. SECTION	ITEM	UNITS	QUANTITY	UNIT PRICE	AMOUNT	AMOUNT		AMOUNT	
PREPARATION										
C1	STD 1-09.7	Mobilization	LS	1	\$ 10,000.00	\$ 10,000.00	\$ 5,000.00	\$ 5,000.00	\$ 98,700.00	\$ 98,700.00
DRAINAGE										
C2	STD 7-04	Schedule A Storm Sewer Pipe 8 in. Diam	LF	27	\$ 45.00	\$ 1,215.00	\$ 55.00	\$ 1,485.00	\$ 98.00	\$ 2,646.00
C3	STD 7-05	Concrete Inlet	EA	1	\$ 1,100.00	\$ 1,100.00	\$ 2,200.00	\$ 2,200.00	\$ 1,300.00	\$ 1,300.00
SURFACING										
C4	STD 4-04	Crushed Surfacing Base Course	TON	25	\$ 32.00	\$ 800.00	\$ 60.00	\$ 1,500.00	\$ 70.00	\$ 1,750.00
EROSION CONTROL AND PLANTING										
C5	SP 8-01	Erosion/Water Pollution Control (2 to 1.9% EST)	EST	1	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00
C6	STD 8-01	Inlet Protection	EA	1	\$ 105.00	\$ 105.00	\$ 60.00	\$ 60.00	\$ 220.00	\$ 220.00
C7	STD 8-01	High Visibility Silt Fence	LF	101	\$ 5.00	\$ 505.00	\$ 5.50	\$ 555.50	\$ 12.00	\$ 1,212.00
TRAFFIC										
C8	SP 8-14	Cement Conc. Sidewalk	SY	148	\$ 84.00	\$ 12,432.00	\$ 95.00	\$ 14,060.00	\$ 88.00	\$ 13,024.00
OTHER ITEMS										
C9	SP 8-31	Water Feature System Complete	LS	1	\$ 65,000.00	\$ 65,000.00	\$ 70,000.00	\$ 70,000.00	\$ 680,000.00	\$ 680,000.00
SCHEDULE D - NORTH PLAZA, ADD ALTERNATIVE NO. 2 (STATE SALES TAX - RULE 171 APPLIES)							SCHEDULE D - NORTH PLAZA		SCHEDULE D - NORTH PLAZA	
Item #	SPEC. SECTION	ITEM	UNITS	QUANTITY	UNIT PRICE	AMOUNT	AMOUNT		AMOUNT	
PREPARATION										
D1	SP 1-04.4 (1)	Minor Change	EST	1	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00

