

**CITY OF LAKE STEVENS
Lake Stevens, Washington
ORDINANCE NO. 811**

AN ORDINANCE OF THE CITY OF LAKE STEVENS, WASHINGTON, REPEALING CHAPTERS 14.12 LSMC “ADMINISTRATIVE MECHANISMS”, CHAPTER 14.16 LSMC “PERMITS, HEARINGS AND APPEALS”, AND CHAPTER 14.96 LSMC “AMENDMENTS”; ADOPTING A NEW PROCESSING CODE IN FOUR NEW CHAPTERS (CHAPTER 14.16A LSMC “ADMINISTRATION AND PROCEDURES”, CHAPTER 14.16B LSMC “TYPES OF LAND USE REVIEW”, CHAPTER 14.16C LSMC “LAND USE ACTIONS, PERMITS AND DETERMINATIONS - DECISION CRITERIA AND STANDARDS”, AND CHAPTER 14.18 LSMC “SUBDIVISIONS, BOUNDARY LINE ADJUSTMENTS AND BINDING SITE PLANS”); AND AMENDING CHAPTER 2.56 LSMC “PARK AND RECREATION PLANNING BOARD”, CHAPTER 2.64 LSMC “PLANNING COMMISSION”, CHAPTER 12.12 LSMC “TELECOMMUNICATIONS”, CHAPTER 14.04 LSMC “GENERAL PROVISIONS”, CHAPTER 14.08 LSMC “BASIC DEFINITIONS AND INTERPRETATIONS”, CHAPTER 14.28 LSMC “ENFORCEMENT AND REVIEW”, CHAPTER 14.32 LSMC “NONCONFORMING SITUATIONS”, CHAPTER 14.36 LSMC “ZONING DISTRICTS AND ZONING MAP”, CHAPTER 14.40 LSMC “PERMISSIBLE USES”, CHAPTER 14.44 LSMC “SUPPLEMENTARY USE REGULATIONS”, CHAPTER 14.46 LSMC “INNOVATIVE HOUSING OPTIONS DEMONSTRATION PROGRAM”, CHAPTER 14.48 LSMC “DENSITY AND DIMENSIONAL REGULATIONS”, CHAPTER 14.56 LSMC “STREETS AND SIDEWALKS”, CHAPTER 14.64 LSMC “FLOODWAYS, FLOODPLAINS, DRAINAGE, AND EROSION”, CHAPTER 14.68 LSMC “SIGNS”, CHAPTER 14.72 LSMC “PARKING”, CHAPTER 14.76 LSMC “SCREENING AND TREES”, CHAPTER 14.80 LSMC “BUILDING AND CONSTRUCTION”, CHAPTER 14.88 LSMC “CRITICAL AREAS”, CHAPTER 14.92 LSMC “SHORELINE MANAGEMENT”, CHAPTER 14.100 LSMC “IMPACT MITIGATION”, CHAPTER 14.110 LSMC “CONCURRENCY MANAGEMENT SYSTEM”, CHAPTER 14.120 LSMC “PARK IMPACT MITIGATION FEES”, AND CHAPTER 16.12 LSMC “CATEGORICAL EXEMPTIONS AND THRESHOLD DETERMINATIONS” TO BE CONSISTENT WITH THE NEW PROCESSING CODE.

WHEREAS, the adoption of a new processing code will provide a more easily understandable and consistent code, which is easy to implement; and

WHEREAS, adoption of the new regulations will streamline the review and decision process for land use actions, permits and determinations; and

WHEREAS, the current Zoning Permit is an additional layer of review and not necessary for full review of land use projects, therefore, removal of the Zoning Permit from the Land Use Code will benefit applicants and staff by reducing review times without negatively impacting development; and

WHEREAS, the new Processing Code uses six different review types to clearly state the type of review for each land use action and permit and provide clear procedures for each type; and

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WHEREAS, the City distributed the proposed Processing Code and related code amendments to the development, engineering and consultant community; utilities; and other jurisdictions for stakeholder review on _____, 2009 seeking input and comment; and

WHEREAS, the City prepared a State Environmental Policy Act (SEPA) environmental checklist and issued a SEPA determination of Non-Significance for adoption of the new Processing Code and related code amendments on _____, 2009 and published notice in the Lake Stevens Journal; and

WHEREAS, in taking the actions set forth in this ordinance, the City has complied with the requirements of the State Environmental Policy Act, Ch. 43.21C RCW; and

WHEREAS, the City submitted the proposed code amendments on _____, 2009 for the 60-day review to the Washington State Department of Commerce; and

WHEREAS, the Planning Commission conducted a hearing on _____, 2009, and forwarded a recommendation that the City Council adopt the proposed processing regulations and related code amendments; and

WHEREAS, the City Council conducted a public hearing on _____, 2009 and continued to _____, 2009 to consider adopting the Processing Code and related code amendments.

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

Section 1. Ch. 14.12 “Administrative Mechanisms”, Ch. 14.16 “Permits, Hearings and Appeals” and Ch. 14.96 “Amendments” are hereby repealed.

Section 2. Title 14 LSMC is hereby amended by adding a new Chapter 14.16A “Administration and Procedures” to read as set forth in the attached Exhibit 1.

Section 3. Title 14 LSMC is hereby amended by adding a new Chapter 14.16B “Types of Land Use Review” to read as set forth in the attached Exhibit 2.

Section 4. Title 14 LSMC is hereby amended by adding a new Chapter 14.16C “Land Use Actions, Permits and Determinations - Decision Criteria and Standards” to read as set forth in the attached Exhibit 3.

Section 5. Title 14 LSMC is hereby amended by adding a new Chapter 14.18 “Subdivisions, Boundary Line Adjustments and Binding Site Plans” to read as set forth in the attached Exhibit 4.

Section 6. Ch. 2.56 LSMC is hereby amended by amending LSMC 2.56.010 to read as follows:

2.56.010 Created.

The Park and Recreation Planning Board (Park Board) is hereby acknowledged and ratified. (See Section~~(Chapter)~~ 14.16A.380~~((42))~~ of the Lake Stevens Municipal Code)

Section 7. Ch. 2.64 LSMC is hereby amended by amending LSMC 2.64.010 to read as follows:

2.64.010 Created.

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The Planning Commission is hereby acknowledged and ratified. (See Section~~((Chapter))~~ 14.16A.360~~((42))~~ of the Lake Stevens Municipal Code)

Section 8. Ch. 12.12 LSMC is hereby amended by amending LSMC 12.12.1020 to read as follows:

12.12.1020 Construction and Zoning Codes.

Cable and telecommunications facilities shall be constructed, installed, operated, and maintained in accordance with all applicable federal, state and local codes, rules and regulations.

All City land use regulations shall be met as identified in Title 14, Land Use Code. Chapter 14.40, Table II: Table of Permissible Uses, ~~((Subsection))~~ Use Description 18.000 Towers and Related Structures, identifies zones where towers and antennas are permitted outright or with an approved City approval, ~~((Zoning Permit, Special use))~~ Administrative Conditional Use Permit, ~~((and/))~~ or Conditional Use Permit.

Section 9. Ch. 14.04 LSMC is hereby amended by amending LSMC 14.04.014 to read as follows:

14.04.014 Purpose and Intent.

(a) The purpose of the Land Use Code is to minimize or preclude public nuisances by establish standards, procedures, and minimum requirements to achieve the following general intentions and purposes for the City of Lake Stevens:

- (1) To establish regulatory procedures and standards for review and decision-making of all proposed development in the City.
- (2) To foster and preserve public health, safety, comfort, and welfare, and to aid in the harmonious, orderly, aesthetically pleasing, and socially beneficial development of the City, in accordance with the Comprehensive Plan.
- (3) To adopt a development review process that is:
 - (i) Efficient, in terms of time and expense;
 - (ii) Effective, in terms of addressing the natural, historic, and aesthetic resources and public facility implications of any proposed development, while also protecting and improving the quality of life in the City; and
 - (iii) Equitable, in terms of consistency with established regulations and procedures, respect for the rights of all property owners, and consideration of the interests of the citizens and residents of the City.
- (4) To prohibit or condition incompatible land uses or certain aspects of land uses by regulating density and dimensional aspects of development, ensuring that new development(s) install all private and public infrastructure necessary to serve said new development and protecting critical areas.
- (5) To implement the Comprehensive Plan of the City by:
 - (i) Establishing regulations and conditions governing the erection and use of building and other structures and the uses of land planned for the future as specified in the Comprehensive Plan;
 - (ii) Securing safety from fire, panic, and other dangers;
 - (iii) Lessening automobile congestion of the streets;
 - (iv) Providing for adequate light and air;
 - (v) Preventing the overcrowding of land;
 - (vi) Avoiding undue congestion of population and facilitating the adequate provision of transportation, potable water, wastewater disposal, schools, parks, and other public requirements of the City;
 - (vii) Dividing the City into zoning districts, defining certain terms, designating the uses and intensities thereof that are permitted in the different districts, and providing lot size and other density and dimensional requirements;

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(viii) Establishing performance standards that apply to all new development as well as the redevelopment of all lands in the City;

(ix) Defining the functions of the Planning Department, (~~Zoning Board,~~) Hearing Examiner, Design Review Board, Planning Commission, and City Council and other relevant agencies with respect to the administration and enforcement of this Land Use Code.

(6) To regulate the subdivision of land to:

(i(~~a~~)) Ensure that adequate drainage facilities are provided in developing portions of the City;

(ii(~~b~~)) Promote coordinated land development; and

(iii(~~e~~)) Require uniform monumenting of land subdivisions and conveyance by accurate legal description.

(7) To be consistent with the City of Lake Stevens' Comprehensive Plan by ensuring that all development in the City will be served by adequate public facilities.

(8) To require that all new land development activity contribute its proportionate share of the funds, land, and/or public facilities necessary to accommodate the impacts that such new development has on public facilities and services having a rational nexus to the proposed development and for which the need is reasonably attributable to the proposed development.

(9) To provide for a penalty for the violation of this Land Use Code.

(b) The zoning districts established in Chapter 14.36 are designated based on there being adequate public infrastructure and facilities provided at the time that the individual properties within that district are developed and/or used in a manner consistent with the uses allowed in that zoning district. Adequate public infrastructure and facilities are defined as being built to their planned capacity since the planned capacity is based on anticipated population at build-out under those zoning districts.

Section 10. Ch. 14.04 LSMC is hereby amended by amending LSMC 14.04.020 to read as follows:

14.04.020 Authority.

(a) This title is adopted pursuant to the authority contained in Chapter 35A.63 RCW (Planning and Zoning in Code Cities), Chapter 35A.58 RCW (Boundaries and Plats), Chapter 36.70A RCW (Growth Management – planning by selected counties and cities(~~Act~~)), Chapter 86.16 RCW (Flood Management(~~Prevention~~)), (~~RCW~~) Title 58 RCW (Boundaries and Plats), and any other appropriate State regulations.

(b) Whenever any provision of this title refers to or cites a section of the Revised Code of Washington (RCW) or Washington Administrative Code (WAC) and that section is later amended or superseded, the title shall be deemed amended to refer to the amended section or the section that most nearly corresponds to the superseded section.

Section 11. Ch. 14.04 LSMC is hereby amended by amending LSMC 14.04.080 to read as follows:

14.04.080 Fees.

(a) Reasonable fees sufficient to cover the costs of administration, inspection, publication of notice and similar matters may be charged to applicants for project review(~~zoning permits~~), sign permits, conditional use permits, (~~special~~)administrative conditional use permits, event permits, subdivision plat approval, zoning amendments, variances and other administrative relief. The amount of the fees charged shall be as set forth in the City's budget or as established by resolution of the Council filed in the office of the City Clerk.

(b) Fees established in accordance with subsection (a) of this section shall be paid upon submission of a signed application or notice of appeal, or as otherwise provided by said fee resolution.

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Section 12. Title 14 LSMC is hereby amended by adding a new Section 14.04.115 to read as follows:

14.04.115 Consistency Determination. (SnoCo 30.70.100, Redmond, Marysville)

(a) Pursuant to RCW 36.70B.040, the city shall review all project permit applications for consistency with applicable city development regulations or, in the absence of adopted development regulations, with the appropriate elements of the comprehensive plan or subarea plan adopted under chapter 36.70A RCW. In the consistency review, the city shall consider the following factors:

- (1) The type of land use permitted;
- (2) The level of development, such as units per acre or other measures of density;
- (3) Infrastructure, including public facilities and services needed to serve the development; and
- (4) The characteristics of the development, such as development standards.

(b) No specific or separate documentation of consistency is required, except that for projects receiving a written report or other documentation from the department, consistency shall be documented in the report. For projects not requiring a written report, consistency shall be indicated on the permit or decision.

Section 13. Ch. 14.04 LSMC is hereby amended by amending LSMC 14.04.120 to read as follows:

14.04.120 Adoption of Supporting Administrative Guidelines.

(a) City departments may administratively adopt guidelines, standards, reference materials, forms, or other documents that aid the public, applicant, staff, or decision-maker in interpreting and administering this document.

(b) The titles of those documents administratively adopted per subsection (a) of this section shall be on file with the Planning and Community Development Department and shall include the following documents:

- (1) Information required with applications;
- (2) Guide of Landscaping;
- (3) Residential Development Handbook for Snohomish County Communities~~((Guide for Noise Levels)); and~~
- ~~((4) Conditional or Special Use Permit Board Consideration Worksheet;~~
- ~~(5) Specifications for Sewer Design and Construction;)~~
- ~~(4((6)))~~ Traffic Impact Analysis Guidelines (TIAG).

(c) A copy of all administrative guidelines adopted pursuant to this section shall be on file with the Planning Department permit counter and may be inspected by interested parties during regular business hours of the department.

