



PLANNING COMMISSION AGENDA

Regular Meeting Date: 09/15/2021

BY REMOTE PARTICIPATION ONLY

JOIN HERE <https://us02web.zoom.us/j/89102273979>

Meeting ID: 891 0227 3979 +1 253 215 8782 US (Tacoma)

- **CALL TO ORDER 6:00pm**
Pledge of Allegiance
- **ROLL CALL**
- **GUEST BUSINESS**
- **ACTION ITEMS**
 1. Approve minutes for 08/18/2021
- **PUBLIC HEARING Permissible Uses(LUA2021-0136)** Assistant Planner
Needham
- **Public hearing presentation will follow the public hearing format listed below:**

CONTINUED PUBLIC HEARING FORMAT

1. **Staff Presentation**
2. **Commission's questions for staff**
3. **Public comments**
4. **Close public comments portion of hearing by motion**
5. **Close Hearing by motion**
6. **COMMISSION ACTION BY MOTION—Recommendation to Council**
 - A. Approve**
 - B. Deny**
 - C. Continue**

DISCUSSION ITEM

1. **Briefing: Non-Conforming Uses** Senior Planner Melissa Place

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
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

PLANNING COMMISSION MEETING MINUTES



REMOTE PARTICIPATION 09-18-2021

CALL TO ORDER: 6:00 pm by Vice Chair Todd Welch

MEMBERS PRESENT: Mike Duerr, Janice Huxford, Vicki Oslund, Jennifer Davis, Linda Hoult

MEMBERS ABSENT: John Cronin

STAFF PRESENT: Community Development Director Wright, Planning Manager David Levitan, Senior Planner Melissa Place, Assistant Planner Jill Needham and Clerk Jennie Fenrich

OTHERS PRESENT: Councilmembers Gary Petershagen and Steve Ewing

Chair Cronin called the meeting to order at 6:00 p.m. and led the Pledge of Allegiance.

Roll Call: All present except Chair John Cronin. Commissioner Huxford moved and Linda Hoult seconded to excuse his absence. Motion approved. 6-0-0-1.

Guest business: None.

Approval of Minutes: Minutes of 07/07/2021 were approved 6-0-0-1.

Public Hearing on Impact Fees (LUA20201-0133): Planning Manager Levitan gave a PowerPoint presentation on proposed code amendments related to school and traffic mitigation impact fees, which had been introduced during a June 16 work session. There were no comments from the public. After a brief discussion, Commissioner Huxford moved to forward to City Council to approve the amendment as presented, with the changes to the traffic impact zones map proposed by staff during the hearing. Motion seconded by Commissioner Davis. Motion approved. (6-0-0-1).

Discussion Items

Permissible Use Table: The Commission held a seventh work session to discuss proposed amendments to LSCM Chapter 14.40 (Permissible Uses) and other related chapters. The discussion focused primarily on questions that had been included in the staff report, including regulations regarding storage facilities; restaurant and retail uses in industrial areas; single family residences and accessory dwelling units in multifamily residential zones; and home occupations in non-residential zones. At the conclusion of the

work session, commissioners directed staff to schedule a public hearing for the proposal on September 15, 2021.

Nonconformities: The Commission held a second work session to discuss proposed amendments to LSMC Chapter 14.32 (Nonconforming Situations). Commissioners discussed a number of topics addressed in the staff report, including how to treat subareas; whether to include an amortization clause; and the appropriate threshold for allowing the replacement of destroyed structures. Commissioners requested a number of changes to the code language and requested an additional work session on September 15, 2021.

Commissioner Reports: Commissioner Hoult inquired as to when the Commission may return to in person or hybrid meetings. Commissioner Huxford asked when a briefing on the updated Buildable Lands report would be provided. She also asked about the status of updating the speed limit to 25 mph along the lake in the SE interlocal annexation area, and requested that LSPD start enforcement of the new speed limits. Commissioner Welch reminded the group that the Veterans Coffee Klatch was scheduled for August 21 and invited any veterans to attend. Commissioner Duerr noted he had heard reports that Covid booster shots will soon be available those who are immunocompromised.

Planning Manager Report: Community Development Director Russ Wright responded to the question of in person meetings. He said the City Council is continuing online meetings for at least the next month due to the recent surge in Covid cases. He reported that virtual meetings have provided more opportunity for public engagement as reflected in number of participants in virtual meetings with City Council, Park Board, and public meetings for development projects. He reported the Southeast Interlocal Annexation had been completed and there will be a census taking place for the new residents. Public Works and Police are working together to get the speed signs and speed limits posted and enforced. Director Wright also reported there would be a City Council summer retreat later in August, and that topics would include Capital Project updates, the proposed City Hall Campus, and park improvements. He noted that the County is finalizing the updated Buildable Lands Report and that staff will present the findings at a future meeting.

