



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.

CITY COUNCIL WORKSHOP MEETING AGENDA

100% Virtual – Via Zoom

Tuesday, March 2, 2021 at 6:00 p.m.

<https://us02web.zoom.us/j/89253657635>

or call in at (253) 215-8782

Meeting ID: 89253657635

- Title 17 Amendments to Code Enforcement Process Discussion
Russ Wright, Community Development Director
Ryan Mumma, Building Official
- Permissible Use Chapter Revisions Update Discussion
David Levitan, Senior Planner
Jill Needham, Assistant Planner

THE PUBLIC IS INVITED TO ATTEND BUT WILL NOT BE ALLOWED TO COMMENT

Special Needs

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



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LAKE STEVENS CITY COUNCIL
STAFF REPORT

Council Agenda Date: March 2, 2021

Subject: Staff Progress Update – Title 17 Amendments to Code Enforcement Process

Contact Person/Department: Ryan Mumma, Building Official
Russ Wright – PCD Director

Budget Impact: None

RECOMMENDATION(S)/ACTION REQUESTED OF COUNCIL: None

BACKGROUND/DISCUSSION:

As discussed in prior council work session on November 17, 2020, staff is proposing to amend the Lake Stevens Municipal Code regarding enforcement of violations of municipal code. To this end, staff has been working on edits to revamp and streamline the process and complete general housekeeping of the code. These amendments are aimed to clarify the current process, remove conflicting provisions, and create additional enforcement tools for efficiency in resolving violation cases.

The Lake Stevens Municipal Code currently has one title, Chapter 17, which is dedicated to enforcement of criminal and civil violations of municipal code. However, there are conflicting provisions for enforcement of violations and/or penalties in at least three other titles, Chapters 8, 9, and 14. By combining or repealing some of these provisions staff believes the enforcement procedures will be more effective, while still retaining the primary goal of obtaining voluntary compliance and reserving the need for monetary penalties, advanced enforcement, and abatement by the City only where voluntary compliance cannot be achieved.

Staff will present draft portions of the updated Chapter 17 over separate council sessions for council review of the progress to date. Ultimately, staff will present a complete and final draft of Chapter 17 for council's review and approval. In this work session, staff will review and provide copies of working drafts containing the Purpose and General Provisions, and Enforcement Actions of proposed Sections 17.10 and 17.20. Our presentation will also focus on the current process and provisions of Lake Stevens Municipal Code

RECOMMENDATION: Staff continues the process of updating LSMC code enforcement procedures

APPLICABLE CITY POLICIES: LSMC Chapters 8, 9, 14, and 17

BUDGET IMPACT: No budget impact.

EXHIBITS:

1. Proposed Sections 17.10 and 17.20

EXHIBIT 1

Title 17

UNIFORM ENFORCEMENT CODE

Chapters:

17.10	Purpose and General Provisions.
17.20	Enforcement Actions.
<i>17.30</i>	<i>Administrative Processes.</i>
<i>17.40</i>	<i>Service of Documents</i>
<i>17.50</i>	<i>Recovery of Enforcement Costs</i>
<i>17.60</i>	<i>Civil Penalties</i>
<i>17.70</i>	<i>Appeal to Hearing Examiner</i>
<i>17.80</i>	<i>Abatement By The City</i>
<i>17.90</i>	<i>Criminal Enforcement</i>

Example of proposed titles and may not reflect final numbering and content

Chapter 17.10

PURPOSE AND GENERAL PROVISIONS

Sections:

- 17.10.010 Purpose.
- 17.10.020 Code Compliance Required
- 17.10.030 Authority to Enforce
- 17.10.040 Responsibility and Liability.
- 17.10.050 Separate offense – Scope of prohibited acts.
- 17.10.060 Computation of Time
- 17.10.070 Interference with code enforcement unlawful.
- 17.10.080 Definitions

17.10.010 Purpose.

- (a) The purpose of this title is to establish a uniform code enforcement system applicable to the variety of code enforcement actions that occur within the city. These regulations establish procedures and mechanisms to resolve violations, establish penalties for violations, provide an opportunity for a prompt hearing, decision and appeal as to alleged code violations, provide for abatement when necessary and provide a mechanism to recover the city's costs.
- (b) The purpose of this title to ensure the health, safety and welfare of the public and not designate any class or group of persons who will protected or benefited by the terms of this chapter.