Section 14. Ch. 14.04 LSMC is hereby amended by amending LSMC 14.04.130 to read as follows:

14.04.130 Exemptions From Certain State Requirements.

(a) The following project permits are exempt from the provisions of RCW 36.70B.060 through 36.70B.080 and 36.70B.110 through 36.70B.130~~((36.70A.440, 36.70A.065, and Sections 407, 413, and 415 through 417 of ESHB 1724))~~ unless otherwise required by this title:

- (1) Landmark designations;
- (2) Street v~~((V))~~acations~~((of rights of way or other easements));~~
- (3) Other approvals relating to the use of public areas or facilities~~((Zoning permits)); or~~
- (4) ~~((Right of way permits;~~
- ~~(5) Park use permits;~~
- ~~(6) Side sewer permits;~~
- ~~(7) Boundary line adjustments;~~

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~~(8) Construction plan approval by the Department of Public Works;~~

~~(9) Building permits;~~

~~(10) Business licenses; and~~

~~(11)) Other project permits, whether administrative or quasi-judicial, that the Planning Director has determined present special circumstances that warrant a review process different from that provided in RCW 36.70B.060 through 36.70B.080 and 36.70B.110 through 36.70B.130 (36.70A.440, 36.70A.065, and Sections 407, 413, and 415 through 417 of ESHB 1724).~~

(b) The following permits are exempt from 36.70B.060 and 36.70B.110 through 36.70B.130 (Sections 407, 413, and 415 through 417 of ESHB 1724) unless otherwise required by this title:

(1) Lot line or boundary adjustments;

(2) Building and other construction permits;

(3) Similar administratively approved permits that are categorically exempt from environmental review under Chapter 43.21C RCW; or

(4) ~~(2))~~ Administratively approved permits for which environmental review has been completed in connection with other project permits.

Section 15. Ch. 14.08 LSMC is hereby amended by deleting the definitions for Administrator, Architecturally Integrated, Special Use Permit, Subdivision, and Zoning Permit.

Section 16. Ch. 14.08 LSMC is hereby amended by amending the following definitions in LSMC 14.08.010 to read as follows:

Boundary Line Adjustment. ~~((A division made for the purpose of alteration by adjusting))~~ The adjustment of boundary lines between two abutting platted or unplatted lots, tracts or parcels ~~((-or both)), which does not create any additional lot, tract, parcel, or site and which results in no lot, tract, parcel, or site that contains insufficient area and dimension to meet minimum requirements for width and area~~ ~~((-or division))~~.

Conditional Use ~~((-Permit))~~. A use allowed in a zone only after review ~~((permit issued))~~ by the Hearing Examiner and with approval of permit conditions as necessary to make the use compatible with other permitted uses in the same vicinity and zone ~~((that authorizes the recipient to make use of property in accordance with the requirements of this title as well as any additional requirements imposed by the Council))~~.

Hearing Examiner. A person appointed by the City ~~((Administrator))~~ to conduct public hearings, make ~~((s))~~ decisions, and prepare a record and findings of fact and conclusions on those permit applications outlined in this Title. ~~((In the absence of a Hearing Examiner, the Planning Commission shall perform said duties.))~~

Hearing Officer. The person, or chair of the board, before whom a hearing is being held. This can be the Planning Director ~~((, the Chair of the Zoning Board,))~~ or the Hearing Examiner.

Home Occupation. A commercial activity that: (i) is conducted by a person on the same lot (in a residential district) where such person resides, and (ii) is not so insubstantial or incidental or is not so commonly associated with the residential use as to be regarded as an accessory use (see Section 14.40.050, Accessory Uses) ~~((, but that can be conducted without any significant adverse impact on the surrounding neighborhood))~~.

~~((Without limiting the generality of the foregoing, a use may be regarded as having significant adverse impact on the surrounding neighborhood if: (i) goods, stock in trade, or other commodities are displayed, (ii) any on premises retail sales occur, (iii) more than one person not a resident on the premises is employed in connection with the home occupation, (iv) it creates objectionable noise, fumes, odor, dust or electrical interference, (v) more than 25 percent of the total gross floor area of residential buildings plus other buildings housing the home occupation, or more than 500 square feet of gross floor area (whichever~~

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is less), is used for home occupation purposes, (vi) more than two commercial vehicles are parked on the lot and/or on the abutting street, (vii) materials, equipment, products or tools associated with the business are stored outside of any buildings on the site, or (viii) the business activity occurs outside of any buildings on site.

The following is a non-exhaustive list of examples of enterprises that may be home occupation if they meet the foregoing definitional criteria: (i) the office or studio of a physician, dentist, artist, musician, lawyer, architect, engineer, teacher, or similar professional, (ii) workshops, greenhouses, or kilns, (iii) dressmaking or hairdressing studios.)

Permit-Issuing Authority. (~~Wherever this code refers to the “permit-issuing authority” it refers to that~~ Person, board, office, or institution having jurisdiction over the permit in question, as specified in Chapters ~~(14.12 and)~~ 14.16A and B.

Planned Neighborhood Development (PND). A development constructed on at least 15 acres under single application, planned and developed as an integral unit, and consisting of a combination of residential and nonresidential uses on land within a PND district (see Section 14.36.040, Planned Neighborhood Development Districts Established) in accordance with Section 14.16C.080(~~Section 14.44.030 (Planned Neighborhood Development)~~)).

Plat, Final. The final drawing of a long(~~major~~) or short subdivision and dedication prepared for filing for record with the county auditor and containing all elements and requirements set forth in this title.

Plat, Preliminary Long, or Plat, Preliminary Short. A neat and approximate drawing of a proposed subdivision showing the general layout of streets and alleys, lots, blocks, restrictive covenants, and other elements of a subdivision consistent with the requirements of this title. The preliminary plat shall be the basis for the approval or disapproval of the general layout of a subdivision.

Sign Permit. A permit issued by the Planning Director(~~land use administrator~~) that authorizes the recipient to erect, move, enlarge, or substantially alter a sign.

Subdivision, Long(~~Major~~). The division or redivision of land into 10 or more lots, tracts, parcels, sites, or divisions for the purpose of sale, lease, or transfer of ownership; provided, however, unbuildable areas outside of such lots, tracts, parcels, sites or divisions for other purposes, such as access, drainage, and the protection of critical areas, shall not be considered a lot, tract, parcel, site or division.

Subdivision, Short. The division or redivision of land into nine or fewer lots, tracts, parcels, sites, or divisions for the purpose of sale, lease, or transfer of ownership; provided, however, unbuildable areas outside of such lots, tracts, parcels, sites or divisions for other purposes, such as access, drainage, and the protection of critical areas, shall not be considered a lot, tract, parcel, site or division.

Variance. A grant of permission by the City for the purpose of granting relief from specific development standards of this title as applied to a particular piece of property(~~that authorizes the recipient to do that which, according to the strict letter of this title, he could not otherwise legally do~~)).

Section 17. Ch. 14.08 LSMC is hereby amended by adding the following new definitions to LSMC 14.08.010:

Administrative Conditional Use (previously *Special Use*). A use allowed in a zone after review by the department and with approval of permit conditions as necessary to make the use compatible with other permitted uses in the same vicinity and zone.

Change of Use. A change of the type of use of a building from one principal use category to another and shall be determined to have occurred when it is found that the general character of the operation has been modified and results in an intensification of land use that will require new development conditions to comply with existing regulations.

Complete Application. An application which contains all required information and signatures, and which is accompanied by payment of all fees required to be submitted by Title 14, or any formal written rule or procedure adopted by and in force in the City.

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DNS (Determination of Non-Significance). The written decision by the responsible official of the lead agency that a proposal is not likely to have a significant adverse environmental impact, and therefore an EIS is not required. See WAC 197-11-734.

DS (Determination of Significance). The written decision by the responsible official of the lead agency that a proposal is likely to have a significant adverse environmental impact, and therefore an EIS is required. See WAC 197-11-736.

EIS (Environmental Impact Statement). Defined in WAC 197-11-738.

Party of record. The following persons in an application or appeal are considered a party of record:

- (1) The applicant and any appellant;
- (2) Any person who submitted written comments to the department prior to a Type I or II decision;
- (3) Any person, city department and/or public agency who individually submitted written comments or testified at the open record hearing (excluding persons who have only signed petitions or mechanically produced form letters); and
- (4) Any person, city departments and/or public agency who specifically request notice of decision by entering their name and mailing address on a register provided for such purpose at the open record hearing.

A party of record does not include a person who has only signed a petition or mechanically produced form letters. A party of record to an application/appeal shall remain such through subsequent city proceedings involving the same application/appeal. The county may cease mailing material to any party of record whose mail is returned by the postal service as undeliverable.

Plat, Formal. See Plat, Long.

Plat, Long. A map or representation of a long or formal subdivision.

Plat, Short. A map or representation of a short subdivision.

SEPA. The Washington State Environmental Policy Act of 1971 (chapter 43.21C RCW).

SEPA Rules. Chapter 197-11 WAC.

Site Plan Review. The process whereby local officials review the site plans or master plans to ensure they meet the stated purposes and standards of the zone, provide for necessary public facilities such as roads, and accomplish the goals of the city as stated in adopted comprehensive plans and development regulations.

Subdivision, Formal. See Subdivision, Long.

Temporary Use. An incidental use of limited duration and/or frequency allowed over a specified period.

Vested Rights. The guarantee that an application will be reviewed and a project can be developed (if a permit is issued) under regulations and procedures existing at one moment in time and regardless of changes that may have been made later and prior to final completion of a project or use.

Zone. A classification of land use that provides a range of allowed uses that are subject to bulk and performance standards. A zone is applied to parcels within city limits and depicted on the zoning map.

Zoning. The process by which the city legally controls the use of property and physical configuration of development upon tracts of land within its jurisdiction by establishing zones and adopting the zoning map. Zoning is an official control that implements the comprehensive plan and is enacted for the protection of the public health, safety and welfare.

Zoning map. A map adopted by the city which depicts the boundaries of the various zones established by this title.

Section 18. Ch. 14.28 LSMC is hereby amended by amending LSMC 14.28.030 to read as follows:

14.28.030 Procedures Upon Discovery of Violations.

(a) Upon finding that any provision of this Title is being violated, the planning director shall send a written notice to the offending party, indicating the nature of the violation and ordering the action necessary to correct it.

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(b) The final written notice (and the initial written notice may be the final notice) shall state what action the planning director intends to take if the violation is not corrected and shall advise that the planning director's decision or order may be appealed in accordance with Section 14.16A.265(~~(.400)~~).

(c) When delay in enforcement would seriously threaten the effectiveness of this Title or pose a danger to the public health, safety, or welfare, the planning director may seek enforcement without prior written notice by invoking any of the penalties or remedies authorized in Section 14.28.040.

Section 19. Ch. 14.28 LSMC is hereby amended by amending LSMC 14.28.040:

14.28.040 Violation and Penalty.

(a) Violation of any provision of this Title or any permits issued pursuant to this Title shall either be 1) a misdemeanor subject to a jail term of not more than one year, a fine of not more than \$1,000.00, or both such fine and imprisonment or 2) subject to enforcement pursuant to Title 17 of the Lake Stevens Municipal Code.

(b) Violation of the provisions of this Title or any permits issued pursuant to this Title shall also subject the offender to a civil penalty of \$50 for each and every violation. If the offender fails to pay this penalty within 10 days after being cited for a violation, the penalty may be recovered by the city in a civil action in the nature of debt. A civil penalty may not be appealed to the Hearing Examiner if the offender was sent a final notice of violation in accordance with Section 14.28.030 and did not take an appeal to the Hearing Examiner within the prescribed time.

(c) Violations of LSMC §14.76.120 (Retention and Protection of Large Trees), or any permits or permit conditions imposed pursuant to that section shall be remedied by the forfeiture, by the violator, to the City of the value of the trees removed, plus \$3,000 per tree, plus any costs incurred in determining said value. Value shall be determined by the submission of receipts by the applicant or, in the absence of receipts, by a certified arborist or timber estimator engaged by the City for this purpose. Three new trees of six inch trunk diameter at breast height (dbh) shall be planted to replace each tree lost as a result of said violations. The location these trees are to be planted shall be approved by the Planning Director. A maintenance bond shall be provided pursuant to Section 14.16A.180(d)(~~14.12.830~~) and 14.16A.180(g)(~~14.12.870~~) (3) to ensure survival of the replacement trees for two years from the date of planting. Sections 14.76.120 (h-I) which prohibit development and building permits from being issued prior to actual tree replacement shall be applied to this section. Completion securities authorized by Section 14.16A.180(c)(~~14.12.820~~) shall not be allowed in lieu of actual tree replacement.

(d) This Title may also be enforced by any appropriate equitable action.

(e) Each day that any violation continues after notification by the Planning Director(~~administrator~~) that such violation exists shall be considered a separate offense for purposes of the penalties and remedies specified in this section.

(f) Any one, all, or any combination of the foregoing penalties and remedies may be used to enforce this Title.

Section 20. Ch. 14.28 LSMC is hereby amended by deleting LSMC 14.28.050 and modifying the Section list appropriately. **(this section was moved to 14.16A.280)**

Section 21. Ch. 14.32 LSMC is hereby amended by amending LSMC 14.32.040 to read as follows:

14.32.040 Repair, Maintenance and Reconstruction.

(a) Minor repairs to and routine maintenance of property where nonconforming situations exist are allowed(~~permitted and encouraged~~). Major renovation and repairs, i.e., work valued at more than 25 percent of the appraised valuation of the structure may be done only in accordance with required(~~a zoning~~) permits issued pursuant to this section.

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(b) If a structure housing a non((-)conforming use is damaged by fire, accident or natural disaster to an extent that the value of repair or replacement would exceed 50 percent of the appraised valuation of the structure prior to the fire, accident or natural disaster, then the non-conforming use shall not be re-established. This subsection does not apply to structures used for single-family residential purposes, which structures may be reconstructed pursuant to a building(~~zoning~~) permit.

(c) For purposes of Subsections (a) and (b):

(1) The “value” of renovation or repair or replacement shall mean the fair market value of the materials and services necessary to accomplish such renovation, repair, or replacement.

(2) No person may seek to avoid the intent of Subsections (a) or (b) by doing such work incrementally.

(3) The “appraised valuation” shall mean either the appraised valuation for property tax purposes, updated as necessary by the increase in the consumer price index since the date of the last valuation, or the valuation determined by a professionally recognized property appraiser.

(d) The Planning Director(~~administrator~~) shall issue a permit authorized by subsection a if it is found that, in completing the renovation, repair or replacement work:

(1) This proposal meets the requirements of this chapter, and

(2) The permittee will comply to the extent reasonably possible with all provisions of this title applicable to the proposal.

Compliance with a requirement of this title is not reasonably possible if it cannot be achieved without adding land to the lot where the nonconforming situation is maintained or moving a substantial structure that is on a permanent foundation. That an applicant is facing financial hardship caused by the cost of meeting such requirements as paved parking does not constitute grounds for finding that compliance is not reasonably possible.