Council member Petershagen invited commissioners and members of the public to attend the Council retreat via Zoom.

Adjourn: Moved by Commissioner Hoult, seconded by Commissioner Welch to adjourn the meeting at 7:22 p.m. On vote the motion carried (6-0-0-1).

Jennie Fenrich, Planning Commission Clerk



One Community Around the Lake

Staff Report Lake Stevens Planning Commission Planning Commission Public Hearing

Date: **September 15, 2021**

Subject: Public Hearing for Proposed Amendments to LSMC 14.40 (Permissible Uses) and Associated Sections

Contact Person/Department: David Levitan, Planning Manager

ACTION REQUESTED OF PLANNING COMMISSION:

Planning Commission is asked to hold a public hearing and forward a recommendation to City Council on LUA2021-0136, a city-initiated land use code amendment to LSMC 14.40 (Permissible Uses) and associated sections (LSMC 14.08, 14.44, 14.72 and 5.08) as shown in Attachment 1.

BACKGROUND

The City of Lake Stevens regulates the types of land uses permitted in different parts of the city through Lake Stevens Municipal Code (LSMC) [Chapter 14.40](#) (Permissible Uses), in conjunction with a number of associated chapters such as [Chapter 14.08](#) (Basic Definition and Interpretations), [Chapter 14.38](#) (Subarea Plans), and [Chapter 14.44](#) (Supplementary Use regulations). The central component of Chapter 14.40 is the Table of Permissible Uses (Table 14.40-I), which identifies which uses are permitted in each of the city's individual zoning districts. As noted in LSMC [14.40.020](#), each use is assigned either the letter "P", "A", or "C":

- The letter "P" denotes that the proposed use is outright permitted in that zoning district, subject to all code requirements of LSMC Title 14;
- The letter "A" denotes that the proposed use requires an Administrative Conditional Use Permit (ACUP), a Type II land use permit which is outlined in [LSMC 14.16C.015](#);
- The letter "C" denotes that the proposed use requires a Conditional Use Permit (CUP), a Type III land use permit which requires a public hearing and is outlined in [LSMC 14.16C.045](#); and
- A blank space denotes that the proposed use is prohibited in that zoning district.

With commercial land uses continuing to expand and the city seeking to facilitate greater economic development, in [October 2020](#) staff held a work session with Planning Commission to introduce potential amendments to LSMC 14.40 and associated chapters, with the hopes of:

- Updating and consolidating the uses identified in Table 14.40-I, many of which were overly detailed, antiquated, or obsolete;
- Developing a more complete and defined set of performance standards (supplementary use regulations) for certain uses, in the hopes of streamlining the development and permitting process by reducing the number of uses that require a CUP or ACUP;
- Better linking Chapter 14.40 to LSMC 14.38 (Subarea Plans), which includes a list of permissible uses and development standards for areas within the boundaries of the city's three adopted

subarea plans that supersede LSMC 14.40 (when conflicts exist) and which cover most but not all the city's commercial areas; and

- Refining the process and level of discretion for evaluating similar uses not clearly identified in Table 14.40-I.

Commissioners continued their discussion of the proposed scope and structure of the code amendment in [November 2020](#), including the use of North American Industrial Classification System (NAICS) codes to organize use categories and a proposal to break Table 14.40-I into three separate tables: residential uses, non-residential uses (commercial/industrial), and special uses (parks, schools, utilities, etc.). They then began their review of draft code updates in [January 2021](#), when they reviewed the first draft of the non-residential use table, which was followed by a [February 2021](#) work session to review first drafts of the residential and special use tables. Commissioners were supportive of the proposed structure of the three use tables and provided excellent feedback on the classification/categorization of uses and the appropriate review levels. Staff also shared drafts of the tables with City Council during a [March 2021](#) workshop, after introducing the project during a [December 2020](#) workshop.