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D2	SP 1-05.18	Record Drawings	LS	1	\$ 500.00	\$ 500.00	\$ 500.00	\$ 500.00	\$ 500.00	\$ 500.00
D3	STD 1-07.15	SPCC Plan	LS	1	\$ 600.00	\$ 600.00	\$ 500.00	\$ 500.00	\$ 3,600.00	\$ 3,600.00
D4	SP 1-08.3	Type B progress Schedule	LS	1	\$ 7,000.00	\$ 7,000.00	\$ 500.00	\$ 500.00	\$ 500.00	\$ 500.00
D5	STD 1-09.7	Mobilization	LS	1	\$ 30,000.00	\$ 30,000.00	\$ 5,700.00	\$ 5,700.00	\$ 87,800.00	\$ 87,800.00
D6	SP 2-02	Removal of Structures and Obstructions	LS	1	\$ 1,000.00	\$ 1,000.00	\$ 2,500.00	\$ 2,500.00	\$ 23,110.00	\$ 23,110.00
D7	SP 2-02.3	Saw cutting	LF	10	\$ 3.00	\$ 30.00	\$ 6.00	\$ 60.00	\$ 5.00	\$ 50.00
D8	SP 2-02.3	Removing Cement Conc. Curb & Gutter	LF	27	\$ 5.00	\$ 135.00	\$ 10.00	\$ 270.00	\$ 12.00	\$ 324.00
D9	SP 2-02.3	Removing Cement Conc. Sidewalk	SY	17	\$ 17.00	\$ 289.00	\$ 20.00	\$ 340.00	\$ 23.00	\$ 391.00
D10	SP 2-02.3	Removing Asphalt Conc. Pavement	SY	560	\$ 10.00	\$ 5,600.00	\$ 50.00	\$ 28,000.00	\$ 19.00	\$ 10,640.00
D11	SP 2-02.3	Removing Rocks	TON	16	\$ 20.00	\$ 320.00	\$ 90.00	\$ 1,440.00	\$ 90.00	\$ 1,440.00
D12	STD 2-11	Trimming and Cleanup	LS	1	\$ 3,500.00	\$ 3,500.00	\$ 5,000.00	\$ 5,000.00	\$ 2,200.00	\$ 2,200.00
DRAINAGE										
D13	STD 2-09.3 (2)	Structure Excavation Cl. B Incl. Haul	CY	35	\$ 32.00	\$ 1,120.00	\$ 50.00	\$ 1,750.00	\$ 70.00	\$ 2,450.00
D14	STD 2-09.3 (3) D	Shoring or Extra Excavation Cl. B	SF	472	\$ 3.00	\$ 1,416.00	\$ 1.00	\$ 472.00	\$ 5.00	\$ 2,360.00
D15	STD 7-04	Schedule A Storm Sewer Pipe 8 in. Diam	LF	100	\$ 45.00	\$ 4,500.00	\$ 50.00	\$ 5,000.00	\$ 80.00	\$ 8,000.00
D16	STD 7-05	Catch Basin Type 1	EA	2	\$ 1,210.00	\$ 2,420.00	\$ 2,100.00	\$ 4,200.00	\$ 3,100.00	\$ 6,200.00
D17	SP 7-05	ADA Grate For Rectangular Frames	EA	2	\$ 600.00	\$ 1,200.00	\$ 600.00	\$ 1,200.00	\$ 900.00	\$ 1,800.00
SURFACING										
D18	STD 4-04	Crushed Surfacing Base Course	TON	88	\$ 32.00	\$ 2,816.00	\$ 50.00	\$ 4,400.00	\$ 70.00	\$ 6,160.00
D19	STD 4-04	Crushed Surfacing Top Course	TON	1	\$ 32.00	\$ 32.00	\$ 400.00	\$ 400.00	\$ 120.00	\$ 120.00
HOT MIX ASPHALT										
D20	STD 5-04	HMA Cl. 1/2 in. PG. 64-22	TON	1	\$ 126.00	\$ 126.00	\$ 4,500.00	\$ 4,500.00	\$ 1,300.00	\$ 1,300.00
EROSION CONTROL AND PLANTING										
D21	SP 8-01	Erosion/Water Pollution Control (2 to 1.9% EST)	EST	1	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00
D22	STD 8-01	ECS Lead	Day	30	\$ 100.00	\$ 3,000.00	\$ 50.00	\$ 1,500.00	\$ 220.00	\$ 6,600.00
D23	STD 8-01	Inlet Protection	EA	2	\$ 105.00	\$ 210.00	\$ 60.00	\$ 120.00	\$ 220.00	\$ 440.00
D24	STD 8-01	High Visibility Silt Fence	LF	115	\$ 5.00	\$ 575.00	\$ 5.50	\$ 632.50	\$ 12.00	\$ 1,380.00
D25	STD 8-01	High Visibility Fence	LF	183	\$ 5.00	\$ 915.00	\$ 3.50	\$ 640.50	\$ 11.00	\$ 2,013.00
D26	STD 8-02	Fine Compost	CY	7	\$ 50.00	\$ 350.00	\$ 100.00	\$ 700.00	\$ 80.00	\$ 560.00
D27	SP 8-02	Topsoil Type A	CY	10	\$ 58.00	\$ 580.00	\$ 120.00	\$ 1,200.00	\$ 75.00	\$ 750.00
TRAFFIC										
D28	SP 1-10	Project Temporary Traffic Control	LS	1	\$ 2,000.00	\$ 2,000.00	\$ 3,000.00	\$ 3,000.00	\$ 12,000.00	\$ 12,000.00
D29	STD 8-04	Cement Conc. Traffic Curb and Gutter	LF	27	\$ 27.00	\$ 729.00	\$ 50.00	\$ 1,350.00	\$ 55.00	\$ 1,485.00
D30	SP 8-14	Cement Conc. Sidewalk	SY	515	\$ 84.00	\$ 43,260.00	\$ 95.00	\$ 48,925.00	\$ 88.00	\$ 45,320.00
D31	SP 8-20	Illumination System Complete	LS	1	\$ 53,000.00	\$ 53,000.00	\$ 43,700.00	\$ 43,700.00	\$ 40,000.00	\$ 40,000.00
OTHER ITEMS										
D32	SP 8-12	Coated Chain Link Fence	LF	75	\$ 37.00	\$ 2,775.00	\$ 70.00	\$ 5,250.00	\$ 90.00	\$ 6,750.00
D33	SP 8-31	Final Cleaning	LS	1	\$ 3,000.00	\$ 3,000.00	\$ 2,000.00	\$ 2,000.00	\$ 12,000.00	\$ 12,000.00
D34	SP 8-02	PSIPE Plantings	EA	1	\$ 6,976.00	\$ 6,976.00	\$ 20,000.00	\$ 20,000.00	\$ 41,880.00	\$ 41,880.00
D35	SP	Irrigation System Complete	LS	1	\$ 8,000.00	\$ 8,000.00	\$ 8,000.00	\$ 8,000.00	\$ 13,550.00	\$ 13,550.00
D36	SP	Irrigation 4" Diameter Sleeve	LF	33	\$ 30.00	\$ 990.00	\$ 20.00	\$ 660.00	\$ 16.00	\$ 528.00
SCHEDULE A SUBTOTAL						\$ 954,064.00		\$ 1,127,953.50		\$ 1,382,643.00
SCHEDULE B SUBTOTAL						\$ 1,600,000.00		\$ 2,763,500.00		\$ 2,826,000.00
SCHEDULE B (9.0% SALES TAX)						\$ 144,000.00		\$ 248,715.00		\$ 254,340.00
SCHEDULE C (ADD ALT 2) - WATER FEATURE						\$ 92,157.00		\$ 95,860.50		\$ 799,852.00
SCHEDULE C (9.0 % SALES TAX)						\$ 8,294.13		\$ 8,627.45		\$ 71,986.68
SCHEDULE D (ADD ALT 2) - NORTH PLAZA						\$ 198,964.00		\$ 214,410.00		\$ 354,201.00