Section 22. Ch. 14.32 LSMC is hereby amended by amending LSMC 14.32.050 to read as follows:

14.32.050 Change in Use of Property Where a Nonconforming Situation Exists.

(a) A change in use of property (where a nonconforming situation exists) that requires a new Planning Director approval(~~zoning~~), (~~special~~)administrative conditional use, or conditional use permit in accordance with Section 14.16C.0(4)~~30~~ may not be made except in accordance with Subsections (b) through (d).

(b) If the intended change in use is to a principal use that is permissible in the district where the property is located, and all of the other requirements of this title applicable to that use can be complied with, permission to make the change must be obtained in the same manner as permission to make the initial use of a vacant lot. Once conformity with this title is achieved, the property may not revert to its nonconforming status.

(c) If the intended change in use is to a principal use that is permissible in the district where the property is located, but all of the requirements of this title applicable to that use cannot reasonably be complied with, then the change is permissible if the permitting entity issues a permit authorizing the change. This permit may be issued if it is found that:

(1) The proposal meets the requirements of this chapter, and

(2) All of the applicable requirements of this title that can reasonably be complied with will be complied with. Compliance with a requirement of this title is not reasonably possible if compliance cannot be achieved without adding additional land to the lot where the nonconforming situation is maintained or moving a substantial structure that is on a permanent foundation. That an applicant is facing financial hardship caused by the cost of meeting such requirements as paved parking does not constitute grounds for finding that compliance is not reasonably possible. In no case may an applicant be given permission pursuant to this subsection to construct a building or add to an existing building if additional nonconformities would thereby be created.

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(d) No change in use is to another use that is not permissible in the district in which it is located shall be allowed.

Section 23. Ch. 14.36 LSMC is hereby amended by amending LSMC 14.36.010 to read as follows:

14.36.010 Residential Districts Established.

(a) The following residential districts are hereby established: (~~Suburban Agriculture, Estate Residential,~~) Suburban Residential, Urban Residential, High Urban Residential, Waterfront Residential, and Multi-Family Residential. Each of these districts is designed and intended to secure for the persons who reside there a comfortable, healthy, safe, and pleasant environment in which to live, sheltered from incompatible and disruptive activities that properly belong in nonresidential districts. Other objectives of some of these districts are explained in the remainder of this section.

~~((b) The Suburban Agriculture District is designed to provide an area with relatively low density residential development where low impact agricultural uses are permissible. It is intended that this zone district generally be located around the periphery of the Urban Growth Area (UGA).~~

~~((c) The Estate Residential district (ER-3.5) is designed to accommodate single family residential development in areas within the City's planning jurisdiction that are not served by public water or sewer facilities or that are not yet appropriate for development at higher densities. Some types of mobile homes are allowed to be used for single family residential purposes in this district.))~~

~~((d))~~ The Suburban Residential (SR-4) and Urban Residential (UR) districts are designed primarily to accommodate single-family detached residential uses at medium densities in areas served by public water and sewer facilities. Some types of two-family residences are allowed in these districts on larger lots.

~~((e))~~ The Waterfront Residential District (WR-4) is designed primarily to accommodate single-family detached residential uses at medium densities in areas adjacent to Lake Stevens and served by public water and sewer facilities.

~~((f))~~ The High Urban Residential (HUR-12) district is designed to accommodate single-family detached or attached residential uses at medium densities in areas served by public water and sewer facilities. Some types of two-family residences are allowed in these districts on larger lots.

~~((g))~~ The Multi-Family Residential district (MFR) is designed primarily to accommodate higher density multi-family developments.

Section 24. Ch. 14.36 LSMC is hereby amended by amending LSMC 14.36.020 to read as follows:

14.36.020 Commercial Districts Established.

(a) The following commercial districts are hereby established: Neighborhood Commercial, Central Business District, Local Business, Mixed Use, Planned Business District, and Sub-Regional Commercial(~~, and Commercial Recreational~~). These districts are created to accomplish the purposes and serve the objectives set forth in the remainder of this section.

(b) The Neighborhood Commercial (NC) zone is designed to accommodate neighborhood commercial activities that would cater to residential needs and to which local residents may walk.

(c) The Central Business District (CBD) is designed to accommodate a wide variety of commercial activities (particularly those that are pedestrian oriented) that will result in the most intensive and attractive use of the City's central business district.

(d) The Local Business (LB) zone is designed to accommodate commercial development generally similar to the types permissible in a Central Business District, except that it is intended that this zone be placed along arterials to cater to commuters, or as a transition in some areas between a Sub-Regional Commercial zone and a residential zone, or may provide for a smaller scale shopping center that primarily serves one neighborhood or area of the City (as opposed to a sub-regional or regional shopping center).

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(e) The Mixed Use (MU) zone is designed to accommodate a horizontally-stratified mixture of residential and commercial uses. It is intended that this zoning classification be applied primarily in areas adjacent to the Central Business District, Community Business, Sub-Regional Commercial, or Planned Business District zones as a transition or buffer zone to residential districts.

(f) The Sub-Regional Commercial zone (SRC) is designed to accommodate the widest range of commercial activities.

(g) The Planned Business District (PBD) is designed to accommodate commercial or mixed use development, including supporting residential structures, generally similar to the types permissible in a Central Business District or Mixed Use zone. It is intended that this zone be used on sites containing sensitive resources or other sites where, due to property-specific circumstances, detailed planning would benefit all property owners involved as well as the public by, among other things, allowing for comprehensive site planning and a transfer of densities among parcels in order to avoid impacts to sensitive resources.

~~((h) The Commercial Recreation District is designed to accommodate recreational activities and retail sales, rental services, and food sales that are compatible with regional recreation facilities and/or intended to cater to users of such facilities.))~~

Section 25. Ch. 14.36 LSMC is hereby amended by amending LSMC 14.36.040 to read as follows:

14.36.040 Planned Neighborhood Development Districts Established.

(a) There are hereby established 36 different Planned Neighborhood Development (PND) districts as described in this section. Each PND district is designed to combine the characteristics of at least three and possibly four zoning districts.

(1) One element of each PND district shall be the medium-density residential element. Here there are three possibilities, each one corresponding either to the Suburban, Urban or High Urban residential districts described in Section [14.36.010](#). Use of the High Urban residential zone shall be in accordance with Chapter 14.88, Part IX. Within that portion of the PND zone that is developed for medium density residential purposes, all development must be in accordance with the regulations applicable to the medium density residential district to which the particular PND zoning district corresponds (except that planned residential developments shall not be permissible).

(2) A second element of each PND district shall be the higher density residential element. Here there are two possibilities, each one corresponding either to the Multi-Family residential or Mixed Use zoning districts described in Sections [14.36.010\(g\)](#) and [14.36.020\(e\)](#), respectively. Within that portion of the PND district that is developed for higher density residential purposes, all development must be in accordance with the regulations applicable to the higher density residential district to which the PND district corresponds.

(3) A third element of each PND district shall be the commercial element. Here there are three possibilities, each one corresponding to one of the following commercial districts identified in Section [14.36.010](#): Mixed Use, Local Business, or Central Business districts. Within that portion of a PND district that is developed for purposes permissible in a commercial district, all development must be in accordance with the regulations applicable to the commercial district to which the PND district corresponds.

(4) A manufacturing/processing element may be a fourth element of any PND district. Here there are two alternatives. The first is that uses permitted within the Light Industrial district would be permitted within the PND district. The second alternative is that uses permitted only within the Light Industrial or General Industrial zoning districts would not be permitted. If a Light Industrial element is included, then within that portion of the PND district that is developed for purposes permissible in a Light Industrial district, all development must be in accordance with the regulations applicable to the Light Industrial district.

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(b) In accordance with the description set forth in subsection (a) of this section, the 36 PND districts shall carry the following designations to indicate their component elements:

- (1) SR, MU, LI
- (2) SR, MU
- (3) SR, MU, LB, LI
- (4) SR, MU, LB
- (5) SR, MU, CBD, LI
- (6) SR, MU, CBD
- (7) SR, MFR, MU, LI
- (8) SR, MFR, MU
- (9) SR, MFR, LB, LI
- (10) SR, MFR, LB
- (11) SR, MFR, CBD, LI
- (12) SR, MFR, CBD
- (13) UR, MU, LI
- (14) UR, MU
- (15) UR, MU, LB, LI
- (16) UR, MU, LB
- (17) UR, MU, CBD, LI
- (18) UR, MU, CBD
- (19) UR, MFR, MU, LI
- (20) UR, MFR, MU
- (21) UR, MFR, LB, LI
- (22) UR, MFR, LB
- (23) UR, MFR, CBD, LI
- (24) UR, MFR, CBD
- (25) HUR, MU, LI
- (26) HUR, MU
- (27) HUR, MU, LB, LI
- (28) HUR, MU, LB
- (29) HUR, MU, CBD, LI
- (30) HUR, MU, CBD
- (31) HUR, MFR, MU, LI
- (32) HUR, MFR, MU
- (33) HUR, MFR, LB, LI
- (34) HUR, MFR, LB
- (35) HUR, MFR, CBD, LI
- (36) HUR, MFR, CBD

(c) No area of less than 15 contiguous, developable acres may be zoned as a PND district, and then only upon the request of the owner or owners of all the property intended to be covered by such zone.

(d) As indicated in the Table of Permissible Uses (Section 14.40.010), a Planned Neighborhood Development (use classification 30.000) is the only permissible use of a PND zone and Planned Neighborhood Developments are permissible only in such zones.

(e) Planned Neighborhood Developments are subject to the requirements set forth in Section 14.16C.080(~~14.44.030~~).

Section 26. Ch. 14.36 LSMC is hereby amended by amending LSMC 14.36.100 to read as follows:

14.36.100 Official Zoning Map.

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(a) There shall be a map known and designated as the Official Zoning Map, which shall show the boundaries of all zoning districts within the City’s planning jurisdiction. This map shall be drawn on acetate or other durable material from which prints can be made, shall be dated, and shall be kept in the Planning Department.

(b) The Official Zoning Map dated May 11, 2009, is adopted and incorporated herein by reference. Amendments to this map shall be made and posted in accordance with Section~~((Chapter))~~ 14.~~((96))~~16C.090.

(c) Should the Official Zoning Map be lost, destroyed, or damaged, the Planning Director~~((administrator))~~ may have a new map drawn on acetate or other durable material from which prints can be made. No further Council authorization or action is required so long as no district boundaries are changed in this process.

Section 27. Ch. 14.36 LSMC is hereby amended by amending LSMC 14.36.110 to read as follows:

14.36.110 Amendments to Official Zoning Map.

(a) Amendments to the Official Zoning Map are accomplished using the~~((same))~~ procedures~~((that apply to other amendments to this article, as))~~ set forth in Section 14.16C.090~~((Chapter 14.96 (Amendments)))~~.

(b) The Planning Director~~((administrator))~~ shall update the Official Zoning Map as soon as possible after amendments to it are adopted by the council. Upon entering any such amendment on the map, the Planning Director~~((administrator))~~ shall change the date of the map to indicate its latest revision. New prints of the updated map may then be issued.

(c) No unauthorized person may alter or modify the Official Zoning Map.

(d) The planning department shall keep copies of superseded prints of the zoning map for historical reference.

Section 28. Ch. 14.36 LSMC is hereby amended by amending LSMC 14.36.200 to read as follows:

14.36.200 Compatibility of Zoning Districts with Land Use Plan Defined.

Table I, below, defines which zoning districts are compatible with which land use designations of the Land Use Plan of the Comprehensive Plan. Only those zones defined as compatible with a given land use designation may be applied to that land use designation when a rezone is considered.

Table I: Land Use Designation/Zone Compatibility Matrix

Zone	Land Use Designation*											
	LDR	MDR	HDR	WR	D/LC	SRC	MU	PBD	LI	GI	P/SP	((SA))
((Estate Residential	X	-	-	-	-	-	-	-	-	-	-	-)
Suburban Residential		X										-
Waterfront Residential		X		X								-
Urban Residential		X										-
High Urban Residential		X										-
Multi-Family Residential			X									-
Neighborhood Commercial	X	X	X									-

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Local Business					X							-
Central Business District					X							-
Mixed Use							X					-
Planned Business District								X				-
Sub-Regional Commercial						X						-
((Commercial Recreation	X	X	X	X	X	X	X	X	X	X	X	-
Light Industrial									X	X		-
General Industrial										X		-
Public/Semi-Public	X	X	X	X	X	X	X	X	X	X	X	((X))
((Suburban Agriculture	-	-	-	-	-	-	-	-	-	-	-	((X))
Floodplain and Floodway District	X	X	X	X	X	X	X	X	X	X	X	((X))
Shoreline Management District	X	X	X	X	X	X	X	X	X	X	X	((X))

- | | |
|----------------------------------|--|
| LDR = Low Density Residential | MU = Mixed Use |
| MDR = Medium Density Residential | PBD = Planned Business District |
| HDR = High Density Residential | LI = Light Industrial |
| WR = Waterfront Residential | GI = General Industrial |
| D/LC = Downtown/Local Commercial | P/SP = Public/Semi-Public |
| SRC = Sub-Regional Commercial | ((SA = Suburban Agriculture)) |

Section 29. Ch. 14.40 LSMC is hereby amended by amending LSMC 14.40.010, Table II: Table of Permissible Uses, to read as set forth in the attached Exhibit 5.

Section 30. Ch. 14.40 LSMC is hereby amended by amending LSMC 14.40.020 to read as follows:

14.40.020 Use of the Designations ~~((Z))P, ((S))A, C~~ in Table of Permissible Uses.

(a) The Table of Permissible Uses (Table II) sets forth which uses are permitted in which zones. ~~((The letter “Z” means that the use requires a zoning permit.))~~ The letter “P” means the use is permitted or allowed in the indicated zone district subject to all code requirements of this title. The letter “~~((SA~~” means the use requires an administrative conditional~~((special))~~ use permit, and the letter “C” means the use requires a conditional use permit. No letter means that use is not permitted in the indicated zone district.

(b) When used in connection with residential uses (use classification 1.000), the designation “~~((Z))PA~~~~((S))C~~” means that such developments of less than five dwelling units are a permitted use when code requirements are met~~((must be pursuant to a zoning permit))~~, developments of five or more but less than 13 dwelling units need an administrative conditional~~((special))~~ use permit, and developments of 13 or more dwelling units require a conditional use permit.