Staff continued to refine the three tables while also working on amendments to the introduction ("preamble") to Chapter 14.40, supplementary use regulations, and definitions. In [April 2021](#), commissioners reviewed and provided comments on the revised preamble and examples of updated supplementary use regulations. In [July 2021](#) commissioners reviewed the entirety of the proposed code amendment, including:

- The preamble to Chapter 14.40
- The three use tables
- The supplementary use regulations (Chapter 14.44)
- Other associated sections, including the Definitions of Basic Terms (Section 14.08.010) and the Table of Parking Requirements (Table 14.72-I)

Commissioners provided significant input during the July 2021 work session and responded to staff questions on the following topics:

- Requiring that storage facilities 1) obtain an ACUP in the city's industrial zones and 2) prepare an economic analysis that demonstrates why other uses are not feasible;
- Requiring an ACUP for retail uses in the city's industrial zones;
- Continuing to allow (or alternately, prohibit) detached single-family residences (SFRs) in the Multifamily Residential (MFR) zoning district;
- Continuing to allow (or alternately, prohibit) accessory dwelling units (ADUs) in the Multifamily Residential (MFR) zoning district (when accessory to a detached SFR); and
- Allowing home occupations in legal non-conforming residences within commercial and industrial zoning districts.

At the conclusion of the July 2021 work session, commissioners requested a final work session before scheduling a public hearing for the proposal. Staff incorporated Commission comments into an updated draft of the amendment package, which was reviewed during an [August 2021](#) work session. Commissioners provided comments and asked for clarification on a few topics, including:

- questions about the definitions of "family" (as referenced in updated section LSMC 14.40.040) and "Oxford House" (which was added to the residential use table);
- clarification that ADUs should continue to be allowed within the MFR zone (when accessory to a detached SFR);
- the city's enforcement capabilities for existing "odor threshold" language in LSMC 14.44.230;

- whether amendments to LSMC 14.44.038 (Temporary Encampments) were being considered (staff clarified that section had been updated in 2018 and was not part of this proposal); and
- clarification that the city's marijuana regulations (LSMC 14.44.097) were properly referenced in the updated non-residential table

At the conclusion of the August 18 work session, commissioners indicated their support for scheduling the public hearing for September 15, 2021. Staff noted that the draft amendment had been submitted to the Washington State Department of Commerce for the required 60-day review, and that a Determination of Nonsignificance (DNS) would be issued for the proposal under the State Environmental Policy Act (SEPA) concurrently with the Notice of Public Hearing.

PROPOSAL AND STAFF RECOMMENDATION

Staff recommends the following amendments, shown in Attachment 1, to LSMC Title 14.

- Definitions (LSMC 14.08)
 - Adds several new definitions for uses that have been added to the three use tables
 - Refines, adds and deletes definitions for several categories of residences
- Permissible Uses (LSMC 14.40)
 - Splits the existing Table of Permissible Uses (Table 14.40-I) at the end of the chapter into three separate tables with several new, deleted and/or revised uses: Table 14.40-I (Residential Uses), Table 14.40-II (Non-Residential Uses), and Table 14.40-III (Special Uses)
 - Adds a new section (14.40.015) that specifically references the city's Subareas Plans chapter (Chapter 14.38), and notes that the regulations in Chapter 14.38 supersede those in Chapter 14.40
 - Provides more clarity in Section 14.40.030 regarding permissible and prohibited uses
 - Simplifies language related to accessory uses (Section 14.40.040), the use of supplementary use regulations (Section 14.40.050), and how to evaluate combinations of uses that require different types of permits (Section 14.40.070)
 - Deletes several existing sections that are adequately addressed in other LSMC sections, including Jurisdiction over Uses Otherwise Permissible and More Specific Use Controls
- Supplementary Use Regulations (LSMC 14.44)
 - Moves Home Occupations from LSMC 14.16C.070 to LSMC 14.44.010, and provides additional clarity
 - Revises Section 14.44.044 (Storage Facilities), including a new requirement to prepare an economic analysis with the development application that supports the need for addition storage facilities, rather than more intensive commercials uses.
 - Revises Section 14.44.075 (Farm Animals) to specifically note that properties annexed into the city with vested rights to farm animals shall maintain those rights following annexation
 - Simplifies Section 14.44.210 (Noise) by removing specific noise requirements and instead referencing Chapter 173-60 of the Washington Administrative Code (WAC)
 - Deletes and refines languages in a few other sections for simplicity and readability
- Parking (LSMC 14.72)
 - Amends Table 14.72-I (Table of Parking Requirements) to be consistent with revisions made to Chapter 14.40
- Animal Regulations, Definitions (Chapter 5.08)

- Deletes the definition of “Covered Animal” and revises the definition of “Farm Animals” to be consistent with revisions made to Section 14.44.075 (Farm Animals)

FINDINGS AND CONCLUSIONS

Per [LSMC 14.16C.075](#)(f), the City Council shall make the following findings when approving land use code amendments:

1. The amendment is consistent with the Lake Stevens Comprehensive Plan

- Land Use Element Goal 2.1: Provide sufficient land area to meet the projected needs for housing, employment and public facilities within the City of Lake Stevens
- Land Use Element Policy 2.1.1 – Accommodate a variety of land uses to support population and employment growth, consistent with the city's responsibilities under the Growth Management Act, Regional Growth Strategy and the Countywide Planning Policies
- Land Use Element Policy 2.1.3 – Review land uses in conjunction with updates to the Buildable Lands Report and Growth Monitoring Report to ensure employment and population capacity estimates are being met. The strategy will be used to amend the Plan as necessary to remain consistent with actual development trends.
- Land Use Element Goal 2.2: Achieve a well-balanced and well-organized combination of residential, commercial, industrial, open space, recreation and public uses

Conclusions – Adoption of the city-initiated amendment is consistent with the goals and policies of the city's Comprehensive Plan. As the city continues to grow and expand, it needs to periodically assess and revise the types of uses permitted in different zoning districts to ensure it meets its residential and employment growth targets. The proposed amendment will serve to help the city meet these goals.

2. The amendment complies with the Growth Management Act (RCW 36.70A.106)

- Code amendments are subject to review by the Washington State Department of Commerce.
- The city provided the required 60-day notice to the Department of Commerce on August 12, 2021 of its intent to amend LSMC 14.100 and 14.112, with a proposed adoption date of October 12, 2021. The Department of Commerce acknowledged the proposed amendment under Submittal ID 2021-S-3005.
- 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.

3. The amendment serves to enhance the public health, safety and welfare

Conclusions – The recommended amendment will refine and simplify several LSMC sections to provide better clarity and reliability on the types of residential, commercial, industrial, and special uses that are permitted in different parts of the city. Revisions to Table 14.40-I (which is proposed to be split into three separate tables) will result in updated terminology and use classifications and incorporate recent code amendments related to subarea plans and infill/innovative housing. Revisions to several of the city's supplementary use regulations (Chapter 14.40) will provide clear and objective standards to evaluate proposed developments, and reduce the need for CUPs and ACUPs, which will save local businesses both time and money.

Public Notice and Comments

- Land use code amendments 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 Determination of Nonsignificance (DNS) in the Everett Herald on September 3 and September 10, 2021. The notice was also posted at City Hall and on the [city's website](#) on or around September 3, 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.
- Planning Commission held seven work sessions to discuss the proposed amendment and review draft code language, while the City Council was briefed during three workshop meetings.
- On August 16, the city distributed drafts of the proposed amendment to the Lake Stevens Chamber of Commerce and posted it on the [city website](#).

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

State Environmental Policy Act (SEPA) (Chapter 197-11 WAC and Title 16 LSMC)

- City staff prepared an environmental checklist under the State Environmental Policy Act (SEPA) and determined that the proposal is unlikely to have significant adverse environmental impacts.
- The city issued a Determination of Nonsignificance (DNS) for the proposal on September 1, 2021, which was distributed to the Department of Ecology SEPA Register, local tribes, and state and local jurisdictions, and noticed concurrently with the Notice of Public Hearing.

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

RECOMMENDATION: Forward a recommendation to City Council to APPROVE the proposed amendments to LSMC Chapters 14.08, 14.40, 14.44, 14.72 and 5.08 (LUA2021-0136), as shown in Attachment 1. City Council is tentatively scheduled to hold a public hearing to consider the Planning Commission's recommendation on October 12, 2021.

ATTACHMENTS

Attachment 1 – Recommended Amendments to LSMC Chapters 14.08, 14.40, 14.44, 14.72 and 5.08.

Attachment 1

14.08.010 Definitions of Basic Terms (Only added/revised/deleted definitions included)

Community Center: An institution used for athletic, social, civic, or recreational purposes, operated by a nonprofit or government organization, and open to the public on an equal basis.

Covered Animal. Any hooved animal usually found on farms, such as horses, ponies, mules, bovine animals, sheep and goats.

Essential Public Facility. Any facility owned, operated or contracted to be operated by a unit of local or State government, by a public utility or transportation company, or by any other entity providing a public service as its primary mission may qualify as an essential public facility. In general, an essential public facility is a necessary component of a system or network which provides a public service or good; and may be difficult to site because of potential significant opposition. [A complete list of essential public facilities can be found in Table 14.40-III.](#)

Farm Animals. Any animal typically found on farms and kept predominantly outdoors, including but not limited to horses, ponies, mules, cows, sheep, goats and fowl, and rabbits. Includes but is not limited to covered animals, poultry and rabbits.

