



PLANNING COMMISSION AGENDA

Regular Meeting Date: 04/21/2021

BY REMOTE PARTICIPATION ONLY

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Meeting ID: 858 9471 5164 +1 253 215 8782 US (Tacoma)

Planning Commission
Meeting:

First Wednesday of every
Month @ 6:00pm

Planning & Community
Development Department

1812 Main Street
Lake Stevens, WA 98258
(425) 622-9430

www.lakestevenswa.gov

Municipal Code

Available online:

www.codepublishing.com/WA/LakeStevens/

*Items attached

**Items previously
distributed

Items to be
distributed

- **CALL TO ORDER 6:00pm**

Pledge of Allegiance

- **ROLL CALL**

- **GUEST BUSINESS**

- **ACTION ITEMS**

1. Approve minutes for 04/07/2021

- **PUBLIC HEARING-** Adoption of SEPA Flexible Thresholds

Sr. Planner Levitan

Public hearing presentation will follow the public hearing format listed below:

PUBLIC HEARING FORMAT

1. PC Chair Opens Public Hearing
2. Staff Presentation
3. Commission's questions for staff
4. Proponent's comments
5. Comments from the audience
6. Proponent rebuttal comments
7. Close public comments portion of hearing by motion
8. Re-open public comment portion of hearing for additional comments (optional)
9. Close Hearing by motion
10. COMMISSION ACTION BY MOTION—Recommendation to Council
 - A. Approve
 - B. Deny
 - C. Continue

DISCUSSION ITEM

1. Briefing: Permissible Use Table
2. Lot Status Determination

Associate Planner Needham
Assistant Planner Gassaway

COMMISSIONER REPORTS

PLANNING DIRECTOR'S REPORT

ADJOURN

SPECIAL NEEDS

The City of Lake Stevens strives to provide accessible opportunities for individuals with disabilities. Please contact City of Lake Stevens ADA Coordinator, at (425) 622-9419 at least five business days prior to any City meeting or event if any accommodations are needed. For TDD users, please use the state's toll-free relay service.

PLANNING COMMISSION REGULAR MEETING MINUTES

Remote Participation
Wednesday, April 7, 2021

CALL TO ORDER: 6:00 pm by Chair Cronin

MEMBERS PRESENT: John Cronin, Jennifer Davis, Janice Huxford, Todd Welch, Linda Hoult, Mike Duerr and Vicki Oslund

MEMBERS ABSENT: None

STAFF PRESENT: Community Development Director Russ Wright and Senior Planner Levitan

OTHERS PRESENT: Councilmembers Steve Ewing and Gary Petershagen

Chair Cronin called the meeting to order at 6:00 pm and led the pledge of Allegiance.

Roll Call: All present.

Guest business: None

Approval of Minutes: Motion by Commissioner Huxford, to approve the minutes for 03-03-2021 seconded by Commissioner Hoult (7-0-0-0).

Discussion items:

The first item on the Agenda was a briefing on a citizen-initiated request to reduce the required buffer between marijuana processing facilities and child care centers from 1000 ft to 250 ft, if certain conditions are met. Senior Planner Levitan gave a recap of the process thus far, including previous work sessions with the Planning Commission and City Council, and that staff was proposing to amend the proposal to also include a citywide limit on marijuana processing facilities, somewhere in the vicinity of 30-35,000 sf. He also noted that Mayor Gailey has been working with the City Council on a separate but related process to charge licensing fees on marijuana production and processing facilities, and the City Council is generally supportive of the proposed code amendment.

The Commission had questions on how the proposed licensing fee amounts were established, and what they would be used to fund. Director Wright provided some general history on the licensing fees and that Council had requested additional information, including a quantitative analysis of the licensing fees and on how they would be utilized. He also noted that the two topics (licensing fee and code amendment) were moving forward on a similar schedule, but were not directly related, and the licensing fee was generally outside of the Commission's purview.

After discussion amongst the Commissioners, they agreed that the proposed amendment was ready to move forward to a public hearing.

The second briefing was on some proposed changes to Shoreline Master Program

(SMP). Potential amendments identified by staff include to remove references to Multi-family Residential in the SMP's use table and related section; a map amendment to a city-owned parcel; updates to clarify the SMP's non-conforming use and development section; and an amendment to the SMP Shoreline Environment Designations map to reflect any boundary changes resulting from recent annexations.

The Commissioners were generally agreeable to this proposal and directed staff to move forward and initiate the update process with the Department of Ecology.

Commissioner Reports:

Commissioner Duerr reported he attended the Department of Commerce's Short Course on Local Planning, which satisfied the requirements for Open Public meeting training that all commissioners must meet. Responding to a question from Commissioner Davis, staff noted that commissioners could check in with City Clerk Kelly Chelin to check their compliance status. Commissioner Hoult inquired about getting speed bumps on 116th Ave, 117th Ave NE and Cedar Rd. Commissioner Cronin announced the Bert Cronin Award has two scholarships available for application.

Director's Report:

Director Wright invited the Commissioners to attend the April 8 public meeting on the proposed Civic Center via Zoom.

MOTION: Moved by Commissioner Hoult, seconded by Commissioner Welch to adjourn the meeting at 7:08 p.m. The motion carried (7-0-0-0).

Jennie Fenrich, Planning Commission Clerk



One Community Around the Lake

Staff Report Lake Stevens Planning Commission Planning Commission Public Hearing

Date: **April 21, 2021**

Subject: **Public Hearing for Adoption of SEPA Flexible Thresholds (LUA2021-0033)**

Contact Person/Department: David Levitan, Senior Planner

SUMMARY:

The city is proposing amendments to Lake Stevens Municipal Code (LSMC) 16.04.045 to adopt flexible thresholds for exempt minor new construction, as permitted by WAC 197-11-800(1)(c).

ACTION REQUESTED OF PLANNING COMMISSION:

Planning Commission is asked to hold a public hearing and forward a recommendation to City Council on the proposed adoption of SEPA flexible thresholds for minor new construction.

BACKGROUND

The State Environmental Policy Act (SEPA) evaluates potential environmental impacts associated with governmental decisions such as building permits, land use applications, and code amendments. Certain projects and processes are exempt from SEPA environmental review under adopted statutory exemptions (listed in [RCW 43.21c](#)) and categorical exemptions (listed in [WAC 197-11-800](#)). WAC 197-11-800(1)(b) establishes the standard categorical exemption thresholds for minor new construction, while WAC 197-11-800(1)(d) establishes maximum flexible thresholds that cities and unincorporated areas may adopt for minor new construction through a local ordinance so long as they meet the procedural requirements of WAC 197-11-800(1)(c). The City of Lake Stevens is an incorporated city within Snohomish County, which is a fully planning Growth Management Act (GMA) county.