17.10.020 Code compliance required.

- (a) It shall be unlawful for any person to violate or fail to comply with the requirements of the Lake Stevens Municipal Code.
- (b) Code compliance and violations shall primarily be enforced pursuant to this title, while maintaining the authority to use any other provisions of the code, or as otherwise available under state and federal law.
 - (1) In the event a conflict exists between the enforcement provisions of this title and applicable sections of the Lake Stevens Municipal Code or any international or uniform code, statute, or regulation that is adopted in the Lake Stevens Municipal Code and subject to the enforcement provisions of this chapter, the enforcement provisions of this chapter will supersede, unless the enforcement provisions of this chapter are preempted or specifically modified by said code, statute, or regulation. In the event of a conflict between this chapter and any other provision of this code or city ordinance providing for a civil penalty, the more specific provision shall control.
 - (2) References in the code to violations or unlawful acts or omissions of "ordinances of the city" shall mean and include every such violation, act or omission of any provision of the code as maintained by the city.

- (c) Any condition caused or allowed to exist in violation of any of the provisions of the code is a public nuisance and all remedies given by law for the prevention and abatement of nuisances shall apply to any such nuisance or person responsible therefore, regardless of the institution or imposition of criminal or civil remedies.
- (d) The provisions of this title authorizes the enforcement of noncodified requirements of any city department to assure compliance with conditions of approval for land use actions including but not limited to easements and use limitations shown on the face of an approved final plat, building permit approvals and licenses intended to serve or protect the public.

17.10.030 Authority to Enforce.

- (a) The director of any department of the city of Lake Stevens or designee has the authority to enforce any applicable provisions of the Lake Stevens Municipal Code against violations and/or failure to comply with the regulations of the code under the procedures of this title.
- (b) The code enforcement officer as the official city designee shall have the authority to administer and enforce this title and is authorized to adopt procedures, rules or guidelines; conduct inspections; and prepare the forms necessary to carry out the purposes of this title. The code enforcement officer may seek assistance from applicable city departments, other public agencies or private contractors to resolve code violations.
- (c) The code enforcement officer may modify or revoke any action under this title taken by the City if the City's action was incomplete or issued in error, or in response to new information or a change in circumstances.

17.10.040 Responsibility and Liability.

Responsibility for violations of the codes enforced under this chapter is joint and several, both as to duty to correct and to payment of monetary penalties and costs, and the city is not prohibited from taking action against a party where other persons may also be potentially responsible for a violation, nor is the city required to take action against all persons potentially responsible for a violation.

- (a) No provision or any term used in this title is intended to impose any duty upon the city, nor any of its officers, employees, or agents, which would subject them to damages in a civil action.
- (b) The provisions of this title detailing administration of code compliance procedures are not to be construed as creating a substantive basis for appeal or a defense of any kind to an alleged violation.

17.10.050 Separate offense – Scope of prohibited acts.

- (a) Any person violating the code or responsible party that allows a violation to occur is guilty of a separate offense for each and every day or portion of any day in which any violation of this code is committed, continued, or permitted by any such person, and such person is punishable accordingly.
- (b) Whenever in the code or ordinances of the city any act or omission is made unlawful, such act shall include causing, allowing, permitting, aiding, abetting, suffering or concealing the fact of such act or omission.

17.10.060 Computation of time.

In computing any time prescribed or allowed by this code, the day of the act, event or default from which the designated period begins to run shall not be included. The last day of the period so computed shall be included unless it is a Saturday, Sunday, or legal holiday, in which event the period shall run until the end of the next day which is neither a Saturday, Sunday, nor legal holiday. When the time prescribed or allowed is less than seven (7) days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation.

17.10.070 Interference with code enforcement unlawful.

Any person who intentionally obstructs, impedes, or interferes with any lawful attempt to serve a notice of violation, stop work order, or emergency order, or intentionally obstructs, impedes, or interferes with lawful attempts to correct a violation shall be guilty of a gross misdemeanor.

17.10.080 Definitions.

Except where specifically defined in this section, all words used in this title shall carry their customary meanings. The word “shall” is always mandatory, and the word “may” denotes a use of discretion in making a decision. The following words and phrases used in this title shall have the following meanings:

“Abate” means to take whatever steps are deemed necessary in the interest of the general health, safety, and welfare of the City by the code enforcement officer to return a property to the condition in which it existed before a civil code violation occurred or to assure that the property complies with applicable code requirements. Abatement may include, but is not limited to, rehabilitation, demolition, removal, replacement or repair.