Miscellaneous Equipment Rental: An area or building used to store equipment (excluding automobiles) to be rented to the public. Such area may include customer service and support space.

Miscellaneous Repair: An area or building used to repair equipment (excluding automobiles and heavy equipment) to be rented to the public. Such area may include customer service and support space.

Indoor Recreational Facility: An entertainment or recreation facility under private ownership and operated by a for-profit or nonprofit organization providing one or more of the following types of entertainment activities, including but not limited to; cinemas, billiard parlors, nightclubs, coin-operated arcades, bowling alleys, ice skating and roller skating.

Outdoor Recreational Facility. An entertainment or recreation facility under private ownership and operated by a for-profit or nonprofit organization providing one or more of the following types of entertainment activities: ice skating; skate park and swimming; or commercial outdoor recreation, including golf courses, archery range, or similar use.

Oxford House (and Similar Uses): Communal living facilities focused on recovery from drug and alcohol addiction, which are recognized as disabilities under the Federal Fair Housing Act, permitted within all

residential zoning districts, and exempt from zoning regulations on the number of unrelated individuals living in one household.

Residence, Duplex. A building designed exclusively for occupancy by two families containing two dwelling units with separate entrances and sharing a common wall that may include side walls, floors or ceilings. Duplexes may be located either on one lot or on separate lots. This definition does not include single-family dwellings within an approved accessory dwelling unit. A two-family residence containing two dwelling units. Units may be stacked or side-by-side, and occupy one single lot. A duplex or separate lots.

Residence, Triplex. A building containing three dwelling units. Units may be stacked or side-by-side and occupy one single lots or separate lots. Triplexes meeting the definition for townhomes may be considered as such.

Residence, Single-Family Attached, One Dwelling Unit Per Lot. A residential use consisting of a single building containing two dwelling units which share a common wall (including without limitation the wall of an attached garage or porch), but located on two separate lots containing no other dwelling units in such a manner that a lot line bisects the building along the common wall and that each dwelling unit is completely on a separate lot.

Residence, Single-Family. A building containing one dwelling unit. Unit may also have an attached or detached Accessory Dwelling Unit.

Residence, Fourplex. A building containing only four dwelling units. Units may be stacked or side-by-side and occupy one single lots or separate lots. Fourplexes meeting the definition for townhomes may be considered as such.

Residence, Two-Family. A residential use consisting of a building containing two dwelling units. If two dwelling units share a common wall, even the wall of an attached garage or porch, the dwelling units shall be considered to be located in one building.

Residence, Two-Family Conversion. A two-family residence resulting from the conversion of a single building containing at least 2,000 square feet of gross floor area that was in existence on the effective date of this provision and that was originally designed, constructed and occupied as a single family residence.

Delete two family conversion definition.

Utility Facilities: Publicly, privately, or cooperatively owned facilities other than professional offices that contribute to the provision of utility services, including water, wastewater (sewer), stormwater, electricity, telecommunications, and natural gas.

Chapter 14.40 – Permissible Uses

14.40.010 ~~Table of Permissible Use Tables~~.

~~Tables 14.40-I-III~~, the ~~Table of Permissible Use Tables~~, 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)

[14.40.015](#) Uses within Subareas

~~Permissible and prohibited uses withinfor adopted subarea zoning districtsplan boundaries (as identified on the Official Zoning Map) are listed in Section 14.38.020. Identified principal and secondary uses are both considered permissible uses, although principal uses are preferred. For development within adopted subareas, see Per SectionLSMC 14.38.015 and 14.44.030 (Development within Adopted Subareas), regulations regarding permitted uses in Chapter 14.38 supersede those in other Title 14 chapters, including this one..~~

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

(a) The ~~Table of Permissible Use Tables~~ (~~Tables 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 zon~~inge~~ 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 zon~~inge~~ 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 potential 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. Whenever 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 same 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 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 LSCM 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 to (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, so long as the household (including all renters) is consistent with the definition of "family" in LSCM 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 legally established vehicle accommodation area (as defined in LSMC 14.72.060) 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. Parking on non-approved surfaces is prohibited.