On [October 21, 2020](#), Planning Commission held its first work session to discuss the potential adoption of flexible categorical exemption thresholds for minor new construction. The Commission held additional work sessions on [December 2, 2020](#), [January 20, 2021](#), and [March 3, 2021](#), while the City Council held a separate work session on [February 16, 2021](#). At the conclusion of their March 3, 2021 meeting, commissioners recommended that the city amend LSMC 16.04.045 to adopt the flexible thresholds identified in the right column of Table 1 and directed staff to schedule a public hearing. The proposed amendments to LSMC 16.04.045 are shown as track changes in Attachment 1.

Table 1 – SEPA Thresholds for Minor New Construction

Development Type	Current Thresholds	Maximum Thresholds	Proposed Flexible Thresholds
Single-Family	4 units	30 units	15 units
Multi-Family	4 units	60 units	30 units
Agricultural	10,000 sf	40,000 sf	10,000 sf
Commercial	4,000 sf	30,000 sf	30,000 sf
Parking	20 spaces	90 spaces	90 spaces
Grading	100 cubic yards	1,000 cubic yards	1,000 cubic yards

FINDINGS AND CONCLUSIONS

1. Compliance with elements of the Comprehensive Plan

- Land Use Element Policy 2.3.3 – Encourage infill development on suitable vacant parcels and redevelopment of underutilized parcels. Ensure that the height, bulk and design of infill and redevelopment projects are compatible with their surroundings.
- Land Use Element Policy 2.3.4 – Maintain development regulations to promote compatibility between uses; retain desired neighborhood character; ensure adequate light, air and open space; protect and improve environmental quality; and manage potential impacts on public facilities and services.

Conclusions – Adoption of the proposed SEPA flexible thresholds is consistent with the goals and policies of the city's Comprehensive Plan. The flexible thresholds will encourage additional infill development by providing additional exemptions for minor new construction, while the required documentation shows that adequate local, state and federal environmental regulations are in place to mitigate any potential impacts for newly exempt development.

2. Compliance with the State Environmental Policy Act (SEPA) (Chapter 97-11 WAC and Title 16 LSMC)

- Consistent with WAC 197-11-800(c)(1), the city provided documentation that the requirements for environmental analysis, protection and mitigation for impacts to elements of the environment listed in WAC 197-11-444 for newly exempt projects are adequately addressed in existing local, state and federal environmental regulations. This documentation and a copy of the proposed flexible thresholds were provided to the Department of Ecology, affected tribes, and agencies with expertise on March 5, 2021, as well as made available for public review. No comments have been received.
- The city prepared a SEPA Environmental Checklist on March 31, 2021.
- The city issued a Determination of Nonsignificance (DNS) on April 1, 2021, which was sent to the Department of Ecology, affected tribes, and agencies with expertise. Notice of the DNS was issued jointly with the Notice of Public Hearing. The deadline for public comments is April 19, 2021.
- As of April 15, no comments or appeals from agencies or the public have been received on the SEPA determination.

Conclusions – The proposed code amendment has met all local and state SEPA requirements.

3. Compliance with the Growth Management Act (RCW 36.70A.106)

- Code amendments are subject to review by the Washington State Department of Commerce, and the adoption of SEPA flexible thresholds must also meet the procedural requirements of [WAC 197-11-800\(c\)\(i-v\)](#).
- The city provided a 60-day notice to the Department of Commerce on March 5, 2021 of its intent to amend LSMC 16.04.045, with a proposed adoption date of May 11, 2021. The city received an acknowledgement letter from Commerce on March 8, 2021.
- If approved by the City Council, staff will file the final ordinance with the Department of Commerce within 10 days of its adoption.

Conclusions – The proposed code amendment has met all Growth Management Act requirements.

4. Public Notice and Comments

- Amendments to LSMC Title 16 (SEPA Procedures and Policies) are reviewed through the city's Type VI legislative review process identified in [LSMC 14.16B.605-660](#), which requires the Planning Commission to hold a public hearing and make a recommendation to City Council.
- The city published a joint Notice of Public Hearing and SEPA Threshold Determination in the Everett Herald on April 5 and April 12, 2021. The notice was also posted at City Hall and on the city's website on or around April 1, 2021.
- No public comments have been received to date. If comments are received prior to the hearing, the comments will be distributed on the night of the hearing.

Conclusions – The city has met all public notice requirements per Chapter 14.16B LSMC.

RECOMMENDATION: Staff recommends that Planning Commission forward a recommendation to City Council to APPROVE the proposed amendments to LSMC 16.04.045 to adopt SEPA flexible thresholds for minor new construction (LUA2021-0033). City Council is tentatively scheduled to hold their public hearing for LUA 2021-0033 on May 11, 2021.

ATTACHMENTS

Attachment 1 – Proposed Amendments to LSMC 16.04.045 to Adopt SEPA Flexible Thresholds



One Community Around the Lake

Staff Report Lake Stevens Planning Commission

Planning Commission Briefing

Date: **April 21, 2021**

Subject: **Update on Revising the Permissible Use Chapter (LSMC 14.40)**

Contact Person/Department: Jill Needham, *Assistant Planner*

David Levitan, *Senior Planner*

SUMMARY:

Staff will present an updated draft of the Permissible Uses Chapter preamble (LSMC 14.40-010 through 090) as well as examples of potential amendments to supplementary use regulations in LSMC 14.44, which aim to provide more clear and objective performance standards. Staff will bring back an updated draft of the three use tables for a work session with the Commission at a future meeting, and will seek Commission input on the desired scope of the project and when to move forward to a public hearing on the proposed amendments.

ACTION REQUESTED OF PLANNING COMMISSION:

This is an informational briefing and only general feedback is requested at this time.

BACKGROUND / DISCUSSION:

The Planning Commission has held four work sessions to date to discuss potential amendments to the Permissible Uses Chapter of the Land Use Code (LSMC 14.40). Staff introduced the goal and scope of the project on [October 21](#), which was followed by a more detailed discussion on [November 18](#) of potential strategies to consolidate and simplify uses, reduce or eliminate redundant land use processes, and create more clear and objective performance standards for specific uses. Staff provided a first draft of the non-residential use table on [January 6](#), with additional refinements made in advance of the [February 3](#) meeting. Staff introduced initial drafts of the residential use and special use tables during the February 3 meeting. These three tables are designed to replace the current large and overly detailed table ([Table 14.40-I](#)).