(c) When used in connection with nonresidential uses, the designation “~~((ZS))PA~~” or “~~((Z))PC~~” means that such developments are permitted~~((require a zoning permit))~~ if the lot to be developed is less than one acre in size and an administrative conditional~~((special))~~ or conditional use permit, respectively, if the lot is one acre or larger in area.

(d) Use of the designation ~~((ZS))PAC~~ for combination uses is explained in Section 14.40.080.

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Section 31. Ch. 14.40 LSMC is hereby amended by amending LSMC 14.40.030 to read as follows:

14.40.030 (~~(Zoning Administrator)~~)Jurisdiction Over Uses Otherwise Permissible (~~(With a Zoning Permit)~~).

Whenever this Title provides that a use in a nonresidential zone or a nonconforming use in a residential zone is permissible (~~(with a zoning permit)~~), an administrative conditional (~~(special)~~) use permit shall nevertheless be required if the planning director finds that the proposed use would have an extraordinary impact on neighboring properties or the general public. In making this determination, the planning director shall consider, among other factors, whether the use is proposed for an undeveloped or previously developed lot, whether the proposed use constitutes a change from one principal use classification to another, whether the use is proposed for a site that poses peculiar traffic or other hazards or difficulties, and whether the proposed use is substantially unique or is likely to have impacts that differ substantially from those presented by other uses that are permissible in the zoning district in question.

Section 32. Ch. 14.40 LSMC is hereby amended by amending LSMC 14.40.040 to read as follows:

14.40.040 Permissible and Prohibited Uses.

(a) The presumption established by this title is that all legitimate uses of land are addressed within the Table of Permissible Uses, and are either allowed or not allowed thereby. But because the list of permissible uses set forth in Section 14.40.010 cannot be all inclusive, those uses that are listed shall be interpreted liberally to include other uses that have similar impacts to the listed uses.

(b) Without limiting the generality of the foregoing provisions, the following uses are specifically prohibited in all districts:

(1) Any use that involves the manufacture, handling, sale, distribution, or storage of any highly combustible or explosive materials in violation of the city's fire prevention code.

(2) Stockyards, slaughterhouses, rendering plants.

(3) Use of a travel trailer, motor home, or other recreational vehicle as a permanent residence. Recreational vehicles may be used as a temporary guest residence for up to two weeks without a permit, or up to three months within any one consecutive year upon approval by the Planning Director (~~(of a zoning permit)~~). Situations that do not comply with this subsection on the effective date of this title are required to conform within one year.

(4) Use of a motor vehicle parked on a lot as a structure in which, out of which, or from which any goods are sold or stored, any services are performed, or other business is conducted. This prohibition does not apply to temporary public services, such as bookmobiles, blood donation centers, public service information, etc. or temporary food vendors allowed pursuant to Sections 14.44.400 and 410 (Situations that do not comply with this subdivision on the effective date of this title are required to conform within 30 days.)

Section 33. Ch. 14.40 LSMC is hereby amended by amending LSMC 14.40.050 to read as follows:

14.40.050 Accessory Uses.

(a) The Table of Permissible Uses (Section 14.40.010) classifies different principal uses according to their different impacts. Whenever an activity (which may or may not be separately listed as a principal use in this table) is conducted in conjunction with another principal use constitutes only an incidental or insubstantial part of the total activity that takes place on a lot, or is commonly associated with the principal use and integrally related to it, then it may be regarded as accessory to the principal use and may be carried on underneath the umbrella of the permit issued for the principal use. For example, a swimming pool/tennis court complex is customarily associated with and integrally related to a residential

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subdivision or multifamily development and would be regarded as accessory to such principal uses, even though such facilities, if developed apart from a residential development, would require an administrative conditional~~((special))~~ use permit (use classification 6.210).

(b) For purposes of interpreting subsection (a) of this section:

(1) A use may be regarded as incidental or insubstantial if it is incidental or insubstantial in and of itself or in relation to the principal use,

(2) To be “commonly associated” with a principal use it is not necessary for an accessory use to be connected with such principal use more times than not, but only that the association of such accessory use with such principal use takes place with sufficient frequency that there is common acceptance of their relatedness.

(c) Without limiting the generality of subsections (a) and (b) of this section, the following activities, so long as they satisfy the general criteria set forth above, are specifically regarded as accessory to residential principal uses:

(1) Home occupations.

(2) Hobbies or recreational activities of a noncommercial nature.

(3) The renting out of one or two rooms within a single-family residence (which one or two rooms do not themselves constitute a separate dwelling unit) other than on a daily or weekly basis to not more than two persons who are not part of the family that resides in the single-family dwelling.

(4) Yard sales or garage sales, so long as such sales are not conducted on the same lot for more than three days (whether consecutive or not) during any 30-day period.

(d) Without limiting the generality of Subsections (a) and (b), the following activities shall not be regarded as accessory to a residential principal use and are prohibited in residential districts.

(1) Storage outside of a substantially enclosed structure of more than one motor vehicle that is unlicensed and non-operational for a period of more than three months.

(2) Parking outside a substantially enclosed structure or a vehicle accommodation area of more than four motor vehicles between the building setback of the principal building and the street on any lot used for purposes that fall within the following principal use classifications: 1.100, 1.200, or 1.400.

(e) When a land use permit is applied for, all anticipated accessory uses shall be explicitly disclosed, and made part of the findings. Subsequent accessory uses not disclosed shall be subject to the permit modification requirements of Section 14.16.320 prior to commencing.

Section 34. Ch. 14.40 LSMC is hereby amended by amending LSMC 14.40.060 to read as follows:

14.40.060 Permissible Uses Not Requiring Permits.

Notwithstanding any other provisions of this title, no land use approval, ~~((zoning, special))~~ administrative conditional use, or conditional use permit is necessary for the following uses:

(1) Streets.

(2) Electric power, telephone, telegraph, cable television, gas, water, and sewer lines, wires or pipes, together with supporting poles or structures, located within a public right-of-way.

(3) Neighborhood utility facilities located within a public right-of-way with the permission of the owner (state or town) of the right-of-way.

Section 35. Ch. 14.40 LSMC is hereby amended by amending LSMC 14.40.070 to read as follows:

14.40.070 Change in Use.

A change of use of property shall be reviewed pursuant to Section 14.16C.030. ~~((a)—A substantial change in use of property occurs whenever the essential character or nature of the activity conducted on a lot changes. This occurs whenever:~~

~~(1) The change involves a change from one principal use category to another.~~

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~~(2) If the original use is a combination use (29.000) or Planned Neighborhood Development (30.000), the relative proportion of space devoted to the individual principal uses that comprise the combination use or Planned Neighborhood Development use changes to such an extent that the parking requirements for the overall use are altered.~~

~~(3) If the original use is a combination use or Planned Neighborhood Development use, the mixture of types of individual principal uses that comprise the combination use or Planned Neighborhood Development use changes.~~

~~(4) If the original use is a planned residential development, the relative proportions of different types of dwelling units change.~~

~~(5) If there is only one business or enterprise conducted on the lot (regardless of whether that business or enterprise consists of one individual principal use or a combination use), that business or enterprise moves out and a different type of enterprise moves in (even though the new business or enterprise may be classified under the same principal use or combination use category as the previous type of business). For example, if there is only one building on a lot and a florist shop that is the sole tenant of that building moves out and is replaced by a clothing store, that constitutes a change in use even though both tenants fall within principal use classification 2.111. However, if the florist shop were replaced by another florist shop, that would not constitute a change in use since the type of business or enterprise would not have changed. Moreover, if the florist shop moved out of a rented space in a shopping center and was replaced by a clothing store, that would not constitute a change in use since there is more than one business on the lot and the essential character of the activity conducted on that lot (shopping center combination use) has not changed.~~

~~(b) A mere change in the status of property from unoccupied to occupied or vice versa does not constitute a change in use. Whether a change in use occurs shall be determined by comparing the two active uses of the property without regard to any intervening period during which the property may have been unoccupied, unless the property has remained unoccupied for more than 180 consecutive days or has been abandoned.~~

~~(c) A mere change in ownership of a business or enterprise or a change in the name shall not be regarded as a change in use.)~~

Section 36. Ch. 14.40 LSMC is hereby amended by amending LSMC 14.40.080 to read as follows:

14.40.080 Combination Uses.

(a) When a combination use comprises two or more principal uses that require different types of permits (~~((zoning))permitted use, ((special))administrative conditional~~ use, or conditional use), then the permit authorizing the combination use shall be:

(1) A conditional use permit if any of the principal uses combined requires a conditional use permit.

(2) An ~~((special))administrative conditional~~ use permit if any of the principal uses combined requires an ~~((special))administrative conditional~~ use permit but none requires a conditional use permit.

(3) A ~~permitted use requiring Planning Director approval ((zoning permit))~~ in all other cases. This is indicated in the Table of Permissible Uses by the designation ~~((ZS))PAC~~ in ~~((each of the))a~~ column~~((s adjacent to the 29.000 classification))~~.

(b) When a combination use consists of a single-family detached residential subdivision and two-family or multi-family uses, the total density permissible on the entire tract shall be determined by having the developer indicate on the plans the portion of the total lot that will be developed for each purpose and calculating the density for each portion as if it were a separate lot.

(c) When a combination use consists of a single-family detached and two-family or multi-family uses, then the total density permissible on the entire tract shall be determined by dividing the area of the tract by the minimum square footage per dwelling unit specified in Section 14.48.020.

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Section 37. Ch. 14.44 LSMC is hereby amended by deleting LSMC 14.44.030 and modifying the Section list appropriately. **(this section was moved to 14.16C.080)**

Section 38. Ch. 14.44 LSMC is hereby amended by deleting LSMC 14.44.044 and modifying the Section list appropriately. **(moved to 14.16C.110)**

Section 39. Ch. 14.44 LSMC is hereby amended by deleting LSMC 14.44.050 and modifying the Section list appropriately. **(this section was moved to 14.16C.067)**

Section 40. Ch. 14.44 is hereby amended by repealing LSMC 14.44.060 and 14.44.070 and modifying the Section list appropriately.

Section 41. Ch. 14.44 LSMC is hereby amended by amending LSMC 14.44.080 to read as follows:

14.44.080 Mobile Sales and Delivery.

~~((Zoning Permits for m))~~ Mobile sales and delivery (Class 2.300 uses) is permitted in all zones. Review will occur annually~~((may be issued and renewed on an annual basis))~~ in conjunction with a business license renewal.

Section 42. Ch. 14.44 LSMC is hereby amended by amending LSMC 14.44.090 to read as follows:

14.44.090 Planned Business District.

(a) The Planned Business District is designed to accommodate commercial or mixed use development on sites containing sensitive resources or other sites where, due to property-specific circumstances, detailed planning would benefit all property owners involved as well as the public by allowing for comprehensive site planning and a transfer of densities among parcels in order to avoid impacts to sensitive resources.

(b) Development of all contiguous properties within a Planned Business District shall be in conformance with a master development plan developed for each of the Planned Business Districts in conformance with subsection (g((d))) of this section. A Master Development Plan is a concept plan of an area adopted by the City Council, which includes single and/or multiple ownerships of parcel(s) that relate through common objectives and design elements. The boundaries of the Master Development Plan shall be an area generally delineated by principle/intermediate/minor arterial/collector streets within the PBD Zone.

(c) The Master Development Plan shall not create a contract or be considered as absolutely binding upon the City or adjacent owners as to future development of adjacent land, (unless so specified in a separate development agreement), but shall be used as a guide to landowners, developer and the City.

(d) If a Master Development Plan has not been adopted, property owners may request grading or building permits for existing or accessory structures. No new residential structures are allowed unless allowed as a permissible use pursuant to Chapter 14.40 LSMC.

~~((No permits may be issued by the City for any property within a Planned Business District until a master development plan has been adopted for that district.))~~

~~(e((b)))~~ The master development plan for any Planned Business District may be developed either by an applicant or group of applicants working collectively, or by the City. However, the City is not obligated to do so.

~~(f((e)))~~ The master development plan shall be processed (and amended) as a conditional use permit. However, once a master development plan is adopted for a Planned Business District all subsequent individual permitted uses shall be permitted by through a site plan review and subsequent building permits and shall be consistent with the master development plan~~((a zoning permit)).~~

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(g((d))) Master development plans shall address the following:

(1) Site Design. A site plan for the entire Planned Business District shall be developed, indicating where the various land uses and the below listed elements will be located.

(2) Permitted Uses. Individual residential uses consistent with Section 14.40.010 Table II may be allowed when:

(i) An economic analysis is submitted with the master development plan application, supporting the change or mix of commercial and/or nonresidential uses and the increased need for residential development within the immediate area of the Planned Business District. The analysis, at a minimum, shall demonstrate that the potential commercial components being replaced by residential uses do not diminish the City's overall economic viability as set forth in the goals, policies, and strategies of the Comprehensive Plan; and

(ii) The uses proposed in the master development plan include at least five percent commercial and/or civic uses based on the total square footage of the use structure. If the exact residential square footage is not known at the time of application for the master development plan, the applicant may use 1,500 per residential unit square footage factor to calculate the required commercial and/or civic use component; and

(iii) The residential development is proposed at a minimum of three dwelling units per acre on the site area allocated to the residential uses. A single-family residence may be permitted on sites where the property qualifies for a reasonable use provision pursuant to Sections 14.88.900 through 14.88.950. Development rights only shall be calculated using a base of three dwelling units per acre and may only be transferred to other sites within the same PBD master development plan area; and

(iv) Multi-family apartments shall be limited to 75 percent of the total residential uses on site. This provision does not apply to mixed use structures.

(3) Transportation and Circulation. The layout and design of all streets, rights-of-way, parking, ingress and egress, and mass transit facilities for the entire Planned Business District shall be provided.

(4) Utilities. The layout and design of all major utility facilities, including stations, main pipes, and detention facilities shall be provided.

(5) Recreational and Cultural Facilities. At least 10 percent of the portions of a Planned Business District that are not within sensitive areas or buffers shall be developed as usable open space. Such open space may be comprised of park space, public or private porches and patios, public trails, art facilities, or other similar uses which are intended to provide opportunities for recreational, cultural, or personal experiences.