(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 performance standards 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)~~

14.40.090 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)

Table 14.40-I: Table of Residential Uses by Zones

A blank box indicates a use is not allowed in a specific zone. Note: Reference numbers within matrix indicate special conditions apply.
P – Permitted Use; A – Administrative Conditional Use; C – Conditional Use (See Section 14.40.070 for explanation of combinations)

NAICS Code	Use	R4	WR	R6	R8-12	MFR	LB	MU ₁	PBD ₂	BD	C B D	C D	LI	GI	P/SP
GENERAL RESIDENTIAL															
N/A	Single-Family Detached, site built or modular	P	P	P	P	P									
N/A	Class A or B mobile home	P	P	P	P	P									
N/A	Mobile/ manufactured home park	A	A	A	A	P									
N/A	Apartment(s) above permitted nonresidential use					A	P	P	P		P	P	P	P	P
N/A	Cottage housing development ³	P	P	P	P	P			P				P		
N/A	Duplexes	P ⁴	P ⁴	P ⁴	P ⁴	P			P						
N/A	Apartments (<u>five or more attached units</u>)	P ⁴ C ²				P			P						
N/A	Townhomes/rowhouses ¹²				P	P			P						
N/A	Triplexes	P ⁵		P ⁵	P ⁵	P									
N/A	Fourplexes	P ⁵		P ⁵	P ⁵	P									
N/A	Any residential use above a permitted non-residential use						P	P	P						

MISCELLANEOUS & ACCESSORY USES																	
<u>NAICS Code</u>	<u>Use</u>	<u>R4</u>	<u>WR</u>	<u>R6</u>	<u>R8-12</u>	<u>MFR</u>	<u>LB</u>	<u>MU</u>	<u>PBD</u>	<u>BD</u>	<u>C</u>	<u>B</u>	<u>C</u>	<u>D</u>	<u>LI</u>	<u>GI</u>	<u>P/SP</u>
N/A	Accessory Dwelling Units ⁶	P	P	P	P	P		P									
721310	Rooming Houses, Boarding Houses	A	A	A	A	PA		P	P								
N/A	-Mobile/ manufactured home or apartment used exclusively for a night watchman and his/her family ⁷												A	A			
N/A	Tourist Homes	A	A	A	A	A	A	A									
N/A	In-Home Daycare ⁸	P	P	P	P	P		P	P								
N/A	Home Occupations ⁸	P	P	P	P	P	P	P	P				P	P			
N/A	Farm Animals ⁹																
N/A	Planned Residential Developments ¹⁰	EP	P	EP	EP	EP											
N/A	<u>Oxford Houses and Other Similar Uses protected by Federal Fair Housing Act</u>	P	P	P	P	P		P									
N/A	Level I Healthcare Facility	P	P	P	P	P		P						A			
N/A	Level II Healthcare Facility				C	C			P					A			
N/A	Secure Community Transition Facilities												C	C			
N/A	Group homes for licensed for juvenile offenders	C	C	C	C	C	P	P									
N/A	Temporary encampments ¹¹	P	P	P	P	P	P	P									

¹ Subject to Section 14.44.010 (Mixed Use)

² Subject to Section 14.44.090 (Planned Business District)

³ Subject to Section 14.46 Part II

⁴ Subject to Section 14.48.020 (Duplexes in Single-Family Zones)

⁵ Subject to Section 14.46 Part III

⁶[Subject to Section 14.44.045 \(Accessory Dwelling Units\), and only as accessory to a detached single-family residence](#)

⁷[Subject to Section 14.44.065 \(Accessory Apartments in Industrial Zones\)](#)

⁸[Subject to Section 14.44.010 \(Home Occupations\)](#)

⁹[Subject to Section 14.44.075 \(Farm Animals\). Requires a Pasture Plan to be submitted pursuant to Chapter 5.18.](#)

¹⁰[Subject to Section 14.18.300 \(Planned Residential Developments\)](#)

¹¹[Subject to Section 14.44.038 \(Temporary Encampments\)](#)

¹²[Townhomes permitted as part of Planned Residential Development \(PRD\) in single family zones, subject to Section 14.18.300 \(Planned Residential Developments\)](#)