Commissioners provided positive feedback on the early drafts of the three tables, noting that the structure and format is much simpler and easier to navigate/understand than the existing Table 14.40-I. Over the past two months, staff has continued to fill in the use tables, including the required review and approval process (P, A, or C) for each use by zoning district as well as footnotes and links to the applicable performance standards for each use. As a reminder, P = Permitted outright, A = Permitted with Administrative Conditional Use Permit (a Type II administrative land use review), and C = Permitted with a Conditional Use Permit (a Type III land use application with a public hearing before the Hearing Examiner). Staff has also further integrated related sections of the Land Use Code into the updated drafts, including the Subarea Regulations (Chapter 14.38), Supplementary Use Regulations (Chapter 14.44), and Innovative Housing and Infill regulations (Chapter 14.46).

Staff plans to share updated drafts of the three permissible use tables with the Commission at a future meeting, which could be as early as May 5 depending on Commission feedback. In advance of that discussion, staff has prepared amendments to the Preamble to the Permissible Uses Chapter (Attachment 1), which aim to clarify the approval process for permitted uses, reduce redundancy, and establish more clear and objective approval criteria. The proposed changes to LSMC 14.40-010 through 090 include:

- Removal of all references and criteria related to minimum lot size in Section 14.40.020, which is currently used to determine whether certain uses are outright permitted; permitted with an administrative conditional use permit; or permitted with a conditional use permit
- Deletion of Section 14.040.030, which staff has determined is more appropriate for the Nonconforming Situations Chapter (LSMC 14.32), amendments to which will be coming before the Commission later this year
- References to the use of NAICS codes to organize and classify uses
- Streamlining of the Accessory Uses section, which is overly convoluted and repetitive

The preamble also includes a new section detailing the use of Supplementary Use Regulations (LSMC 14.44), references to which will be included as footnotes to the three use tables. Staff has updated the language and performance standards of several of these use regulations, examples of which are included as Attachment 2. The primary purpose of Chapter 14.44 is to establish clear and objective use regulations and performance standards for specific uses, thereby eliminating unnecessary and redundant land use application processes (namely conditional use permits or administrative CUPs) for uses whose impacts can be clearly evaluated.

Before moving forward to a public hearing on the proposed amendments to the Permissible Uses Tables and associated chapters, staff would like Commission feedback on the examples of supplementary use regulation amendments in Attachment 2. It would also like input from commissioners on whether additional amendments to other uses that would require some level of policy direction from the Commission and City Council should be done as part of this project, which could require a number of additional work sessions and extend the project schedule a few months.

For example, LSMC 14.44.044 (Storage Facilities) currently includes language that focuses on the siting of storage facilities within the Local Business zoning district. As staff has proposed amendments to this section and considers how to update the use table in LSMC 14.40 to reflect in which zones storage facilities should be outright or conditionally permitted, issues such as land efficiency and employment density could factor into staff's recommendation. Staff is requesting Commission feedback on how to incorporate such policy decisions into this code update. These amendments would not include items already on the city's long-range work plan, including tourist home regulations (LSMC 14.44.064), marijuana regulations (public hearing scheduled for May 5), tiny homes, and non-conforming code (LSMC 14.32), all of which are or will be standalone projects.

NEXT STEPS

Commissioners are asked to provide input on the proposed amendments to the preamble to LSMC Chapter 14.40 (Attachment 1) and examples of updated supplementary use regulations (Attachment 2). At a future Commission meeting, staff will be sharing updated drafts of the three use tables, and will be soliciting feedback on the following items:

- Areas where additional consolidation of uses is needed or more detail is warranted
- Uses where the identified review process (P/A/C) within a zoning district should be changed
- Performance standards for individual uses that need to be added, modified, or removed
- Other general strategies to make the table easier to use and understand

Before moving on to the public hearing stage of the project, staff also intends to hold a work session with the City Council to discuss the proposed amendments and how city policies and priorities might impact the tables. May 11 or May 18 are potential dates for that Council work session and will be contingent on the direction provided by commissioners on the desired scope and scale of the update.

As previously noted, once more developed drafts of the tables are available, staff intends to make them available on the city's website and will reach out to the development and business communities as well as Lake Stevens residents to solicit public feedback. The proposed amendments will also require notice to the Washington State Department of Commerce and the issuance of a SEPA Threshold Determination.

Attachments

Attachment 1: Proposed Amendments to LSMC 14.40.010 through 090

Attachment 2: Examples of Updated Supplementary Use Regulations

14.40.010 ~~Table of~~ Permissible Use ~~Tabless~~.

Tables 14.40-I-III, the ~~Table of~~ Permissible Use ~~Tabless~~, sets forth the permissible uses for the various zoning districts in the City established in Chapter 14.36 Part I, subject to other applicable provisions in this title. It should be read in close conjunction with the definitions of terms set forth in Section 14.08.010 and the other interpretative provisions set forth in this chapter. Permissible uses for the subarea zoning districts are not included in this table, but are included in Section 14.38.020. (Ord. 876, Sec. 18, 2012; Ord. 811, Sec. 31, 2010; Ord. 676, Sec. 23, 2003; Ord. 468, 1995)

14.40.020 Use of the Designations P, A, C in ~~Table of~~ Permissible Use ~~Tabless~~.

(a) The ~~Table of~~ Permissible Use ~~Tabless~~ (Table 14.40-I-III) sets forth which uses are permitted in which zones. The letter "P" means the use is permitted or allowed in the indicated zoning district subject to all code requirements of this title. The letter "A" means the use requires an administrative conditional use permit (see Section 14.16C.015), and the letter "C" means the use requires a conditional use permit (see Section 14.16C.045). No letter means that use is not permitted in the indicated zoning district.