(6) Critical Areas. All critical areas shall be identified and protected in conformance with Chapter 14.88 (Critical Areas). A protection and mitigation program for the entire site may be developed; provided, that mitigation for approved impacts shall be required at the time of the impact, regardless of whether the impact is located on the same parcel as the mitigation.

(7) Design. A master design concept shall be developed in conformance with the City's Development Design Guidelines, addressing architecture, massing, signage, streetscape, street furniture, etc. All development within the Planned Business District shall then need to conform to the design concept. Innovative design concepts may be considered and approved pursuant to the design review process in Section 14.44.310, when the applicant demonstrates the overall design complies with the City's Comprehensive Plan goals and policies. Design concepts and requirements may be administered through the master development plan and subsequent site plan review((~~zoning permits~~)).

(8) Landscaping. A landscaping concept shall be developed addressing plant species, design, installation, and maintenance.

Section 43. Ch. 14.44 LSMC is hereby amended by amending LSMC 14.44.100 to read as follows:

14.44.100 Grading and Clearing Permits.

(PLACEHOLDER STILL BEING DRAFTED BY STAFF, BUT WILL BE INCLUDED HERE)

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Section 44. Ch. 14.44 LSMC is hereby amended by amending LSMC 14.44.210 to read as follows:

14.44.210 Noise.

(a) No 4.000 classification use in any permissible business district may generate noise that tends to have an annoying or disruptive effect upon (i) uses located outside the immediate space occupied by the 4.000 use if that use is one of several located on a lot, or (ii) uses located on adjacent lots.

(b) Except as provided in Subsection (f), the table set forth in Subsection (e) establishes the maximum permissible noise levels for 4.000 classification uses in the Light Industrial and General Industrial districts. Measurements shall be taken at the boundary line of the lot where the 4.000 classification use is located, and, as indicated, the maximum permissible noise levels vary according to the zoning of the lot adjacent to the lot on which the 4.000 classification use is located.

(c) A decibel is a measure of a unit of sound pressure. Since sound waves having the same decibel level “sound” louder or softer to the human ear depending upon the frequency of the sound wave in cycles-per-second (i.e., whether the pitch of the sound is high or low) an A-weighted filter constructed in accordance with the specifications of the American National Standards Institute, which automatically takes account of the varying effect on the human ear of different pitches, shall be used on any sound level meter taking measurements required by this section. And accordingly, all measurements are expressed in dB(A) to reflect the use of his A-weighted filter.

(d) The standards established in the table set forth in Subsection (e) are expressed in terms of the Equivalent Sound Level (Leq), which must be calculated by taking 100 instantaneous A-weighted sound levels at 10 second intervals (see the administrative guideline entitled “Guide for Noise Levels,” Section F-1) and computing the Leq in accordance with the table set forth in the administrative guideline entitled “Guide for Noise Levels,” Section F-2.

(e) Table III: Maximum Permitted Sound Levels, dB(A).

Table III: Maximum Permitted Sound Levels, dB(A)

Zoning of Lot Where 4.000 Use Located	(re: 0.0002 Microbar) Zoning of Adjacent Land				
	Residential and PND		NC, LB, CBD, MU, PBD, SRC((,CR))	LI	GI
	7 a.m. - 9 p.m.	9 p.m. - 7 a.m.			
LI & GI	60	50	65	70	70

(f) Impact noises generated by sources that do not operate more than one minute in any one-hour period are permissible up to a level of 10 dB(A) in excess of the figures listed in Subsection (e), except that this higher level of permissible noise shall not apply from 9 p.m. to 7 a.m. when the adjacent lot is zoned residential. The impact noise shall be measured using the fast response of the sound level meter.

(g) Noise resulting from temporary construction activity that occurs between 7 a.m. and 9 p.m. shall be exempt from the requirements of this section.

Section 45. Ch. 14.44 LSMC is hereby amended by amending LSMC 14.44.240 to read as follows:

14.44.240 Smoke and Air Pollution.

(a) Any 4.000 classification use that emits any “air contaminant” as defined in Regulations 1, 2, or 3 of the Puget Sound Air Pollution Control Agency shall comply with applicable state standards concerning air pollution, as set forth in Regulations 1, 2, or 3 of the Puget Sound Air Pollution Control Agency.

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(b) No Planning Director approval~~((zoning))~~, administrative conditional~~((special))~~ use, or conditional use permit may be issued with respect to any development covered by subsection (a) of this section until the Puget Sound Air Pollution Control Agency has certified to the permit-issuing authority that the appropriate state permits have been received by the developer, or that the developer will be eligible to receive such permits and that the development is otherwise in compliance with applicable air pollution laws.

Section 46. Ch. 14.44 LSMC is hereby amended by deleting LSMC 14.44.300 and modifying the Section list appropriately. *(this section was moved to 14.16C.120)*

Section 47. Ch. 14.44 LSMC is hereby amended by deleting LSMC 14.44.310 and modifying the Section list appropriately. *(this section was moved to 14.16C.120)*

Section 48. Ch. 14.44 LSMC is hereby amended by deleting LSMC 14.44.370 and modifying the Section list appropriately. *(this section was moved to 14.16C.065)*

Section 49. Ch. 14.44 LSMC is hereby amended by deleting LSMC 14.44.380 and modifying the Section list appropriately. *(this section was moved to 14.16C.065)*

Section 50. Ch. 14.44 LSMC is hereby amended by deleting LSMC 14.44.390 and modifying the Section list appropriately. *(this section was moved to 14.16C.065)*

Section 51. Ch. 14.46 LSMC is hereby amended by amending LSMC 14.46.015 to read as follows:

14.46.015 Review and Processing.

Innovative housing demonstration projects shall be reviewed and processed according to the requirements of Sections 14.16C.015~~((-100))~~, 14.16C.045~~((-120))~~ and 14.40.020(b), with the additional requirements below:

(a) A pre-application conference per Section 14.16A.220~~(d)((-020))~~ is required to exchange general and preliminary information and to identify potential issues.

(b) After the pre-application conference, the applicant shall schedule and host a neighborhood meeting before submitting an application to the City. The purpose of the neighborhood meeting is to provide residents who live adjacent and nearby to the proposed cottage housing development an opportunity to obtain information about the proposal and provide comment on the overall project before an applicant expends significant time and resources in developing the specific site and development features of the proposal.

(1) The meeting shall be located in the general area of the proposed project.

(2) Notice of the neighborhood meeting shall be mailed to all property owners located within 500 feet of the proposed project and shall provide details of the proposed project including a description of any modification or flexibility in site design standards that will be requested.

(3) Comprehensive notes describing the meeting shall be submitted with the project application.

(4) Following the neighborhood meeting, the applicant shall consider public input received during the neighborhood meeting and shall consider recommendations, if any, for revising the proposed innovative housing project to respond to neighborhood concerns.

(c) The innovative housing review panel shall consider project proposals at one meeting with staff and provide a recommendation for design approval of projects in accordance with this chapter.

(1) The panel shall consist of the following representatives selected by the City Council and shall include staff as a resource:

(i) One member of the Lake Stevens Planning Commission;

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- (ii) One member of the Lake Stevens City Council;
- (iii) One member who works in a related profession (e.g., architect, engineer, land use consultant); and
- (iv) One member who is a city resident that has expressed an interest in innovative housing options.

(2) Duties and authority are as follows:

- (i) The panel is required to meet with the Director and City staff at a meeting to discuss proposed innovative housing development site plans and recommend modifications.
- (ii) Prior to a final decision by the Director or the Hearing Examiner, the panel shall make a recommendation based on whether the proposed project meets the specific design requirements provided in this chapter for the specific type of innovative housing option and may propose allowable modifications.

Section 52. Ch. 14.48 LSMC is hereby amended by amending LSMC 14.48.010 to read as follows:

14.48.010 Minimum Lot Size Requirements.

Table V indicates the basic minimum lot size required for each zone district, which shall apply to all created lots unless a reduction is otherwise allowed pursuant to a specific regulation contained elsewhere in this title.

Table V: Density and Dimensional Standards

Zone	Minimum Lot Size		Minimum Residential Densities (Minimum Square Feet per Dwelling Unit)	Minimum Lot Width (ft.)	Building Setback Requirements Minimum Distance, in feet, from:										Height Limitation (ft.)	
	Standard Subdivision	Cluster Subdivision			Non-Arterial Street Right-of-Way Line		Non-Arterial Street Centerline*		Ultimate Arterial Street Right-of-Way Line		Lot Boundary Line, Tract or Easement	Lake (Mean High Water Mark)	Critical Area Buffer			
					Building	Freestanding Sign	Building	Freestanding Sign	Building	Freestanding Sign				Building and Freestanding Sign		
((Suburban Agriculture	5 acres	5 acres	5 acres	200	25	12.5	55	42.5	25	12.5	-	-	10	50	10	35))
((Estate Residential	5 acres/ 12,500 ft ²	5 acres/ 9,600 ft ²	5 acres/ 12,500 ft ²	100	25	12.5	55	42.5	25	12.5	-	-	10	50	10	35))
Waterfront Residential	9,600 ft ²	7,500 ft ²	9,600 ft ²	50	25	12.5	55	42.5	25	12.5			5	50	10	35
Suburban Residential	5 acres/ 9,600 ft ²	5 acres/ 7,500 ft ²	5 acres/ 9,600 ft ²	80	25	12.5	55	42.5	25	12.5			5	50	10	35
Urban Residential	5 acres/ 7,500 ft ²	6,000 ft ²	7,500 ft ²	60	20	10	50	40	20	10			5	50	10	35
High Urban Residential	3,600 ft ²	N/A	3,600 ft ²	40	15	5	45	35	20	5			5	50	10	35
Multi-	3,000	N/A	0 ft ²	50	0	0	30	30	10	0			0	50	10	60

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Family Residential	ft ²														
Neighborhood Commercial	3,000 ft ²	N/A	0 ft ²	0	0	0	30	30	0	0		0	50	10	35
Mixed Use	3,000 ft ²	N/A	0 ft ²	0	0	0	30	30	0	0		0	50	10	60
Local Business	3,000 ft ²	N/A	0 ft ²	0	0	0	30	30	0	0		0	50	10	60
Central Business District	3,000 ft ²	N/A	0 ft ²	0	0	0	30	30	0	0		0	50	10	60
Planned Business District	0 ft ²	N/A	0 ft ²	0	0	0	30	30	0	0		0	50	10	35
Sub-Regional Commercial	0 ft ²	N/A	0 ft ²	10	0	0	30	30	0	0		0	50	10	85
((Commercial Recreation	0 ft²	N/A	N/A	50	0	0	30	30	0	0	-	0	50	10	35
Light Industrial	0 ft ²	N/A	N/A	10	0	0	30	30	0	0		0	50	10	85
General Industrial	0 ft ²	N/A	N/A	10	0	0	30	30	0	0		0	50	10	85
Public/Semi-Public	0 ft ²	N/A	N/A	0	0	0	0	0	0	0		0	50	10	60

*See Section 14.48.040(a)(1) for use of centerline.

Section 53. Ch. 14.48 LSMC is hereby amended by amending LSMC 14.48.050 to read as follows:

14.48.050 Exceptions to Building Setback Requirements.

(a) The following modifications to the setback requirements identified in Section 14.48.040 shall be allowed:

(1) In the ~~((Estate Residential,))~~ Suburban Residential~~((,))~~ and Waterfront Residential districts only, where the high point of the roof or any appurtenance of an accessory building exceeds 12 feet in height, the accessory building shall be set back from the rear lot boundary lines an additional one foot for every foot of height exceeding 12 feet.

(2) In single-family residential zones, accessory structures may be located within the exterior side yard of a corner lot, provided the accessory structure meets the following conditions:

(i) The gross floor area of all accessory structures within the reduced setback area does not exceed 170 square feet.

(ii) The height of the accessory structure does not exceed eight feet.

(iii) The accessory structure is screened to a minimum height of six feet with an opaque fence or densely planted vegetation.

(iv) The accessory structure respects the minimum front yard setback and shall be no closer to the front property line than that of the principal house.

(v) The accessory structure is located no closer than 10 feet to the exterior side property line.

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(b) In all single-family residential zones, the building setbacks from the street of the underlying zone may be reduced by five feet for living portions of the principal house only. This reduction does not apply to garages or other nonhabitable areas.

(c) In all single-family residential zones, the setback from a critical area buffer may be reduced to five feet for uncovered decks, provided sufficient room is provided to construct and maintain the deck without disturbing the buffer area.

(d) In all single-family residential zones, unenclosed front porches may be constructed to be as close as 15 feet of the ultimate street right-of-way.

(e) In all residential zones, fences which do not exceed six feet in height may be located along property lines which do not abut a public right-of-way. No fence may exceed 42 inches in height within the front yard setback abutting a public right-of-way or within 10 feet of an exterior side yard right-of-way. On exterior side yards, the area between the fence and sidewalk shall be maintained by the property owner.

Section 54. Ch. 14.56 LSMC is hereby amended by amending LSMC 14.56.170 to read as follows:

14.56.170 Right-of-Way Improvements and Dedication to Precede Development or Building.

(a) Except as noted under subsection (c) of this section, no land use or building permit shall be issued by the City unless or until the half of the public rights-of-way upon which the same abuts are deemed fully improved to the standards of the right-of-way classification as specified in Section 14.56.010 and the City's Transportation Plan and offered for dedication to the public.

(b) The Public Works Director may deem subsection (a) of this section fulfilled under the below-listed circumstances. It shall be at the Public Works Director's discretion, based on knowledge of upcoming projects in the vicinity, safety issues, or sound engineering judgment, as to which method shall be allowed or not allowed. Improvements may be deemed fully installed:

(1) Where the rights-of-way are already improved to their classification standards and dedicated to the City.

(2) Where the City chooses to purchase rights-of-way and install the improvements. However, under no circumstances is the City obligated to do this.

(3) Where the applicant, understanding that the land use or building permit sought cannot be issued until the improvements are deemed installed by the Public Works Director, installs the improvements himself at his own cost and offers the rights-of-way to the public.

(4) Where the applicant has dedicated the rights-of-way to the public and provided a surety bond ensuring that the improvements shall be installed within one year. Said warranty bond shall meet the requirements of Chapter 14.16A.180((12)) (Security((Administrative)) Mechanisms).