Table 14.40-III: Table of Non-Residential Uses by Zones

NAICS Code	Use	LB	MU ¹	PBD ²	BD	CBD	CD	LI	GI	P/SP
RETAIL³										
N/A	Retail, small/medium scale (<10,000 sf floor area)	P	P	P	<u>A</u>	P	P	<u>PA</u>	<u>PA</u>	P
N/A	Retail, large scale (>10,001 sf floor area)		P	P			P	<u>PA</u>	<u>PA</u>	P
N/A	Outdoor retail displays accessory to a retail use	P		P		P	P	P	P	P
N/A	Marijuana retail ⁴						P	P		
N/A	Open air markets	P	P	P	P	P	P	P	P	P
444220	Outdoor plant nurseries, commercial greenhouses, farm supply stores	P					P	P	P	<u>P</u>
423	Wholesale						P	P	P	<u>P</u>
4411, 4412,	Vehicle sales, new and used	P					P	P	P	
453930	Mobile home sales	<u>P</u>					P	P	P	
PERSONAL & GENERAL SERVICES										
531130	Personal storage facilities ⁵	A ⁶					A	<u>PA</u>	<u>PA</u>	P
447110, 447190	Gas station	P				P	P	P	P	
812910	Pet care, except veterinary and kennels	P	P	P	<u>P</u>	P	P	P	P	P
812910	Kennel				<u>A</u>	<u>A</u>	<u>P</u>	P	P	
6244	Daycare / preschool	P	P	P	<u>P</u>	P	P			
8111	Automotive repair, <u>except not including</u> car washes	P					P	P	P	
811192	Carwashes	P	P	P	P	P	P	P	P	
8121	Barber shops, beauty salons	P	P	P	P	P	P			
812220	Crematorium							<u>P</u>	P	C
812210	Funeral homes						P	P	P	<u>P</u> ⁷
8123	Dry-cleaning, laundry services	P	P	P	P	P	P	P	P	
8113	Heavy equipment rental						P	P	P	
76	Miscellaneous repair	P	P	P	P	P	P	P	P	
53211	Automobile rental	P					P	P	P	
53212, 5322-3	Miscellaneous equipment rental	<u>P</u>	<u>P</u>		<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	
81293	Automobile parking	P	P	P		P	P	P	P	P

HEALTHCARE & SOCIAL SERVICES											
N/A	Level III Healthcare Facility	P	<u>PA</u>	P	P	P	P	P	P		A
6211,	Medical, dental or other healthcare clinic	P	P	P	P	P	P	<u>AP</u>	<u>AP</u>		
6212,											
6213											
OFFICE & PROFESSIONAL SERVICES											
561920	Conference center ³				P	P	P	P	P	P	P
N/A	Offices, business or professional, (<4,000 sf floor area) ³	P	P	P	P	P	P	P	P	P	P
N/A	Offices, business or professional, medium scale (>4,001 sf floor area) ³		P	P	P	P	P	A	A	P	
5211	Banks, including banks with drive-up windows ⁸	P	P	P	P	P	P	P	P	P	P
MANUFACTURING & INDUSTRIAL											
N/A	Light manufacturing ⁹				P		<u>P</u>	P	P		
N/A	Heavy manufacturing ⁹							A	P		
31212,	Wineries, distilleries, and breweries				P		P	P	P		
31213,											
31214											
493	Warehousing				P		P	P	P		
423930	Salvage yards, junkyards, automobile graveyards, tow yards							A	P		
N/A	Marijuana processing/production							A	A		
N/A	Soil processing							<u>A</u>	P		
LEISURE, ACCOMODATION & FOOD SERVICES											
N/A	Mobile Food Vending Units (Food Trucks or Similar Vehicles, Vending Carts) ¹⁰	P	P	P	P	P	P	P	P	P	P
N/A	Mobile Sales and Delivery (Ice Cream Trucks, Mobile Delivery, Peddlers, and Similar Uses) (See Section 14.44.080)	P	P	P	P	P	P	P	P	P	P
722320	Catering	P	P	P	P	P	P	P	P		
7224	Restaurants	P	P	P	P	P	P	P	P	P	P
7225	Bars, taverns, wine bars	P	P	P	P	P	P	A	A		
721110	Hotels, motels	P		P	P	P	<u>P</u>				A
713950, 713990, 713120	Indoor amusement or recreation facility	P	P	P		P	P	A	A		P
N/A	Outdoor amusement, recreation, athletic, or exercise facility	<u>AP</u>	<u>AP</u>	P		<u>AP</u>	P	A	A		A

N/A	Automobile and motorcycle racing tracks								A	A
N/A	Horseback riding or stable								A	A
713940	Indoor athletic and exercise facility	P	P	P		P	P	A	A	A
512131, 711110, 711130	Movie theatres or other indoor theaters	A	A	P		A	P	A	A	A
N/A	Public places of adult entertainment							C	A	

¹[Subject to Section 14.44.010 \(Mixed Use\)](#)

²[Subject to Section 14.44.090 \(Planned Business District\)](#)