~~(b) When used in connection with residential uses (use classification 1.000), the designation "PAC" means that such developments of less than five dwelling units are a permitted use when code requirements are met, developments of five or more but less than 13 dwelling units need an administrative conditional 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 "PA" means that such developments are permitted if the lot to be developed is less than one acre in size and require an administrative conditional use permit if the lot is one acre or larger in area; and the designation "PC" means that such developments are permitted if the lot to be developed is less than one acre in size and require a conditional use permit if the lot is one acre or larger in area.~~

~~(d) Use of the designation PAC for combination uses is explained in Section 14.40.080. (Ord. 903, Sec. 29, 2013; Ord. 811, Sec. 32, 2010; Ord. 798, Sec. 3, 2009; Ord. 676, Sec. 24, 2003; Ord. 590, 1998; Ord. 468, 1995)~~

~~14.40.030 Jurisdiction over Uses Otherwise Permissible.~~

~~Whenever this title provides that a use in a nonresidential zone or a nonconforming use in a residential zone is permissible, an administrative conditional 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. (Ord. 811, Sec. 33, 2010; Ord. 676, Sec. 25, 2003; Ord. 468, 1995)~~

14.40.0340 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 Use ~~Tables~~, and are either allowed or not allowed thereby. But because the list of permissible uses set forth at the end of this chapter 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) Tables 14.40-I-III includes a column indicating the most similar classification code under the North American Industrial Classification System ("NAICS code"), where applicable. NAICS codes establish general categories of businesses and land uses, with more detailed subcategories. Consistent with subsection (a), NAICS codes may be used to evaluate whether uses with similar characteristics and impacts that are not explicitly listed in the use tables shall be permitted or permitted conditionally.~~

~~(c) Any proposed use not listed in the tables shall be determined as allowed or not allowed within a land use designation based on its consistency with the Comprehensive Plan and the purpose of the zoning district. If allowed, the use shall be classified by the Planning Director as outright permitted or requiring an administrative conditional use or conditional use permit using the most similar listed use. The Planning Director shall make that determination based on the physical characteristics of the use and its supporting structures, including scope, traffic generation, hours of operation, and other impacts.~~

~~The determination of the Planning Director shall be appealable pursuant to Section 14.16B.710.~~

(~~db~~) 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 except those permitted in a manufactured/mobile home park as per Section [14.44.070](#).

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. Situations that do not comply with this subsection on the effective date of the ordinance codified in 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 [14.44.085](#) ~~14.44.400~~ and ~~14.44.410~~ (situations that do not comply with this subsection on the effective date of the ordinance codified in this title are required to conform within 30 days).

(5) *Repealed by Ord. 958.*

(6) Sewage/septic sludge recycling except when approved as an essential public facility pursuant to Section [14.16C.060](#). (Ord. 991, Sec. 5, 2017; Ord. 958, Sec. 2, 2016; Ord. 903, Sec. 30, 2013; Ord. 894, Sec. 2, 2013; Ord. 811, Sec. 34, 2010; Ord. 676, Sec. 26, 2003; Ord. 468, 1995)

14.40.0450 Accessory Uses.

(a) ~~Tables 14-40-I-III~~~~The Table of Permissible Uses (referenced in Section 14.40.010 and found at the end of this chapter)~~ classifies different principal uses according to their ~~land uses, potential~~ different impacts ~~and NAICS codes~~. When ~~ever~~ an activity, ~~use or structure exists that is (which may or may not be separately listed as a principal use in this table) is conducted in conjunction with incidental and subordinate to~~ another principal use ~~and constitutes only an incidental or insubstantial part of the total activity that takes place on the samea lot, or is commonly associated with the principal use and integrally related to it, then~~ it may be ~~regarded permitted~~ 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 subdivision or multifamily development ~~and would be~~ is regarded as accessory to such principal uses, even though ~~such facilities, if developed apart from a residential development, they~~ would require an administrative conditional use permit ~~if developed as a principal use. (use classification 6-210). A use cannot be approved an accessory use without a primary use to which it is subordinate.~~

~~(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.~~

(be) 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, subject to the standards of LSMC 14.44.010.

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

(3) The renting out of ~~one or two~~ rooms within a ~~single family~~ residential unit ~~(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 for a period of 30 or more days, consistent with the definition of “family” in LSMC 14.08.010.~~

(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) of this section, 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 nonoperational 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~~ single family or multifamily residential development.

(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 14.16A.235 prior to commencing. (Ord. 811, Sec. 35, 2010; Ord. 676, Sec. 27, 2003; Ord. 468, 1995)

14.40.0560 Use of Supplementary Use Regulations

The city has established specific supplementary use regulations that establish performance standards and requirements for certain types of land uses. Tables 14.40-I-III utilize footnotes to indicate those uses for which supplementary use regulations or another performance standards apply, and apply and provide citations and links to the applicable LSMC sections.

~~Permissible Uses Not Requiring Permits.~~

~~Notwithstanding any other provisions of this title, no land use approval, 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. (Ord. 811, Sec. 36, 2010)~~

14.40.0670 Change in Use.

A change of use of property shall be reviewed pursuant to Section [14.16C.030](#). (Ord. 811, Sec. 37, 2010; Ord. 468, 1995)

14.40.0780 Combination Uses.

(a) When a combination use comprises two or more principal uses that require different types of permits (permitted use, 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 administrative conditional use permit if any of the principal uses combined requires an administrative conditional use permit but none requires a conditional use permit.

(3) A permitted use requiring Planning Director approval in all other cases. ~~This is indicated in the Table of Permissible Uses by the designation PAC in a column.~~

~~(b) When a combination use consists of a single family detached residential subdivision and two family or multifamily 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 multifamily 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. (Ord. 811, Sec. 38, 2010; Ord. 676, Sec. 28, 2003; Ord. 468, 1995)~~

14.40.0980 More Specific Use Controls.

Whenever a development could fall within more than one use classification in the ~~Table of Permissible Uses~~Permissible Use Tables (referenced in Section 14.40.010 and found at the end of this chapter), the classification that most closely and most specifically describes the development controls. ~~For example, a small doctor's office or clinic clearly falls within the 3.110 classification (office and service operations conducted entirely indoors and designed to attract customers or clients to the premises). However, classification 3.130, "office or clinics of physicians or dentists with not more than 10,000 square feet of gross floor area," more specifically covers this use and therefore is controlling.~~ (Ord. 1020, Sec. 3, 2018; Ord. 468, 1995)

14.40.095 Uses Not Listed

~~(a) Any proposed use not listed in the table shall be determined as allowed or not allowed within a land use designation based on its consistency with the Comprehensive Plan and the purpose of the zoning district.~~

~~(b) If allowed, the use shall be classified by the Planning Director as outright permitted or requiring an administrative conditional use or conditional use permit using the most similar listed use. The Planning Director shall make that determination based on the physical characteristics of the use and its supporting structures, including scope, traffic generation, hours of operation, and other impacts.~~

~~The determination of the Planning Director shall be appealable pursuant to 14.16B.710.~~

14.44.01016C.070 Home Occupations. (Moved from Land Use Actions to Use Regulations)

(a) The purpose of this section is to allow small-scale commercial occupations incidental to residential uses to be located in residences while guaranteeing all residents freedom from excessive noise, traffic, nuisance, fire hazard, and other possible effects of commercial uses being conducted in residential neighborhoods.