(5) If subsections (b)(1) through (4) of this section are deemed infeasible by the Public Works Director: Where the applicant has dedicated the rights-of-way to the public and elected to pay to the City an amount equal to the cost of installing the improvements. In such circumstances said monies would be maintained in an account to be used specifically for improvements on that right-of-way within the general vicinity of the project. The properties contributing to these improvements cannot be subject to any future local improvement district for those improvements being paid for.

(6) If subsections (b)(1) through (5) of this section are deemed infeasible by the Public Works Director: Where the applicant has dedicated the rights-of-way to the public, and provided a recorded covenant power-of-attorney to the City in support of a petition local improvement district (hereinafter referred to as "LID covenant") for construction of right-of-way improvements, together with all necessary appurtenances. Forms for the LID covenant shall be provided by the City and approved by the City Attorney.

(c) This section shall not apply to:

(1) Building permits for additions, alterations, or repairs within any 12-month period which does not increase the gross floor space of an existing building or facility by more than fifty percent (50%).

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(2) Building permits for residential garages, carports, or accessory structures not intended as a dwelling unit.

(3) Planning Director approvals~~((Zoning permits))~~ for the conversion of an existing home (single family detached, one dwelling unit per lot (use class 1.110)) to a home emphasizing special services, treatment, or supervision (use class 1.440).

Section 55. Ch. 14.56 LSMC is hereby amended by amending LSMC 14.56.190 to read as follows:

14.56.190 Off-Site Traffic Mitigation.

(a) Applicants for all administrative conditional~~((special))~~ or conditional use permits, Planning Director approvals~~((zoning permits))~~ for short subdivisions creating five or more lots, all multi-family residential (4 dwelling units or greater), commercial, industrial, or recreational building permits shall, where warranted, contribute to off-site right-of-way improvements based upon traffic volumes generated by the project and other factors indicated below; provided, that in the event the City requires formation of a local improvement district (LID) for construction of right-of-way improvements the developer's contribution share shall be determined as provided in Chapter 36.88 RCW and by City Ordinance. The volume of traffic generated by the project in relationship to the total of current traffic volumes plus the traffic generated by the development expressed in ADT will be used as the primary measurement in establishing the share of cost of the road improvement or its implementation which the permit applicant will be required to fund. The ratio of traffic volumes will be determined by dividing the number of vehicles being added as a result of the applicant's proposal by the ADT using the road system following development. The number of vehicle trips being added by the development will be determined by using the following trip generation factors listed in Table VII, below.

(b) Other trip generation factors will be determined and supplied by the planning director as needed using the document Trip Generation (Institute of Transportation Engineers, Arlington, VA, current edition). The planning director may reduce such trip generation factors where adequate public transportation facilities are available, or where the type of development clearly will not generate the number of daily trips set forth as a factor above.

LAND-USE TYPE	DAILY TRIPS	UNIT
Single-family	10.0	Dwelling Unit
Apartments	6.1	Dwelling Unit
Industrial & Warehouse	8.0	1,000 sq. ft. gross leasable floor area

(c) The analysis required in subsections (a) and/or (b) shall be provided by the applicant, in the form of a traffic impact study prepared by a qualified traffic engineer and conforming to the administrative guideline entitled "Traffic Impact Analysis Guidelines (TIAG)." The traffic reports so generated shall be reviewed by the planning director, or its representative, for conformance to the intent of this section, the TIAG and traffic engineering standards. Where differences of professional opinion exist, the planning director's opinion shall be final.

(d) A fee for traffic report review, as set by resolution, shall be levied against the applicant.

Section 56. Ch. 14.56 LSMC is hereby amended by amending LSMC 14.56.240 to read as follows:

14.56.240 Vacations of Public Rights-of-Way.

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Applications for vacations of public rights-of-way shall be processed according to Section 14.16C.095~~((RCW Chapter 35.79))~~.

Section 57. Ch. 14.64 LSMC is hereby amended by amending LSMC 14.64.005 to read as follows:

14.64.005 Basis for Establishing the Areas of Special Flood Hazard.

(a) The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled “The Flood Insurance Study for Snohomish County, Washington and Incorporated Areas,” dated November 8, 1999, and any revisions thereto, with an accompanying Flood Insurance Rate Map (FIRM), and any revisions thereto, are hereby adopted by reference and declared to be a part of the Lake Stevens Municipal Code. The Flood Insurance Study is on file in the Planning Department at the City. The best available information for flood hazard area identification as outlined in subsection (b) of this section shall be the basis for regulation until a new FIRM is issued which incorporated the data utilized under subsection (b) of this section.

(b) When base flood elevations data has not been provided in accordance with the above subsection, the Planning Director~~((Administrator))~~ shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, in order to administer Section 14.64.040.

(c) The degree of flood protection required is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. There shall be no liability on the part of the City of Lake Stevens, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this code or any administrative decision lawfully made hereunder.

Section 58. Ch. 14.64 LSMC is hereby amended by amending LSMC 14.64.040 to read as follows:

14.64.040 Construction Within Floodways and Floodplains Restricted.

(a) No land use permit may be issued for any development within a floodplain until the permit-issuing authority has reviewed the proposed project to assure that:

- (1) The proposed development is consistent with the need to minimize flood damage, and
- (2) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage, and
- (3) Electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding, and
- (4) All public utilities and facilities such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage, and
- (5) Adequate drainage is provided to minimize or reduce exposure to flood hazards, and
- (6) All necessary permits have been received from those agencies from which approval is required by federal, state, or local governmental agencies and
- (7) If the development is determined to be located in the floodway, to assure that the encroachment provisions of Section 14.64.040 are met.

(b) Located within areas of special flood hazard established in Section 14.64.005(a) are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

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(1) Encroachments are prohibited, including fill, new construction, substantial improvements, and other development unless certification by a registered professional engineer is provided demonstrating that encroachments will not result in any increase in flood levels during the occurrence of the base flood discharge.

(2) Construction or reconstruction of residential structures is prohibited within designated floodways, except for (i) repairs, reconstruction, or improvements to a structure which do not increase the ground floor area; (ii) repairs, reconstruction or improvements to a structure, the cost of which does not exceed 50 percent of the market value of the structure either, (A) before the repair or reconstruction is started, or (B) if the structure has been damaged and is being restored, before the damage occurred, and (iii) non commercial accessory structures not larger than 120 s.f. may be constructed provided they are firmly anchored to prevent flotation. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or to structures identified as historic places shall not be included in the 50 percent.

(c) No new or substantially improved residential building may be constructed within any floodplain unless the lowest floor (including basement) of the building or improvement is elevated to one foot or more above the base flood elevation.

(1) Fully enclosed areas below the lowest floor that are subject to flooding are prohibited unless designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must be either certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

(i) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

(ii) The bottom of all openings shall be no higher than one foot above grade.

(iii) Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(2) Accessory structures not larger than 120 s.f. on residential lots shall be allowed within floodplains provided they are firmly anchored to prevent flotation.

(3) Anchoring of any accessory buildings may be done by bolting the building to a concrete slab or by over-the-top ties. When bolting to a concrete slab, one-half inch bolts six feet on center with a minimum of two per side shall be required. If over-the-top ties are used, a minimum of two ties with a force adequate to secure the building is required.

(d) New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated one foot or more above the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

(1) Be floodproofed so that below one foot above the base flood level the structure is watertight with walls substantially impermeable to the passage of water;

(2) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;

(3) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the official as set forth in Section 14.64.070

(4) Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in Section [14.64.040](#).

(5) Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g. a building floodproofed to the base flood level will be rates as one foot below).

(e) Construction of new critical facilities shall be, to the extent possible, located outside the limits of the Special Flood Hazard Area (SFHA) (100-year floodplain). Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed

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within the SFHA shall have the lowest floor elevated three feet or more above the level of the base flood elevation (100-year) at the site. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the extent possible.

(f) No land use permit may be issued for any development within a floodplain until the permit issuing authority has reviewed the plans to assure that any new construction or substantial improvements shall be:

(1) Designed (or modified) and adequately anchored to prevent flotation collapse, or lateral movement of the structure.

(2) Constructed with materials and utility equipment resistant to flood damage.

(3) Constructed by methods and practices that minimize flood damage.

(g) All manufactured homes to be placed or substantially improved on sites; outside of a manufactured home park or subdivision, in a new manufactured home park or subdivision, in an expansion to an existing manufactured home park or subdivision, or in an existing manufactured home park or subdivision on which a manufactured home has incurred “substantial damage” as the result of a flood; shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated one foot or more above the base flood elevation and be securely anchored to an adequately designed foundation system to resist flotation, collapse and lateral movement.

(h) Manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision that are not subject to the above manufactured home provisions be elevated so that either:

(1) The lowest floor of the manufactured home is elevated one foot or more above the base flood elevation, or

(2) The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately designed foundation system to resist flotation, collapse, and lateral movement.

(i) All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure. All manufactured homes must likewise be anchored to prevent flotation, collapse, or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (Reference FEMA’s “Manufactured Home Installation in Flood Hazard Areas” guidebook for additional techniques). The following criteria must also be met:

(1) Lots or pads are elevated on compacted fill or by any other method approved by the Planning Director~~((administrator))~~ so that the lowest habitable floor of the manufactured home is elevated one foot above the base flood elevation.

(2) Adequate surface drainage and easy access for manufactured home hauler is provided.

(3) Load-bearing foundation supports such as piers or pilings must be engineered.

(j) Recreational vehicles placed in sites are required to either:

(1) Be on the site for fewer than 180 consecutive days,

(2) Be fully licensed and ready for highway use, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions; or

(3) Meet the requirements of S((s))ection 14.64.040 (g) & (h) and the elevation and anchoring requirements for manufactured homes.

(k) Whenever any portion of a floodplain is filled in with fill dirt, slopes shall be adequately stabilized to withstand the erosive force of the base flood.

(l) Where elevation data is not available through the Flood Insurance Study, or from another authoritative source (14.64.005(b)) applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes the use of historical data, high water marks, photographs of past flooding, etc.,

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where available. Failure to elevate at least two feet above grade in these zones may result in higher insurance rates.

(m) The cumulative effect of any proposed development, where combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one foot at any point.

Section 59. Ch. 14.64 LSMC is hereby amended by amending LSMC 14.64.070 to read as follows:

14.64.070 Additional Duties of Planning Director(~~Administrator~~) Related to Flood Insurance and Flood Control.

The Planning Director(~~administrator~~) shall:

(1) For the purpose of the determination of applicable flood insurance risk premium rates within Zone A on the city's Flood

Insurance Rate Map provided by the U.S. Federal Emergency Management Agency:

- a. Obtain the elevation (in relation to mean sea level) of the lowest habitable floor (including basement) of all new or substantially improved structures; and
- b. Obtain, for all structures that have been floodproofed (whether or not such structures contain a basement) the elevation (in relation to mean sea level in the FEMA datum) to which the structure was floodproofed; and
- c. Maintain a record of all such information.

(2) Notify, in riverine situations, adjacent communities, the Department of Ecology, the U.S. Army Corps of Engineers, the Washington State Department of Fish and Wildlife, and any affected diking or drainage districts prior to any alteration or relocation of a watercourse, and submit copies of such notification to the Federal Insurance Administrator.

(3) Ensure that the flood-carrying capacity within the altered or relocated portion of any watercourse is maintained and the capacity is not diminished.

Section 60. Ch. 14.64 LSMC is hereby amended by amending LSMC 14.64.240 to read as follows:

14.64.080 Location of Boundaries of Floodplain and Floodway Districts.

As used in this chapter, the terms "floodplain" and "floodway" refer in the first instance to certain areas whose boundaries are determined and can be located on the ground by reference to the specific fluvial characteristics set forth in the definitions of these terms. These terms also refer to overlay zoning districts whose boundaries are established on the map identified in Section 14.36.100, which boundaries are intended to correspond to the actual physical location of floodways and floodplains. (These overlay districts thus differ from other zoning districts whose boundaries are established solely according to planning or policy, rather than physical, criteria.) Therefore, the Planning Director(~~administrator~~) is authorized to make necessary interpretations as to the exact location of the boundaries of floodways or floodplains if there appears to be a conflict between a mapped boundary and actual field conditions. Such interpretations, like other decisions of the Planning Director(~~administrator~~), may be appealed to the Hearing Examiner in accordance with the applicable provisions of this title.

Section 61. Ch. 14.64 LSMC is hereby amended by amending LSMC 14.64.130 to read as follows:

14.64.130 Sedimentation and Erosion Control.

(a) No Planning Director approval(~~zoning~~), (~~special~~)administrative conditional use, or conditional use permit may be issued and final plat approval for subdivisions may not be given with respect to any

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development that would cause land disturbing activity unless the Public Works Director has certified to the city, either that:

(1) An erosion control plan has been submitted to and approved by the Public Works Director;
or

(2) The Public Works Director has examined the preliminary plans for the development and it reasonably appears that an erosion control plan can be approved upon submission by the developer of more detailed construction or design drawings. However, in this case, construction of the development may not begin (and no building permits may be issued) until the Public Works Director approves the erosion control plan.

(b) For purposes of this section, land disturbing activity means any use of the land by any person in residential, industrial, educational, institutional, or commercial development, and highway and road construction and maintenance that results in a change in the natural cover or topography and that may cause or contribute to sedimentation. Sedimentation occurs whenever solid particulate matter, mineral or organic, is transported by water, air, gravity, or ice from the site of its origin.

Section 62. Ch. 14.64 LSMC is hereby amended by amending LSMC 14.64.150 to read as follows:

14.68.150 Nonconforming Signs.

(a) Subject to the remaining restrictions of this section, nonconforming signs that were otherwise lawful on the effective date of the ordinance codified in this chapter may be continued.

(b) No person may engage in any activity that causes an increase in the extent of nonconformity of a nonconforming sign. Without limiting the generality of the foregoing, no nonconforming sign may be enlarged or altered in such a manner as to aggravate the nonconforming condition. Nor may illumination be added to any nonconforming sign.

(c) A nonconforming sign may not be moved or replaced except to bring the sign into complete conformity with this title.

(d) If a nonconforming sign is destroyed by natural causes, it may not thereafter be repaired, reconstructed, or replaced except in conformity with all the provisions of this title, and the remnants of the former sign structure shall be cleared from the land. For purposes of this section, a nonconforming sign is “destroyed” if damaged to an extent that the cost of repairing the sign to its former stature or replacing it with an equivalent sign equals or exceeds the value (tax value if listed for tax purposes) of the sign so damaged.

