



Setbacks from Utility Easements

1. Authority

The Department of Planning and Community Development has established procedural policies and guidelines authorized under Lake Stevens Municipal Code (LSMC) 14.04.120(a), which authorizes city departments to administratively adopt guidelines, standards, reference materials, forms or other documents that aide the public, applicant, staff or decision-maker in interpreting and administering the Municipal Code. Chapter 14.16C.035 LSMC provides a process for administrative interpretations to clarify ambiguous provisions of the code.

2. Intent

Determine if a distinction exists for setback requirements from access easements versus utility easements.

3. Applicable Code Sections and Analysis (Code language is italicized):

- a. LSMC 14.48.040(a)(2), *As used in this section, the term "lot line, tract or easement" refers to all easements and lot boundaries other than those that abut streets. Setbacks from access easements and access tracts are considered lot line setbacks.*
 - i. Chapter 14.48 LSMC includes dimensional standards for land outside of subareas. Chapter 14.38 LSMC includes dimensional standards for subareas.
- b. Pursuant to Code Interpretation 2011-2, LSMC 14.48.040(a)(2) allows for an internal lot line setback of five feet to be used when an access easement is internal to the lot. The determination states, the five-foot setback provisions apply only to those access easements that do not abut streets.
 - i. The code interpretation clarifies that the language in 14.48.040(a)(2) requires a five-foot setback from internal access easements, when they act as side setbacks.
 - ii. It is unclear whether different types of easements also require the five-foot setback.
- c. Pursuant to correspondence with the Lake Stevens Sewer District, easements are properly sized to accommodate access for repair and maintenance equipment. A five-foot setback is not required for the easement to maintain its purpose and function.
- d. Pursuant to correspondence with the Lake Stevens Public Works Department, stormwater water easements are also properly sized to accommodate access for repair and maintenance of the utility infrastructure.
- e. LSMC Table 14.48-I has a column labelled "*Building Setback Requirements Minimum Distance, in feet, from:*⁴." Under this column, there is a sub-column labelled "*Lot Line, Tract or Easement*³."

- i. The sub-column that references easements requires a five-foot setback in single-family zones and no easement setbacks in all other zones.
- f. LSMC Table 14.38-I has a column labelled "*Building Setback (from lot line, tract or easement) (ft)*"¹³. This column has two sub-columns labelled "*Front*" and "*Side/Rear*." The table requires various front and side setbacks based on the zoning district.
 - i. The table does not clarify how an easement could be placed in the sub-columns of front or side/rear. An easement could be located on any portion of a property and is not limited to the front or sides.
 - ii. Using Code Interpretation 2011-2, it can be determined that the reference to easements in Table 14.38-I is referring to access easements and not utility easements, which are not limited to the fronts or sides of properties.
- g. LSMC 14.08.010, Definition of *Setbacks*, means the required distance measured horizontally between every building, structure or use and the lot lines, planned rights-of-way, rights-of-way or streets.
 - i. The definition of Setback does not include a reference to easements.

4. Interpretation Conclusion

The Lake Stevens Municipal Code does not address whether utility easements require a building setback. A previous code interpretation clarifies that language in LSMC 14.48.040(a)(2) requires a five-foot setback from internal access easements. The Sewer District and Lake Stevens Public Works have clarified that utility easements are properly sized to accommodate access for repair and maintenance. Table 14.48-I requires setbacks from easements only in single-family residential zoning districts. Table 14.48-I does not require a setback from easements in multi-family residential, commercial or industrial zones. If there was a functional purpose to a building setback from a utility easement, then the setback would be required regardless of zoning district. Table 14.38-I provides no clarification to which type of easement is referenced in the table. Using the previous code interpretation, it can be assumed that the setbacks in Table 14.38-I are applicable to access easements.

Based on these findings, building setback from utility easements are not required in single-family residential zones. The city intends to revise LSMC 14.48.040(2)(a) and Table 14.38-I in a future code amendment to reflect this interpretation.



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Date of Administrative Determination