(b) Procedure. A home occupation ~~permit~~ is approved by the Planning Director or designee for each home occupation. ~~Home occupations shall be reviewed in the manner and following the procedures established in Chapters 14.16A and 14.16B for a Type I review.~~

(c) Home occupations shall require a city business license and be reviewed for compliance with the provisions of this section during the business license review. Home occupations may require the submittal of additional information beyond the standard business license application.

(d) Standards. Home occupations are permitted as an accessory use to the residential use of a property only when ~~all of~~ the following conditions are met:

(1) The total area devoted to all home occupation(s) shall not exceed 25 percent of the floor area of the dwelling unit or 500 square feet, whichever is less. Areas within attached garages and storage buildings shall not be considered part of the dwelling unit for purposes of calculating allowable home occupation area but may be used for storage of goods associated with the home occupation;

(2) The home occupation may be located in the principal dwelling or permitted habitable accessory structure. Non-habitable structures may be used for the storage of goods or equipment; ~~except that those related to growing or storing of plants used by the home occupation(s) may be in an accessory structure.~~ If located in an accessory structure, the area devoted to the occupation, as described in subsection (c)(1) of this section, shall be based upon the floor area of the dwelling only;

(3) No business activity may occur outside of any buildings on site, including displays of goods, stock in trade or other commodities;

(4) Not more than one person outside of the family shall be employed on the premises;

(5) The home occupation shall in no way alter the normal residential character of the premises;

(6) No objectionable noise, fumes, odor, or dust shall be allowed;

- (7) The home occupation(s) shall not use electrical or mechanical equipment that results in:
- (i) A change to the fire rating of the structure(s) used for the home occupation(s);
 - (ii) Visual or audible interference in radio or television receivers, or electronic equipment located off-premises; or
 - (iii) Fluctuations in line voltage off-premises;
- (8) No equipment or material may be stored, altered or repaired on any exterior portion of the premises;
- (9) Sales shall be limited to:
- (i) Products accessory to the home occupation (e.g., shampoo for beauty shop, etc.);
 - (ii) Merchandise which is produced on the premises; and/or
 - (iii) Mail order, ~~online internet~~ and telephone sales; and
 - (iv) With appointment for pick up or off-site delivery;
- (10) Services to patrons shall be arranged by appointment or provided off site;
- (11) In addition to required parking for the dwelling unit, one on-site parking stall shall be provided when services are rendered on-site;
- (12) The home occupation(s) may use or store ~~a vehicle~~s for pickup of materials used by the home occupation(s) or the distribution of products from the site, provided:
- (i) No more than two such vehicles shall be allowed;
 - (ii) Such vehicles shall not be ~~parked within the public right of way. parked within any required setback areas of the lot or on adjacent streets; and~~
 - (iii) Such vehicles shall ~~be commonly associated with residential development. Vehicles not commonly associated with residential development such as dump trucks, box trucks, and commercial vans are not allowed. not exceed the weight capacity of one ton;~~
- (13) Signs in connection with the home occupation shall comply with the restrictions of Chapter [14.68](#), Signs; ~~and~~

(14) No sales or services will be conducted on the premises which will generate more than 10 average daily round trips per day by customers except for day care.

(15) Food related business shall be required to possess and maintain a food permit from the Snohomish Health District.

(~~ee~~) The following is a non-exhaustive list of examples of enterprises that may be ~~granted~~approved as a home occupation ~~permit~~ if they meet the foregoing standards:

- (1) Office or studio of a physician, dentist, artist, musician, lawyer, architect, engineer, teacher, or similar professional;
- (2) Workshops, greenhouses, or kilns;
- (3) Dressmaking or hairdressing studios; and
- (4) Day care.

(~~fe~~) Prohibited home occupations are enterprises which may create objectionable noise, fumes, odor, dust or electrical interference and may involve hazardous materials or on-site storage of petroleum products, and which are not compatible with residential development. The following is a non-exhaustive list of examples of such prohibited enterprises:

- (1) Automobile, truck and heavy equipment repair;
- (2) Autobody work or painting;
- (3) Parking and storage of heavy equipment;
- (4) Storage of building materials for use on other properties;
- (5) Marijuana production, processing or retail facility; or
- (6) Similar types of enterprises.

(~~gf~~) Transferability. A home occupation ~~permit issued to~~approved for one ~~applicant~~person shall not be transferable to any other person; nor shall a home occupation ~~permit~~ be valid at any other address than the one listed on the business license~~permit~~.

(gh) Additional Conditions. In granting approval for a home occupation, the Planning Director [or their designee](#) may attach additional conditions to ensure the home occupation will be in harmony with, and not detrimental to, the character of the residential neighborhood.

(ih) Inspections. Any home occupation authorized under the provisions of this chapter shall be open to inspection and review at all reasonable times by enforcement officials for purposes of verifying compliance with the conditions of approval and other provisions of this title.

(ji) Modification. The Planning Director shall have authority to grant an administrative modification to the standards listed in subsection (c) of this section, provided the use is consistent with the purposes of this chapter and will be operated in harmony with the character of and create no significant impact to the residential neighborhood. The Planning Director is authorized to approve administrative modifications only in cases of unique circumstances, such as large property acreage, remote site access or site location, or small scale of use, when these circumstances ensure the commercial operation remains incidental to the dwelling and in no way alters the normal residential character of the premises. No modification shall be granted which would be detrimental to the public health, or welfare or the environment.

(kj) In-Home Day Care Standards.

(1) Home day care and adult family care facilities shall meet State licensing requirements, including those pertaining to building, fire safety, and health codes. A copy of the required State license, if applicable, shall be furnished by the applicant with the City business license application.

(2) There shall be minimal, if any, change in the outside appearance of the residence.

(3) Where outdoor recreation facilities are provided for children in day care facilities, they shall be screened by a fence at least four feet high, where abutting residentially zoned property.

(4) The facility shall provide a safe passenger loading area.