(e) The message of a nonconforming sign may be changed so long as this does not create any new nonconformities (for example, by creating an off-premises sign under circumstances where such a sign would not be allowed).

(f) Subject to the other provisions of this section, nonconforming signs may be repaired and renovated so long as the cost of such work does not exceed within any 12-month period 50 percent of the value (tax value if listed for tax purposes) of such sign.

(g) If a nonconforming sign other than a billboard advertises a business, service, commodity, accommodation, attraction, or other enterprise or activity that is no longer operating or being offered or conducted, that sign shall be considered abandoned and shall be removed within 30 days after such abandonment by the sign owner, owner of the property where the sign is located, or other party having control over such sign.

(h) If a nonconforming billboard remains blank for a continuous period of 180 days, that billboard shall be deemed abandoned and shall, within 30 days after such abandonment, be altered to comply with this chapter or be removed by the sign owner, owner of the property where the sign is located, or other person having control over such sign. For purposes of this section, a sign is “blank” if:

(1) It advertises a business, service, commodity, accommodation, attraction, or other enterprise or activity that is no longer operating or being offered or conducted; or

(2) The advertising message it displays becomes illegible in whole or substantial part; or

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(3) The advertising copy paid for by a party other than the sign owner or promoting an interest other than the rental of the sign has been removed.

(i) The burden of establishing a sign to be legally nonconforming or not destroyed under this section rests upon the person or persons, firm, or corporation claiming legal status for a sign.

(j) As soon as reasonably possible after the effective date of this title, the Planning Director~~((administrator))~~ shall make every reasonable effort to identify all the nonconforming signs within the City's planning jurisdiction. He shall then contact the person responsible for each such sign (as well as the owner of the property where the nonconforming sign is located, if different from the former) and inform such person (1) that the sign is nonconforming, (2) how it is nonconforming, (3) what must be done to correct it and by what date, and (4) the consequences of failure to make the necessary corrections. The Planning Director~~((administrator))~~ shall keep complete records of all correspondence, communications, and other actions taken with respect to such nonconforming signs. However, performing these actions in no way releases the sign owner from the burden established in subsection (i) of this section.

Section 63. Ch. 14.68 LSMC is hereby amended by amending LSMC 14.68.160 to read as follows:

14.68.160 Sub-Regional Commercial Zoning Districts.

(a) Signing on properties located within Sub-Regional Commercial areas shall be specifically subject to the provisions of this section. Where signing requirements in this section conflict with other provisions of the Sign Code, the provisions of this section shall control.

(b) Existing signs within annexed Sub-Regional Commercial Zoning district are subject to the sign code of the jurisdiction from which they were developed until such time as they are altered or replaced. Sign alteration shall not include repainting or changing the message of a sign.

(c) Signs for business identification or advertising of products shall conform to the approved Master Sign Program for any property developed prior to or after the date of annexation. Unless otherwise specified by this section, signs for developments occupied by multiple business enterprises shall conform to the regulations set forth in Section 14.68.010(c).

(d) Approval by the Planning Director shall be required for the construction, erection, alteration or illumination of any sign in the Sub-Regional Commercial Zone after annexation to the City of Lake Stevens.

(e) Plans submitted for a Planning Director approval, ~~((zoning permit, special))~~ administrative conditional use permit, or conditional use permit shall include sign plans in sufficient detail that the permit-issuing authority can determine whether the proposed sign or signs comply with the provisions of this title.

(f) Advertising displays or signs pertaining only to the uses or sales on the property where displayed are allowed without a permit so long as such signs do not exceed 50 square feet in total area collectively and no single surface area exceeds 25 square feet.

(g) Individual Business Signs. Each business establishment in a Sub-Regional Commercial Zone shall have no more than one business identification sign that is located on the side of a structure per building face and in no event more than two identification signs per establishment.

(h) Commercial Center Signs.

(1) A property occupied by multiple business enterprises may be identified by one freestanding sign subject to a Master Sign Design Program.

(2) A multiple business development located on a lot that has at least 100 feet of frontage on one public street may have one sign advertising businesses within said development.

(3) If a multiple business development is located on a lot that is bordered by two public streets that do not intersect at the lot's boundaries (double front lot), then the development may have not more than one freestanding sign on each side of the development bordered by such streets.

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(4) For new developments in annexed Sub-Regional Commercial Zoning District, sign size will be allocated to each business owner by the Master Sign Design Program required in the name of the property owner. The total aggregate sign area shall not exceed 20 percent of the total surface area of the wall on which it is located.

(5) Each business subject to the conditions specified in subsection (f) of this section shall be responsible for obtaining a permit for its individual sign(s) which shall be in conformance with the Master Sign Program as well as this chapter.

(i) Sight Distance.

(1) No sign or advertising display is permitted that obstructs in any way the vision of motorists entering or leaving public or private rights-of-way.

(2) At street intersections, signs or advertising displays shall be so located that they permit an unobstructed sight distance of at least 300 feet along the intersecting rights-of-way. Supports for signs or advertising displays do not constitute an obstruction.

(3) All signs must be a distance of 100 feet or more from all road crossings of railroad rights-of-way. They must be placed in a manner that they do not block the view of the crossing by operating personnel aboard the trains or by motorists approaching the crossing from either direction.

(j) Sign Size.

(1) Signs attached to the interior of a non-residential building window or glass door individually or collectively may not cover more than 25 percent of the surface area of the transparent portion of the window or door to which they are attached.

(2) No business sign affixed to the front of a structure shall have a surface area greater than 20 percent of the total surface area of the wall on which it is located up to 90 square feet per face. The surface area is defined as the extent of the visible wall from the top of the turret or false front and the ground and to the end of the building on each side.

(3) Detached individual freestanding signs shall have an aggregate surface area no greater than 0.75 square feet in surface area for every linear foot of street frontage along the street toward which such sign is primarily oriented to a maximum of 250 square feet.

(4) The uppermost portion of an attached sign shall not extend more than five feet higher than the principal building at its highest point, subject further to the overall height regulations of this zone.

(k) Sign Height. Individual freestanding signs may not exceed 35 feet in height, nor shall they have a surface area greater than 150 square feet per face per sign. The total surface area for all freestanding signs is subject to restrictions in subsection (h) of this section.

(l) Projecting signs or graphics including awnings and their supportive members shall project outward no more than four feet from a building and be no lower than eight feet above ground level.

(m) Signs shall not be animated, audible, rotating, or illuminated by any intermittent flashing or scintillating source of light. This prohibition does not apply to temporary signs erected in connection with the observance of holidays.

(n) Signs or displays that involve moving parts or flashing or blinking lights simulating traffic signals shall be approved by the Washington Department of Transportation and the Director of Public Works.

Section 64. Ch. 14.72 LSMC is hereby amended by amending LSMC 14.72.020 to read as follows:

14.72.020 Flexibility in Administration Required.

(a) The council recognizes that, due to the particularities of any given development, the inflexible application of the parking standards set forth in Subsection [14.72.010\(e\)](#) may result in a development either with inadequate parking space or parking space far in excess of its needs. The former situation may lead to traffic congestion or parking violations in adjacent streets as well as unauthorized parking in nearby private lots. The latter situation wastes money as well as space that could more desirably be used for valuable development or environmentally useful open space. Therefore, as suggested in Section [14.72.010](#), the permit-issuing authority may permit deviations from the presumptive requirements of

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Subsection 14.72.010(e) and may require more parking or allow less parking whenever it finds that such deviations are more likely to satisfy the standard set forth in Subsection 14.72.010(a).

(b) Without limiting the generality of the foregoing, the permit-issuing authority may allow deviations from the parking requirements set forth in Subsection 14.72.010(e) when it finds that:

(1) A residential development is irrevocably oriented toward the elderly or other demographic group which, due to the driving characteristics of the group, requires fewer or more parking stalls than the general populace;

(2) A sole business (not part of a larger mall) is primarily oriented to walk-in trade.

(c) Whenever the permit-issuing authority allows or requires a deviation from the presumptive parking requirements set forth in Subsection 14.72.010(e), it shall enter on the face of the permit the parking requirement that it imposes and the reasons for allowing or requiring the deviation.

(d) If the permit-issuing authority concludes, based upon information it receives in the consideration of a specific development proposal, that the presumption established by Subsection 14.72.010(e) for a particular use classification is erroneous, it shall initiate a request for an amendment to the Table of Parking Requirements in accordance with the procedures set forth in Section((Chapter)) 14.((96))16C.075.

Section 65. Ch. 14.76 LSMC is hereby amended by amending LSMC 14.76.090 to read as follows:

14.76.090 Additional Screening Requirements.

(a) Due to the potential for adverse impacts between the following non-compatible uses, a 30-foot wide landscaped screen shall be maintained between State Route 92 and/or State Route 9 and all residential and industrial uses.

(b) The screen shall have a height of at least 30 feet at maturity. It is intended to exclude all visual and noise contact between uses in all seasons of the year. The use of existing significant trees which are not prone to windthrow within the screen is strongly encouraged.

(c) The P((p))lanning D((d))irector may approve reduced buffer widths to prevent denial of all reasonable use of property.

TABLE XI: SCREENING REQUIREMENTS

Zone in Which Development Occurs	((SA, ER,))	MFR	PRD	NC	CBD, MU, LB	SRC, PBD	((CR))	LI	GI	P/SP
Zone of Adjacent Property	SR, WR, UR, HUR									
((SA, EA,)) SR, WR, UR, HUR		B	B	C	B	A	((A))	A	A	B
MFR	-		-	C	B	A	((A))	A	A	B
PRD	-	-		C	-	A	((A))	A	A	B
NC	C	C	C		-	-	-	A	A	-
CBD, MU, LB	B	-	B	-		-	-	A	A	-

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SRC, PBD	C	B	B	-	-		-	A	A	-
((CR	B	B	B	-	-	-	-	A	A	-))
LI	C	C	C	-	-	-	-		B	-
GI	A	A	A	A	A	A	((A))	B		A
P/SP	B	B	C	-	-	-	-	A	A	

Section 66. Ch. 14.76 LSMC is hereby amended by amending LSMC 14.76.124 to read as follows:

14.76.124 Shade Trees on Residential Lots.

(a) Each residential lot shall maintain a minimum number of trees on-site. This section shall be enforced at the time that any land use or building permit is issued. If fewer than the required trees exist on a lot for which a land use or building permit is applied, the granting of the permit shall be conditioned on the planting of trees to meet the requirements of this section.

(b) The minimum number of required trees depends on the Zoning District in which the site falls, as follows:

~~((Suburban Agriculture, Estate Residential,))~~ Suburban Residential, Waterfront Residential - 3 trees/lot

Urban Residential, High Urban Residential - 2 trees/lot

Except: lots developed through a Planned Residential Development (LSMC §14.44.020 or a Cluster Subdivision (LSMC §14.48.070) - 3 trees/lot for lots greater than or equal to 9,600 square feet, 2 trees/lot for lots less than 9,600 square feet

(c) If street trees are present, or are required to be installed with a development, they may count toward one of the trees required by Subsection (b).

(d) On lakefront properties only, one of the required trees may be substituted by installing and maintaining natural aquatic vegetation along the water’s edge. The minimum area of the vegetation shall be 20 square feet.

(e) Non street trees required per this Section shall be a native species, have a minimum 2-inch diameter at breast height (dbh), and attain a minimum height of 25 feet at maturity.

(f) At least one of the required trees shall be planted near the rear property line of the lot. The intent of this regulation is to create rows of trees behind and between rows of houses, thus affording privacy and creating a forested view of the community when seen from ground level.

Section 67. Ch. 14.80 LSMC is hereby amended by amending LSMC 14.80.060 to read as follows:

14.80.060 Construction and Use.

Building permits issued on the basis of plans and applications approved by the Building Official authorize only the construction set forth in such approved plans and applications and no other construction. Nor does the issuance of building plans authorize use or arrangement of structures or property. Authorization of use of property or arrangement of structures is authorized by the issuance of required land use approvals pursuant to ((either a zoning, special use, or conditional use permit per)) Section ~~((Chapter))~~ 14.16A.215 (Land Use Permits Required((Permits and Final Plat Approval))).

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Construction different than that authorized shall be deemed a violation of this code and punishable as provided by Chapter 14.28 (Enforcement and Review).

Section 68. Ch. 14.88 LSMC is hereby amended by amending LSMC 14.88.278 to read as follows:

14.88.278 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 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, 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 standards bonded for have been met. Once the mitigation installation has been accepted by the Planning and Community Development 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 [14.88.277\(c\)](#).
- (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 Director may authorize a one-time temporary delay, up to 120 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(s) [14.16A.180 \(Security Mechanisms\)](#)~~((14.12.800 through 14.12.895))~~ shall also apply if necessary to ensure adequate protection of the public interest.

Section 69. Ch. 14.88 LSMC is hereby amended by amending LSMC 14.88.930 to read as follows:

14.88.930 Designation Process.

- (a) Critical area sending or receiving districts are considered overlay zones allowed per Section 14.36.070 critical area sending and receiving districts. Designation as a critical area sending or receiving

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district is the equivalent of a rezone and shall be accomplished by the same process, as specified in Section~~((Chapter))~~ 14.~~((96, Amendments))~~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.

Section 70. Ch. 14.92 LSMC is hereby amended by amending LSMC 14.92.010 to read as follows:

14.92.010 Definitions.

Definitions contained in the Washington State Shoreline Management Act of 1971 shall apply to all terms and concepts used in this title; provided, that definitions contained in this chapter shall be applicable where not in conflict with the Washington State Shoreline Management Act of 1971.

“Development” means a use consisting of the construction or exterior alteration of structures; dredging, drilling, dumping, filling, removal of 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 overlying lands subject to this chapter at any state of water level.

“Floodway” means those portions of the area of a river valley lying streamward from the outer limits of a watercourse upon which flood waters are carried during periods of flooding that occur with reasonable regularity, although not necessarily annually, said floodwater being identified, under normal condition, by changes in surface soil conditions or changes in types or quality of vegetative ground cover condition. The floodway shall not include those lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or maintained under license from the Federal Government, the State, or a political subdivision of the State.

“Lake Stevens” means any lands or waters contained within the incorporated boundaries of the City.

“Master program” shall mean the comprehensive shoreline plan for Lake Stevens and the use regulations together with maps, diagrams, charts or other descriptive material and text, developed in accordance with the policies enunciated in Section 2 of the Shoreline Management Act of 1971 (RCW [90.58.020](#)).