“Act” means doing or performing something.

“Applicable department director” means the city administrator or any department director or other designee, empowered to enforce a City ordinance or regulation.

“Appeal hearing” means a hearing requested in response to a notice and order, stop work order, infraction or other official written notice of violation issued by the code enforcement officer to contest the finding that a violation occurred or to contest that the person cited for a violation is responsible for the violation.

“Cease and Desist” means an order to stop or to allow the continuance of an activity or condition which is contrary to the provisions of Lake Stevens Municipal Code

“City” means the city of Lake Stevens, Washington.

“Code violation” means and includes one or more of the following:

- (1) Any act or omission contrary to any ordinance, resolution, regulation or public rule of the City that regulates or protects public health, the environment or the use and development of land or water, whether or not the ordinance, resolution or regulation is codified; and
- (2) Any act or omission contrary to the conditions of any permit, notice and order or stop work or other order issued pursuant to any such ordinance, resolution, regulation or public rule.

“Civil penalty” means a fine assessed for violation of a statute or regulation, in accordance with Section 17.150 or other provisions of Lake Stevens Municipal Code.

“Code” means the Lake Stevens Municipal Code.

“Code Enforcement Officer” means the city administrator or any applicable department director or other designee, empowered to enforce a city ordinance, regulation, policy or decision.

“Complaint” means a written notice submitted to the city through an approved method, regarding possible violations of any ordinance, resolution, regulation or public rule of the city.

“Contest” means to defend against an adverse claim or challenge a position asserted during a legal proceeding

Costs” means, but is not limited to, contract expenses and city employee labor expenses incurred in abating a nuisance; a rental fee for city equipment used in abatement; costs of storage, disposal, or destruction; legal expenses and attorneys’ fees associated with civil judicial enforcement of abatement orders or in seeking abatement orders; and any other costs incurred by the city, excluding fees and expenses associated with appeals authorized by this code or by state law.

“Day” or “days” means one or more calendar days, unless expressly stated otherwise in each section or subsection. In addition, any portion of a 24-hour day shall constitute a full calendar day.

“Development” means the erection, alteration, enlargement, demolition, maintenance or use of any structure or the alteration or use of land above, at, or below ground or water level, and all acts authorized by a City permit or regulation.

“Emergency” means an action that must be undertaken immediately or within a time frame too short to allow full compliance with this chapter, in order to avoid an immediate threat to public health or safety, to prevent an imminent danger to public or private property, or to prevent an imminent threat of serious environmental degradation.

“Emergency order” means a stop work order or a cease and desist order issued pursuant to LSMC Chapter 17.110 by the city under its police power authority in response to an actual or potential threat or risk to the health, safety, or welfare of people, property, city infrastructure or the environment.

“Enforcement action” means a notice and order, an infraction, or emergency order issued pursuant to this Title.

“Fine” means payment imposed by an agency for violation of laws or regulations.

“Found in violation” means that:

- (1) A notice and order, stop work order or infraction has been issued and not timely appealed; or
- (2) The hearing examiner has determined that the violation has occurred, and the hearing examiner’s determination has not been stayed or reversed on appeal.

“Hearing examiner” means the City of Lake Stevens hearing examiner, as provided in Chapter 2.48 LSMC.

“Infraction” or “civil infraction” means any code violation designated as an infraction or civil infraction by the code enforcement officer pursuant to Chapter 7.80 RCW, incorporated herein by reference for which a monetary penalty may be imposed.

“Notice of Violation” means a notice issued pursuant to Title 17 LSMC which notifies the person responsible of the code violation(s), the required remedy, deadline for compliance, and includes a fine or monetary penalty.

“Nuisance” (also referred to herein as “violation” or “nuisance violation”) means, in addition to

the conditions established in Chapter 9.60 LSMC, a violation of any City of Lake Stevens ordinance

“Nuisance Vehicle” means any vehicle, including, but not limited to motorized vehicles of any kind, boats, watercraft, recreational vehicles and trailers of any size that:

(1) has characteristics which include, but are not limited to damaged, rusted, partially dismantled, wrecked, flat tire(s), broken window(s) or windshield, or missing wheels, tires, motor, or transmission, expired tabs or an accumulation of natural vegetation or debris on or around the vehicle; and

(2) is apparently inoperable.