(5) The day care provider shall provide written notification to immediately adjoining property owners of the intent to locate and maintain a facility and provide a copy of the notification to the Planning Department. (Ord. 908, Sec. 5, 2014; Ord. 811, Sec. 4 (Exh. 3), 2010)

14.44.044 Storage Facilities

(a) Intent. Storage facilities include characteristics common to commercial and industrial uses. This section provides regulations to help guide appropriate siting of storage facilities ~~in the Local Business zoning district~~, while maintaining the desired character and function of that district. If designed appropriately, storage facilities can emulate the exterior architecture and site design of commercial or mixed-use developments, reducing inconsistencies with Comprehensive Plan goals or zoning district intent and limiting impacts to surrounding neighborhoods. Storage facilities ~~in the Local Business zoning district~~ shall adhere to the additional special restrictions and development standards of this section.

(b) Applicable Location of Section [14.44.044](#) Regulations. Storage facilities shall be ~~allowed~~ permitted ~~in the Local Business~~ those zoning districts identified in Table 14.40-II on roads designated as State routes or State highways.

(c) Special Restrictions.

(1) The storage use shall be limited in size to 25 percent coverage or less per development.

(i) Each development is defined as the area of contiguous ~~Local Business~~ commercially zoned parcels.

(ii) The use coverage is defined as the amount of space solely devoted to supporting the storage use on each development. This may include building footprints, drive aisles between storage facilities, loading bays, parking, landscape screening, offices and associated appurtenances. The use coverage percentage may exclude critical areas and features shared within a development like pedestrian facilities, internal access and circulation roads, and shared parking.

(d) Design Standards.

~~(1) Self storage facilities are permitted only within multi-story structures.~~

(1) Storage facilities shall have an outward appearance that more closely resembles a commercial or mixed-use development than a warehouse or single-story linear shed design, and shall be subject to the design review requirements of Section [14.16C.050](#).

(2) Storage facilities shall include architectural and design features that promote visual compatibility with commercial or mixed-use developments. Examples of these features may include providing facade modulation; using varied or contrasting exterior building materials and detailing; screening blank walls; incorporating varied roof-lines among other features.

(3) Storage facilities shall shield exterior lighting so as not to directly illuminate or create visible glare from adjacent residential properties subject to the requirements of Section [14.38.080](#).

(4) Storage facilities are subject to the screening requirements of a Type A screen, as described in Chapter [14.76](#), when abutting residential zoning districts.

(i) Open storage facilities must provide an additional Type C screen that includes trees, shrubs and ground cover or similar vegetation to screen the exterior of the open storage facility's enclosure. (Ord. 1016, Sec. 2, 2018)

14.44.070 Recreational Park Trailers~~/and~~ Recreational Vehicles (RV) within Approved Mobile Home ParksRegulations

(a) Recreational park trailers and recreational vehicles as defined in WAC [296-150P-0020](#) and [296-150R-0020](#) and Chapter [14.08](#) shall be permitted in manufactured/mobile home parks. Existing recreational park trailers and RVs within existing manufactured home/mobile home parks on or prior to the effective date of this section are exempt from the requirements listed below. As allowed by State law the following additional standards shall apply when housing governed by this section is sited:

(1a) Recreational park trailers and recreational vehicles may be installed within a manufactured home park pursuant to RCW [35A.21.312](#) and the requirements listed below:

(i4) Utility hookups shall meet local, State, and federal building code standards;

(ii2) Recreational park trailers and recreational vehicles shall be equipped with an internal toilet and an internal shower; or the manufactured/mobile home park shall provide a common toilet and shower facility for the residents of the park;

(iii3) Recreational park trailers or recreational vehicles shall be connected to the sanitary sewer system provided within the park if used as permanent residence; otherwise, waste from the unit must be disposed of at an appropriate receiving location;

(iv4) The unit shall be placed on an impervious pad made of cement concrete or asphalt concrete; and

(v5) Any steps, landings, stairways, decks, and balconies (not originally attached) shall meet the requirements of the International Residential Code, shall be independently supported, and require a building permit.

(2b) Approvals.

(1) If a recreational park trailer or recreational vehicle is to be used as a temporary residence, it must comply with the standards of Section [14.16C.110](#).

(2) If a recreational park trailer or recreational vehicle is to be used as a permanent residence, it must comply with the standards of Section [14.16C.105](#) for a site plan review, but will be considered a Type I review. Recreational park trailers or recreational vehicles used as permanent residences are considered dwelling units subject to all applicable impact fees that apply per Chapters [14.110](#), [14.112](#) and [14.120](#).

~~(3e)~~ Inspections. The City and/or affected agency shall inspect the installation of each recreational park trailer or recreational vehicle to determine that its installation complies with this section before residency begins.

~~(4d)~~ Insignia Required. All recreational park trailers or recreational vehicles, installed within the City, shall contain the insignia of approval of the State of Washington or be exempt from said insignia, pursuant to the standards of the State of Washington for the manufacture of such homes. (Ord. 991, Sec. 2, 2017)

14.44.073 Mobile Home Parks

(a) Mobile home parks established prior to the effective date of this Code shall continue to be governed by all standards relating to density, setbacks, landscaping, and off-street parking in effect at the time they were approved. New mobile home parks shall comply with the foregoing standards:

(1) Mobile home parks shall be required to provide central storage areas throughout the mobile home park for the location of solid waste containers. Containers shall be located so that no mobile home is more than 150 feet from the closest container.

(2) Mobile home parks shall provide open space as described within the Design Guidelines.

(3) The minimum site -aarea shall be three acres.

(4)-Individual utility hookups are required for permanent residences. Common toilets and showers are required for parks containing temporary residences.

(4) Individual recreational park trailers or recreational vehicles within the park shall be approved pursuant to the standards in 14.44.070.