“Ordinary high water mark on Lake Stevens” shall mean 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; provided, that in any area where the ordinary high water mark cannot be found, the ordinary high water mark shall be the line of mean high water.

“Person” means an individual, partnership, corporation, association, organization, cooperative, public or municipal corporation or agency of the state or local governmental unit however designated.

“Shorelands” or “shoreland areas” means 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.

“Shorelines” means all of the water areas of the state, including reservoirs, and their associated wetlands, together with the lands underlying them; except:

- (1) Shorelines of State-wide significance;

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(2) Shorelines on segments of streams upstream of a point where the mean annual flow is 20 cubic feet per second or less and the wetlands associated with such upstream segments;

(3) Shorelines on lakes less than 20 acres in size and wetlands associated with such small lakes.

“Shorelines of State-wide significance in the Lake Stevens area” means those lakes, whether natural, artificial or a combination, with a surface acreage of 1,000 acres or more measured at the ordinary high water mark, and those natural rivers or segments thereof downstream of a point where the annual flow is measured at 1,000 cubic feet per second or more.

“Shorelines of the State” are the total of all “shorelines and shorelines of State-wide significance” within the State.

“Substantial development” shall mean any development of which the total cost or fair market value exceeds \$2,500, or any development which materially interferes with the normal public use of the water or shorelines of the State; except that the types of development defined in Section ~~14.16C.100~~~~((14.92.030 (Development Exempted from the Shoreline Development Permit Requirement)))~~ shall not be considered substantial developments for the purpose of this chapter.

“Wetlands” means those transitional lands between terrestrial and aquatic systems, where the water table is usually at or near the surface of the land, which is often covered by shallow water. Specific classifications can be found in Section 14.88.800. Generally, wetlands must have one or more of the following attributes:

- (1) The land supports predominantly hydrophytes, at least periodically;
- (2) The substrate is predominantly undrained hydric soil; and
- (3) The substrate is non-soil and is saturated with water or covered by shallow water at some time during the growing season of each year.

Section 71. Ch. 14.92 LSMC is hereby amended by deleting LSMC 14.92.030 and 14.92.040 and modifying the Section list appropriately. **MOVED TO 14.16C.100**

Section 72. Ch. 14.92 LSMC is hereby amended by amending LSMC 14.92.050 to read as follows:

14.92.050 Supplemental Application Requirements for a Shoreline Development Permit.

In addition to the application requirements of the specified submittal checklist, ~~((administrative guideline entitled “Information Required with Applications.”))~~any person applying for a shoreline development permit shall submit with their Master Permit Application the following information:

- (1) The name and address of the applicant;
- (2) The location and legal description of the proposed substantial development;
- (3) The present use of the property.
- (4) The general description of the property and the improvements;
- (5) A description of the proposed substantial development and the intended use of the property. The following information will be provided on a site plan map:
 - a. Land contours, using five foot contour intervals, if project includes grading, filling or other alteration of contours, then either:
 1. show both existing and proposed contours on a single map, clearly indicating which is which, and include items 2-10 following, or
 2. provide two maps, one showing existing contours, including items 2-5 below, and the other showing proposed contours, including items 6-10 below.
 - b. Size and location of exiting improvements which will be retained;
 - c. Existing utilities;
 - d. Ordinary highwater mark;
 - e. Beach type: sand, mud, gravel, etc.;
 - f. Size and location of proposed structures;
 - g. Maximum height of proposed structures;

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- h. Width of setback, side yards;
 - i. Proposed fill areas; state type, amount and treatment of fill;
 - j. Proposed utilities;
- (6) Vicinity plan, indicating relation of site to adjacent lands. Show adjacent lands for at least 400 feet in all directions from the project site; and owner of record within 300 feet of project site;
- (7) 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;
- (8) Approximate dates of construction initiation, and completion;
- (9) 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.
- (10) Listing of any other permits for this project from state, federal or local government agencies for which the applicant has applied or will apply.
- (11) Any additional material or comments concerning the application which the applicant wishes to submit may be attached to the application on additional sheets.

Section 73. Ch. 14.92 LSMC is hereby amended by amending LSMC 14.92.070 to read as follows and modifying the Section list appropriately:

14.92.070 (~~Notice~~) Processing Requirements.

Shoreline substantial development permits shall be processed as a Type II review and shoreline conditional use permits and shoreline variances shall be processed as a Type III review pursuant to Chapter 14.16A~~((A notice of application and hearing for shoreline development shall be given for all Shoreline Development Permit hearings))~~, conforming to the requirements of RCW 90.58.140(4).

Section 74. Ch. 14.92 LSMC is hereby amended by deleting LSMC 14.92.080 and modifying the Section list appropriately. **(Moved to 14.16B.125)**

Section 75. Ch. 14.92 LSMC is hereby amended by amending LSMC 14.92.090 to read as follows:

14.92.090 Hearing.

Within a reasonable time after the filing of an application for a shoreline development permit, the Hearing Examiner shall consider such application at a meeting, notice of which shall be given as per Section 14.16A.225 (Noticing Requirements)~~((24.020 (Public Notice)))~~.

Section 76. Ch. 14.92 LSMC is hereby amended by amending LSMC 14.92.100 to read as follows:

14.92.100 Duties of Hearing Examiner.

The Hearing Examiner shall consider the proposed substantial development based on information from: the application; written comments from interested persons; the advice of the various City departments; independent study of the Hearing Examiner; and views expressed by the public. The Hearing Examiner may request an applicant furnish information concerning a proposed substantial development in addition to information required in an application. The Hearing Examiner shall formulate findings of fact and a decision, based on the policies enumerated in Section 14.16A.350((92.080)). The Hearing Examiner shall transmit its recommendations in writing, together with a statement setting forth the factors considered, and an analysis of the findings considered by him to be controlling, to the Shoreline Hearings Board within fourteen (14) days following the Hearing Examiner meeting.

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Section 77. Ch. 14.92 LSMC is hereby amended by deleting LSMC 14.92.110 and modifying the Section list appropriately. **(Moved to 14.16B.125)**

Section 78. Ch. 14.100 LSMC is hereby amended by amending LSMC 14.100.170 to read as follows:

14.100.170 Fee Determination.

(a) On or before the time of development approval, the city shall determine whether school impact fees will be due pursuant to this chapter. Where such fees are due, the development approval shall state that the payment of school impact fees will be required prior to issuance of building permits. The amount of the impact fee due shall be based on the fee schedules in effect at the time a building permit application is accepted by the city. The impact fees shall be paid on or before the time of building permit issuance.

(b) Credit amounts and allocation of credits to be applied against the fees shall be determined at the time of development approval in accordance with Section 14.100.180 LSMC.

(c) The final determination of a development activity's fee obligation under this chapter shall include any credits for in-kind contributions provided under Section 14.100.180 LSMC. Final determinations of the amounts of the fee or credit due may be appealed pursuant to the procedures established in Section~~(Chapter)~~ 14.16A.265.

Section 79. Ch. 14.100 LSMC is hereby amended by amending LSMC 14.100.180 to read as follows:

14.100.180 Credit for in-kind contributions/existing lots.

(a) A developer may request and the planning director may grant a credit against school impact fees otherwise due under this title for the value of any dedication of land, improvement to, or new construction of any capital facilities identified in the district's capital facilities plan provided by the developer. Such requests must be accompanied by supporting documentation of the estimated value of such in-kind contributions. All requests must be submitted to the planning department in writing prior to its determination of the impact fee obligation for the development activity. Each request for credit will be immediately forwarded to the affected school district for its evaluation.

(b) Where the district determines that a development activity is eligible for a credit for a proposed in-kind contribution, it shall provide the planning department and the developer with a letter setting forth the justification for and dollar amount of the credit, the legal description of any dedicated property, and a description of the development activity to which the credit may be applied. The value of any such credit may not exceed the impact fee obligation of the development activity in question.

(c) Where there is agreement between the developer and the school district concerning the value of proposed in-kind contributions, their eligibility for a credit, and the amount of any credit, the planning director may (a) approve the request for credit and adjust the impact fee obligation accordingly, and (b) require that such contributions be made as a condition of development approval. Where there is disagreement between the developer and the school district regarding the value of in-kind contributions, however, the planning director may render a decision that can be appealed by either party pursuant to the procedures in Section~~(Chapter)~~ 14.16A.265~~(LSMC)~~.

(d) For subdivisions, PRDs and other large-scale developments where credits for in-kind contributions or pre-existing lots are proposed or required, it may be appropriate or necessary to establish the value of the credit on a per-unit basis as a part of the development approval. Such credit values will then be recorded as part of the plat or other instrument of approval and will be used in determining the fee obligation, if any, at the time of building permit application for the development activity. In the event that such credit value is greater than the impact fee in effect at the time of permit application, the fee obligation shall be considered satisfied, and the balance of the credit may be transferable to future developments by the applicant within the same school district by agreement with the school district.

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Section 80. Ch. 14.100 LSMC is hereby amended by amending LSMC 14.100.240 to read as follows:

14.100.240 Adjustment of Fee Amount.

(a) Within 14 days of acceptance by the city of a building permit application a developer or school district may appeal to the planning director for an adjustment to the fees imposed by this title. The director may adjust the amount of the fee, in consideration of studies and data submitted by the developer and or the district, if one of the following circumstances exists:

- (1) It can be demonstrated that the school impact fee assessment was incorrectly calculated;
- (2) Unusual circumstances of the development activity demonstrate that application of the school impact fee to the development would be unfair or unjust;
- (3) A credit for in-kind contributions by the developer, as provided for under LSMC

14.100.180, is warranted; or

- (4) Any other credit specified in RCW 82.02.060(1)(b) may be warranted.

(b) To avoid delay pending resolution of the appeal, school impact fees may be paid under protest in order to obtain a development approval.

(c) Failure to exhaust this administrative remedy shall preclude appeals of the school impact fee pursuant to Section((Chapter)) 14.16A.265((LSMC)).

Section 81. Ch. 14.110 LSMC is hereby amended by amending LSMC 14.110.090 to read as follows:

14.110.090 Requirements for design and construction of facilities necessary to achieve adopted Levels of Service.

(a) If the developer chooses to design and construct the facilities necessary to achieve the adopted LOS standard(s), the following must requirements must be met.

(1) Issuance of a final plat or building permit approval, which ever comes first, will not be made unless improvements are made by the developer or sufficient financial security pursuant to Section 14.16A.180(e)((12.850 LSMC)) is in place to ensure the improvements will be made within six years of the issuance of the approval. This allowance for up to a six year deferral applies only to supplemental mitigation not normally required of the development.

(2) The developer shall be responsible for engineering and design of the facilities and shall provide documentation showing the improvements will ensure the LOS is met. The developer shall receive city approval of the engineering and design of the facilities, which shall be consistent with accepted engineering standards and practices.

(3) The developer shall enter into a detailed agreement with the City identifying the improvements required and the schedule for their completion. This shall include any necessary interim deadlines necessary to ensure the improvements are completed within the six year time frame.

(4) If a developer makes improvements to the sewer general facilities, those cost of those improvements shall be credited against the developer's general facilities charges, except no such credit shall be given if the developer is to be reimbursed through a latecomers agreement. The credit shall not exceed the general facilities charge that would normally be applied to the project.

(5) If a developer makes improvements to a transportation project that would otherwise require SEPA mitigation, the developer shall be given credit for the amount spent on that project against the SEPA mitigation required for that project, but not to exceed the mitigation that would normally be applied to the project.

(6) The effect of the improvement shall not degrade another related objective. For example, adding a vehicular lane at the expense of eliminating a bike lane.

(7) The project shall comply with the procedural and substantive requirements of the State Environmental Policy Act (SEPA).

- (8) The improvements shall not create a significant safety hazard.

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(b) Supplemental Mitigation Denial Process. If the City determines that the proposed supplemental mitigation does not meet the requirements of this section, the Public Works and Planning and Community Development Directors may deny the issuance of a certificate of concurrency.

Section 82. Ch. 14.120 LSMC is hereby amended by amending LSMC 14.120.150 to read as follows:

14.120.150 Appeals.

Appeals of mitigation requirements imposed pursuant to this chapter shall be governed by the appeal provisions of Section~~(Chapter)~~ 14.16A.265~~((LSMC))~~.

Section 83. Ch. 16.12 LSMC is hereby amended by amending LSMC 16.12.030 to read as follows:

16.12.030 Issuance of Threshold Determination to Coincide with Public Notice and Public Hearing Requirements.

(a) Except for a Determination of Significance, the City may not issue a Threshold Determination or issue a decision or recommendation on a permit until the expiration of the public comment period on the ~~((“))~~Notice of Application~~((Filed,“))~~ issued pursuant to ~~((LSMC §-))~~Chapter 14.16~~((-120))~~B.

(b) If an Open record predecision hearing is required and the City’s Threshold Determination requires public notice under RCW 43.21C, the City shall issue the Threshold Determination at least 15 days prior to the hearing.

Section 84. Severability. If any section, clause, phrase, or term of this ordinance is held for any reason to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance, and the remaining portions shall be in full force and effect.

Section 85. Effective Date and Publication. A summary of this ordinance consisting of its title shall be published in the official newspaper of the City. This ordinance shall take effect and be in full force five days after the date of publication.

PASSED by the City Council of the City of Lake Stevens this ___ day of _____, 2009.

Vern Little, Mayor

ATTEST/AUTHENTICATION:

Norma J. Scott, City Clerk/Admin Asst

APPROVED AS TO FORM:

Grant K. Weed, City Attorney

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First Reading:
Second Reading:
Final Reading:
Published:
Effective Date:

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EXHIBIT 1

NEW

CHAPTER 14.16A

ADMINISTRATION AND PROCEDURES

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EXHIBIT 2
NEW
CHAPTER 14.16B
TYPES OF LAND USE REVIEW

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EXHIBIT 3

NEW

CHAPTER 14.16C

LAND USE ACTIONS, PERMITS AND DETERMINATIONS –

DECISION CRITERIA AND STANDARDS

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EXHIBIT 4

NEW

CHAPTER 14.18

**SUBDIVISIONS, BOUNDARY LINE ADJUSTMENTS AND
BINDING SITE PLANS**

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EXHIBIT 5

14.40 – TABLE II: TABLE OF PERMISSIBLE USES