“Omission” means a failure to act.

“Order”. means a written mandate such as notice of violation , stop work order, notice of a civil fine or fee, suspension or revocation of a license or permit, which orders the responsible person to comply with the action imposed.

“Permit” means any form of certificate, approval, registration, license or any other written permission issued by the City of Lake Stevens.

“Person” means any individual, association, partnership, corporation or legal entity, public or private, and includes the agents, contractors, and assigns of such person, including registered agents thereof.

“Person responsible” or “responsible person” means the owner, occupier, tenant, manager, agent or other person who caused or is causing the civil code violation under this title or other public law.

“Public nuisance” means a nuisance that affects equally the rights of an entire community or neighborhood, although the extent of the damage may be unequal.

“Repeat violation” means, as evidenced by the prior issuance of a correction notice or a notice of violation, a subsequent violation that has occurred on the same property or that has been committed by a person responsible for the prior violation elsewhere within the city of Lake Stevens. To constitute a repeat violation, the violation need not be the same violation as the prior violation. The violation of a written order of the hearing examiner that has been served as provided in this chapter shall constitute a repeat violation.

“Stop work order” means an order issued to immediately stop any action or work being conducted without a permit or performed in a manner contrary to the provisions of Lake Stevens Municipal Code

“Voluntary compliance agreement” or “VCA” means a written contract between the person responsible for the violation and the City, under which such person agrees to abate the violation within a specified time and according to specified conditions.

“Violation” means an act or omission contrary to a City development regulation including an act or omission at the same or different location by the same person and including a condition resulting from such act or omission.

“Warning Letter” means letter informing the recipient of a minor violation and does not carry a penalty or enforcement action

Chapter 17.20

ENFORCEMENT ACTIONS

Sections:

- 17.20.010 Categories of Response
- 17.20.020 Procedures and guidelines for responding to code complaints and violations
- 17.20.040 Right of entry.

17.20.010 Categories of response.

Responses to complaints or evidence of a civil code violation shall be prioritized based on significance and severity. The categories set forth in this section are not jurisdictional and failure to meet them in any case shall not affect the city's authority to enforce city code provisions regarding that case. The following categories serve as guidelines for administering this title:

- (a) High risk situations need an urgent response. These include an imminent likelihood of/ or actual bodily harm or detrimental public health exposure, damage to public resources or facilities, damage to real or personal property or significant environmental damage or contamination.
- (b) Moderate risk situations need a prompt response. These include a risk of bodily harm, damage to public resources or facilities, damage to real or personal property, environmental damage or contamination.
- (c) Low risk situations need response as time permits. These are nonemergent, do not fit within the high risk or moderate risk categories and have only minor public impacts.

17.20.020 Procedures and guidelines for responding to code complaints and violations.

- (a) This section sets out procedures and guidelines for responding to complaints and code violations.
- (b) Complaints – Investigation, Verification. The code enforcement officer shall determine whether a complaint is reliable based upon past complaints, subsequent inspections and/or investigations, and other relevant criteria or information. If the code enforcement officer determines a complaint is reliable, the code enforcement officer may conduct or take all appropriate or necessary inspections, investigations and actions. If the code enforcement officer determines a complaint is not reliable, the city is not obligated to conduct any further inspection or investigation, nor to act regarding such complaint.
- (c) Violations – Investigation – Verification - Enforcement. The code enforcement officer will determine whether a violation is probable or has occurred based upon information derived from sources including but not limited to complaints, police reports, inspections, field observations, witnesses, relevant documents, and city data systems. When the code enforcement officer makes such a determination, the violation will be documented and the code enforcement officer may take or issue appropriate enforcement action pursuant to this chapter including but not limited to issuance of warning letters, , voluntary compliance agreements, notices of violation, emergency orders, civil infractions, stop work orders, and cease & desist orders.

(d) Enforcement Actions. In order to promote compliance with the code and/or to discourage public nuisances, the code enforcement officer may, in response to inspections, field observations, reports, investigations or reliable complaints, determine that violations of the code have occurred or are or may be occurring, and may take the following enforcement actions, in whole or part, and in any order appropriate to the violation:

- (1) Warning;
- (2) Voluntary Compliance Agreement (VCA);
- (3) Notice of Violation;
- (4) Emergency Orders; Stop Work, Cease & Desist;
- (5) Civil Infraction ;
- (6) Suspend, revoke, or modify any permit, license or approval;
- (7) Impose fines, penalties, and/or recover costs incurred by the city; and
- (8) Criminal enforcement.