14.44.075 Farm Animals

Farm animals are permitted in [single-family](#) residential zoning districts, provided the following standards are met:

- (a) The keeping of animals complies with the animal regulations contained in Title [5](#) of the Lake Stevens Municipal Code.
- (b) Farm animals may be kept only on lots of two and one-half acres or larger except small farm animals such as rabbits, fowl, [miniature goat breeds](#), and household pets (including pot-belly pigs) may be kept on residential lots of any size, provided they are kept in a manner so as not to constitute a nuisance pursuant to Chapter [9.60](#) (Nuisance Activity).
- (c) Farm animals may be kept only for the personal use, whether it be for recreational, personal enjoyment, social and educational purposes or food production. Keeping of animals for commercial purposes is prohibited in residential zones, except where specifically allowed pursuant to Table 14.40-I.
- (d) Farm animals must be kept a minimum of 50 feet from any stream buffer or wetland buffer. (Ord. 903, Sec. 32, 2013; Ord. 607, Sec. 2, 1999; Ord. 468, 1995)
- (e) [Properties annexed into the city that do meet the provisions of subsections \(b\) and \(d\) but which can demonstrate an existing vested use of the property under county regulations at the time of annexation may maintain said use, but may not materially increase the number of animals kept, reduce the existing wetland or stream buffer, or otherwise expand the scope or scale of the nonconformance to LSMC 14.44.075.](#)



Staff Report City of Lake Stevens Planning Commission

Planning Commission Briefing
Date: **April 21, 2021**

SUBJECTS: Lot Status Code Amendment

CONTACT PERSON/DEPARTMENT: Sabrina Gassaway, *Associate Planner*

SUMMARY: Update on Proposed Lot Status Code Amendment (LUA2021-0001)

ACTION REQUESTED OF PLANNING COMMISSION: None required

Background

On [March 3](#), staff introduced the Commission to a proposed code amendment that would add a new section related to legal lot status to Chapter 14.16C LSMC, with a definition to be added to LSMC 14.08. Legal lots are parcels of land that were created pursuant to the zoning and subdivision requirements in place at the time of the lot creation. Since 1969, subdivisions in Washington state have been regulated by [Chapter 58.17 RCW](#), which provides state regulations for the process and recording of subdivisions and other methods of land division and is implemented at the local level through adoption of a subdivision ordinance.

Over the last fifty years, the Washington State Office of the Attorney General (AGO) has issued a number of legal opinions that found that local jurisdictions have the right to make lot status determinations on lots that were created prior to the adoption of RCW 58.17. Since 1989, Lake Stevens lot status determinations have been evaluated through a series of administrative policies. However, the review process lacks a codified framework and decision criteria on which these determinations are made or an avenue for appeal. For this reason, staff is proposing a Land Use Code amendment.

Draft Code Amendment

The proposed code amendment is included as Attachment 1 and includes:

- Applicability Criteria (Establishing situations where a Lot Status Determination is required)
- Listed required submittal materials
- Decision Criteria
- Method for appeal

. As proposed, staff would continue to process lot status determinations through a Type I land use application when no associated permit is being requested, with approval by the Community Development Director.. The proposed code also gives staff the ability to issue a lot status determination concurrently with a building or land use permit, without requiring a separate Type I land use application. While researching other lot status codes, staff found examples of alternative methods for determining lot status and have included them in the proposed code. These alternatives provide relief in situations where properties were divided through tax segregation, deed, or fee simple transfer purchase but the lot in questions meets the minimum zoning standards per Title 14.

Next Steps

Staff would like feedback on the proposed code language, and will also be briefing the City Council on the amendment in the coming weeks. If commissioners are comfortable with the general framework of the amendment, staff will proceed with the SEPA and Department of Commerce 60-day review processes, and identify dates for the required Planning Commission and City Council public hearings.

Attachments:

- 1) Draft Lot Status Code

16.04.050 Categorical Exemptions.

(a) The City adopts by reference the following sections of Chapter [197-11](#) WAC regarding categorical exemptions:

[197-11-800](#) Categorical exemptions [\(except as otherwise established below\)](#)

[197-11-880](#) Emergencies.

[197-11-890](#) Petitioning Department of Ecology to change exemptions.

~~(b) Under WAC [197-11-800\(1\)\(a\)](#) and (c), the City may raise categorical exemption levels for certain types of minor new construction described in WAC [197-11-800\(1\)\(b\)](#). Local conditions, including zoning or other land use plans or regulations, implemented by ordinance, shall support any raised categorical exemption level. If the City increases any categorical exemptions levels, they shall send these to the Department of Ecology. The maximum level that any such category exemption may be raised is specified in WAC [197-11-800\(1\)\(c\)](#). (Ord. 870, Sec. 2 (Exh. 1), 2012)~~

[\(b\) Flexible Thresholds for Minor New Construction Categorical Exemption](#)

[The City establishes the following exempt levels for minor new construction as allowed under WAC 197-11-800\(1\)\(c\) and \(d\), based upon local conditions:](#)

[\(i\) For single-family residential projects, up to fifteen \(15\) dwelling units;](#)

[\(ii\) For multifamily residential projects, up to thirty \(30\) dwelling units;](#)

[\(iii\) For agricultural structures, up to ten thousand \(10,000\) square feet;](#)

[\(iv\) For office, school, commercial, recreational, service or storage buildings, up to thirty thousand \(30,000\) square feet;](#)

[\(v\) For parking facilities, up to ninety \(90\) parking spaces;](#)

[\(vi\) For fills or excavations, up to one thousand \(1,000\) cubic yards. All fill or excavation, of any quantity, necessary for an exempt project in subsections \(i\) through \(v\) of this section shall be exempt.](#)

[c\) The exemptions in this subsection apply except when the project:](#)

[\(i\) Is undertaken wholly or partly on lands covered by water](#)

[\(ii\) Requires a license governing discharges to water that is not exempt under RCW 43.21C.0383](#)

(iii) Requires a license governing emissions to air that is not exempt under RCW 43.21C.0381 or WAC 197-11-800 (7) or (8); or

(iv) Requires a land use decision that is not exempt under WAC 197-11-800(6).

d) Whenever the city establishes new exempt levels under this section, it shall send them to the Department of Ecology, Headquarters Office, Olympia, Washington, 98504 under WAC 197-11-800(1)(c).