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		TOTAL BID AMOUNT		\$ 2,997,479.13		\$ 4,459,066.45		\$ 5,689,022.68
ADMINISTRATION RECOMMENDATION - PLAZA AND PAVILION (SCHEDULE A, SCHEDULE B, SCHEDULE B TAX)				\$ 2,698,064.00		\$ 4,140,168.50		\$ 4,462,983.00

**North Cove Park - Project Summary****Description**

Redevelopment and expansion of North Cove Park. This project includes a substantial grading effort to provide a view of the lake from Main Street; construction of a new pavilion building, plaza and veteran's memorial; installation of a new lawn, stage and beach; removal of the Williams property homes west of City Hall; reconstruction of the North Cove Park dock; acquisition of the Butler property south of the rowing club building and street frontage improvements between North Lakeshore Drive and 18th St. NE.

**Background**

Design of Main Street and North Cove Park began in 2018 and 2017 respectively. In 2018, the City was awarded a \$3.1 million grant for construction of a pavilion building and improvements around North Cove Park. A decision was made in early 2019 to focus the project on North Cove Park, including a pavilion, street frontage improvements and park improvements. Three consultants were selected to design the project (site civil, pavilion structural and mechanical/electrical/plumbing). Design was completed in May 2019. Construction by a contractor will begin in June 2019. In the meantime, a combination of City forces and contractors regraded the park, installed walkways and reconstructed the dock. All of these costs are captured in the spreadsheet below.

**Schedule**

**Design:** 2017-May 2019

**Construction:** June 2019 - November 2019

**Total Project Cost** \$ 5,846,560

EXPENDITURES	Total	Previous	2019
Pre-Bid Construction (Grading, Dock, Walkways, Irrigation)	\$576,457		\$576,457
Design - North Cove	\$142,381	\$67,383	\$74,998
Design - Main Street	\$234,644	\$206,130	\$28,514
Property Acquisition (Butler)	\$550,000		\$550,000
Resident Relocation (Williams)	\$122,909		\$122,909
Property Restoration/Demolition/Disposal (Williams)	\$80,000		\$80,000
Construction (Plaza, Pavilion, Street Frontage, Water Feature)	\$4,140,169		\$4,140,169
<b>TOTAL</b>	<b>\$5,846,560</b>	<b>\$273,513</b>	<b>\$5,573,046</b>

REVENUES	Total	Previous	2019
Park Mitigation	\$2,111,161	\$67,383	\$2,043,778
TIZ 1	\$426,130	\$206,130	\$220,000
SEPA	\$309,268		\$309,268
Secured Grant(s)	\$3,000,000		\$3,000,000
<b>TOTAL</b>	<b>\$5,846,560</b>	<b>\$273,513</b>	<b>\$5,573,046</b>

**Ending Fund Balance Projections After All Capital Project Expenditures****(includes****beginning fund balance, revenues and expenditures)**