(e) Verification of Compliance. The code enforcement officer shall make such investigations or inspections as necessary or appropriate to confirm compliance with any enforcement action.

17.20.040 Right of entry.

- (a) Nonemergency Permissive Entry. Upon presentation of proper credentials, the code enforcement officer may, with the consent of the owner or occupier of a building or premises or pursuant to a lawfully issued inspection warrant, enter such location at all reasonable times to perform the duties of this chapter and to conduct inspections, tests or to carry out other duties imposed by the code.
- (b) Refusal of Entry. If entry is refused or cannot be obtained, the code enforcement officer may apply to a court of competent jurisdiction to obtain entry, and/or shall have recourse to every remedy provided by law to secure entry, including but not limited to obtaining an administrative warrant for entry.
- (c) Emergency Entry. In the event of an emergency presenting a threat to public health or safety and requiring immediate action by the code enforcement officer, the code enforcement officer may enter onto any property without obtaining consent but shall advise the property owner or other responsible person of such entry as soon as practicable thereafter.



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LAKE STEVENS CITY COUNCIL
STAFF REPORT

Council Agenda Date: March 2, 2021

Subject: Permissible Use Chapter Revisions Update

Contact	David Levitan, Senior Planner	Budget	N/A
Person/Department:	Jill Needham, Assistant Planner	Impact:	

RECOMMENDATION(S)/ACTION REQUESTED OF COUNCIL:

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

SUMMARY/BACKGROUND:

Staff introduced potential amendments to the Permissible Uses Chapter of the Land Use Code (LSMC 14.40) during the Council's [December 1, 2020 Workshop Meeting](#). Over the past three months, staff has continued to work with the Planning Commission on ways to consolidate uses, reduce or eliminate redundant land use processes, and establish clear and objective performance standards for specific uses. At the Commission's January 6 and February 3 meetings, staff introduced drafts of three new tables for the three different use categories: Residential, Non-Residential, and Special Uses. The three tables are included in **Exhibits 1, 2, and 3**, respectively, and staff continues to fill them in and add footnotes and links to relevant code sections.

As reviewed with the Commission, staff has separated the uses contained in the existing permissible use table (Table 14.40-I) into the three tables identified above. Uses are generally classified using the North American Industrial Classification System (NAICS) in order to better integrate the permissible use table with the City's business license program. NAICS codes are shown in the left-hand column of each table, as applicable. Individual use classifications are included in the second left most column with zones running along the top row. Zones not present in the current use table have been added to the proposed table drafts, including the Commercial District (CD), Business District (BD), and the Central Business District (CBD). Although these zones are mostly contained within Subareas, each zone contains some parcels located outside of the subarea boundaries. Subarea permissible uses are currently included in their own chapter, LSMC 14.38, and are proposed to stay separate from Chapter 14.40. Staff will continue to work with Planning Commission regarding the interaction between these two chapters.

Staff will be discussing the use of performance standards and the applicability of the Conditional Use Permit process and Administrative Conditional Use Permit process with the Planning Commission at their March 17, 2021 meeting. As a reminder, when looking at the permissible use table, P = Permitted outright, A = Permitted with Administrative Conditional Use Permit (a Type II administrative land use review), and C = Permitted with a Conditional Use Permit (a Type III land use application with a public hearing before the Hearing Examiner). Performance standards have the potential to eliminate the need for CUPs and ACUPs.

for some uses where the process could be considered redundant. Instead, the subject development would be subject to an objective set of criteria that ensure the potential impacts to the development are adequate considered is in congruence with the surrounding area.

As staff continues its work, it anticipates holding two additional work sessions with the Planning Commission and one additional work session with City Council prior to holding public hearings, which are likely to occur in late spring or early summer 2021.

APPLICABLE CITY POLICIES: N/A

BUDGET IMPACT: N/A – There is adequate staffing and budget to complete the proposed work plan.

ATTACHMENTS:

Exhibit 1: Residential Table Draft

Exhibit 2: Non-residential Table Draft

Exhibit 3: Special Use Table Draft

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]