Chapter 14.16C

LAND USE ACTIONS, PERMITS AND DETERMINATIONS - DECISION CRITERIA AND STANDARDS

Sections:

- [14.16C.005 Purpose](#)
- [14.16C.010 Scope](#)
- [14.16C.015 Administrative Conditional Uses](#)
- [14.16C.020 *Repealed*](#)
- [14.16C.025 Administrative Modifications](#)
- [14.16C.030 Changes of Use](#)
- [14.16C.035 Code Interpretations](#)
- [14.16C.040 Comprehensive Plan Amendments - Text and Maps](#)
- [14.16C.045 Conditional Uses](#)
- [14.16C.050 Design Review](#)
- [14.16C.055 Development Agreements](#)
- [14.16C.060 Essential Public Facilities](#)
- [14.16C.065 Events](#)
- [14.16C.070 Home Occupations](#)
- [14.16C.075 Land Use Code Amendments](#)
- 14.16C.078 Legal Lot Status Determination**
- [14.16C.080 Planned Neighborhood Developments](#)
- [14.16C.083 Planned Action Projects](#)
- [14.16C.085 Reasonable Use Exceptions](#)
- [14.16C.090 Rezones - Official Zoning Map Amendments](#)
- [14.16C.095 Right-of-Way Vacation](#)
- [14.16C.100 Shoreline Permits](#)
- [14.16C.105 Site Plan Review](#)
- [14.16C.110 Temporary Use](#)
- [14.16C.115 Variances](#)
- [14.16C.120 Administrative Authority](#)

14.08 Definitions

"Lot of record" means: (1) Lots created through a subdivision or short subdivision and recorded with Snohomish County after 1969 (not all short plats were required to be recorded before 1974); (2) land for which a deed or other instrument describing the land was recorded with Snohomish County prior to 1969; (3) Lots created per RCW 58.17.040 or (4) land that receives a lot status determination by the city of Lake Stevens or previous lot status determination from Snohomish County.

"Lot Status Determination" means an administrative review process to determine if a lot was legally created and is eligible for conveyance and/or whether the lot is eligible to be considered for development permits.

14.16C.078 Lot Status Determination

(a) Purpose and Applicability

- (1) The purpose of this section is to provide a process and criteria for determining whether a lot, tract, or parcel (parcels) is a lot of record consistent with applicable state and local law and to include alternate procedures for determining lot status for a parcel of land that may not qualify outright as a lot of record.
- (2) The standards of this section apply to all requests for lot status determinations or for any applications relating to land development, building permits, property division, boundary line adjustment or any other land use actions when a lot status determination is necessary pursuant to RCW 58.17.210,.
- (3) The applicant shall bear the burden of proving that a lot, tract, or parcel is a lot of record.

(b) Determination Process

A determination of lot status may be formally requested through the following ways.

- (1) Lot status determinations as part of a building permit or other land use and development request.
 - (i) Building permit or land use and other development applications on parcels not part of a platted land division prior to 1969 shall be reviewed for compliance with the criteria in this section.
 - (ii) Concurrent review with an underlying application shall follow the process for the underlying building permit or land use permit.
 - (iii) A separate written approval will not be issued unless requested by the applicant.
- (2) Lot status determinations without a building permit or other land use and development request.
 - (i) Lots status determinations not involving any other concurrent city reviews shall submit a complete Type I application and current fee.
 - (ii) The lot status determination shall be reviewed for compliance with the criteria in this section.
 - (iii) The city will issue a written determination of lot status.

(c) Submittal Requirements

The following materials shall be submitted to the City for review under this section

- (1) Complete application (without concurrent review)
- (2) Written narrative
- (3) Title Report (recent within 30 days)
- (4) Scaled site plan including property lines, dimensions, structures, site improvements, easements and utility locations

- (5) Evidence of legal lot status including
 - (i) Prior approved and recorded short subdivision or subdivision approval showing formal lot creation;
 - (ii) Recorded deeds or contracts describing the lot or lots either individually or as part of a conjunctive legal description (e.g., Lot 1 and Lot 2); or
 - (iii) Historic tax records or other similar evidence, describing the lot as an individual parcel.
- (d) Decision Criteria. The Planning Director or designee shall provide a lot status determination for a property when the request meets one or more of the following criteria:
 - (1) The parcel was created through a subdivision or short subdivision in the city of Lake Stevens after June 17, 1970.
 - (2) The parcel was created through a subdivision or short subdivision recorded with Snohomish County or approved by Snohomish County prior to annexation and after August 9, 1969.
 - (3) The parcel was created through a subdivision or short subdivision with written approval by Snohomish County between 1937 and 1969 and has been subsequently developed, sold through deed transfer and meets the requirement of 14.16C.078(e)(3).
 - (4) The lot was created by a process defined in RCW 58.17.040 RCW
- (e) Alternate methods for determining lot status, The Planning Director or designee may provide a legal lot status determination for a property when the request meets one or more of the following criteria.
 - (1) Parcels created through territorial platting prior to 1937 not subsequently developed, altered or improved shall not be considered lots of record, unless the proponent can demonstrate that the parcel meets the requirement of 14.16C.078(e)(3).
 - (2) Tax parcels created for tax segregation purposes by the County Assessor are not considered lots of record, pursuant to Chapter 58.17 RCW or Chapter 14.18 LSMC, unless the proponent can demonstrate that the parcel meets the requirement of 14.16C.078(e)(3) and the following:
 - (i) The parcel was created by a tax segregation process defined in Chapter 84.56 RCW prior to March 4, 1972;
 - (ii) The parcel was defined by metes and bounds legal description or fractional section description and conveyed by notarized deed prior to December 31, 1968; and
 - (iii) The parcel was conveyed as an individually described parcel to separate, noncontiguous ownerships through a fee simple transfer or purchase.
 - (3) For consideration for an alternative determination of lot status, the proponent must demonstrate:
 - (i) The parcel meets the zoning regulations in effect at the time the lot was created; or
 - (ii) The parcel substantially meets or can meet current zoning standards per Title 14 including but not limited to access to public utilities, site access, road, sidewalk, stormwater, lot size, setbacks, etc.; and
 - (iii) The parcel does not adversely impact public health or safety; and
 - (iv) The parcel does not adversely affect or interfere with the implementation of the comprehensive plan.

- (v) For purposes of reviewing the status of pre-existing parcels, parcels within 10 percent of lot size standards shall be considered to substantially meet the current standards unless the Director or designee determines that public health or safety impacts are present.

(d) Prior Determination.

- (1) Lots which have been recognized through a previous lot status determination, including approvals from Snohomish County before annexation, or other planning approval in which lot recognition is made, are lots of record. Such parcels shall remain lots of record unless the property owner consolidates or merges the lot with another lot or alters the lot or portions of a lot subject to a court decision.
- (2) The City shall have the authority to review lots that have been altered through the boundary line agreement process identified in RCW 58.04.007. If the city determines that the limited parameters of RCW 58.04.007 do not apply to a recorded boundary line agreement, the city's determination of lot status shall be based on the recorded boundaries prior to the agreement, unless a boundary line adjustment is approved through the process outlined in LSMC 14.18.200.