³[A retail or office use in a commercial zone is permitted, except adjacent to or across the street from a residential zone shall require an administrative or conditional use permit.](#)

⁴[Subject to Section 14.44.097 \(Marijuana Facilities\)](#)

⁵[Subject to Section 14.44.044 \(Storage Facilities\)](#)

⁶[Permitted outright in the Local Business Zone on a road designated as a State route or State highway, per LSCM 14.44.044\(b\)](#)

⁷[When accompanying a cemetery use](#)

⁸[Subject to Section 14.44.350 \(Drive Thru Windows\)](#)

⁹[A manufacturing or industrial use is permitted, except a use adjacent to or across the street from a residential zone, which will require an administrative or conditional use permit.](#)

¹⁰[Subject to Section 14.44.085](#)

Table 14.40-III: Table of Special Uses by Zones

A blank box indicates a use is not allowed in a specific zone. Note: Reference numbers within matrix indicate special conditions apply.
P – Permitted Use; A – Administrative Conditional Use; C – Conditional Use (See Section 14.40.070 for explanation of combinations)

NAICS Code	Use	R 4	W R	R6	R8-12	MFR	LB	MU 1	PBD 2	B D	C B	C D	LI	GI	P/SP
PARKS & OPEN SPACE															
N/A	Public parks and playgrounds	<u>P</u> A	<u>P</u> A	<u>A</u> A	<u>A</u> A	<u>A</u> A	P	P	P	<u>A</u> A	<u>A</u> A	<u>A</u> A	A	A	P
71290	Nature parks, preserves	P	P	P	P	P	<u>P</u> A	<u>P</u> A	<u>P</u> A		<u>A</u> A	<u>A</u> A	A	A	P
712130	Zoos, botanical gardens, arboretums														A
812220	Cemeteries												P	P	<u>P</u> C
CULTURAL															
813110	Places of worship	A	A	A	A	A	P	P	P	P	<u>P</u> P	<u>P</u> P			
514120	Libraries	A	A	A	A	A	P	P	P	<u>P</u> A	<u>A</u> A				P
712110	Museums, art gallery						<u>P</u> P	<u>P</u> P	<u>P</u> P		<u>P</u> P	<u>P</u> P			P
813410	Social, fraternal clubs and lodges, union halls						<u>P</u> P				<u>P</u> P	<u>P</u> P			
N/A	Community centers									P					P

¹ Subject to Section [14.44.010](#) (Mixed Use).

² Subject to Section [14.44.090](#) (Planned Business District).

³ See regulations in Chapter [14.62](#) for specific regulations. See Chapter [14.38](#) for wireless facilities within subareas.

⁴ See specific regulations in Section [14.62.160](#).

⁵ Only allowed as an essential public facility pursuant to Section [14.16C.060](#)

GOVERNMENTAL & REGIONAL													
922110	Court								C	C	C		C
N/A	Civil defense operations											C	C
N/A	Military reserve, National Guard centers											C	C
491110	Post offices					P	P	P	P	P	P	P	P
	Temporary mobile or modular structures used for public services	P	P	P	P	P	P	P	P		P	P	P
N/A	Penal and correctional facilities, work release, pre-release, or similar facilities										C	C	C
ESSENTIAL PUBLIC FACILITIES													
611110	Elementary and secondary schools	C	C	C	C	C							P
6115, 6116	Trade and vocational schools					C	P	P		P	P	P	A
611310	Colleges and universities,	C	C	C	C	C			P			C	C
922160, 922120, 611910	Fire stations, police stations, ambulance services, rescue squads	C	C	C	C	C	C	P	P	P	P	P	C
458199, 458103	Airports											C	
562111, 562212	Solid waste transfer stations, recycling centers, sanitary landfills											C	C
221320	Sewage/septic sludge recycling center ⁵												
N/A	Community/Neighborhood or regional utility facilities										P	P	

WIRELESS COMMUNICATION FACILITIES														
N/A	Small wireless facilities (towers/antennas 50 feet or less in height) ³	P	P	P	P	P	P	P	P	P		P	P	P
N/A	Large wireless facilities (towers/antennas 50 feet or more in height) ³	C		C	C	C	A	A				A	A	A
N/A	Macro facilities collocation on existing structures ⁴	P	P	P	P	P	P	P				P	P	P
N/A	Eligible facility modifications	P	P	P	P	P	P	P				P	P	P
RESOURCE & AGRICULTURAL														
1131, 1132, 1133	Silvicultural Operations											P	P	

Chapter 14.44 – Supplementary Use Regulations

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~~ locate in residences while guaranteeing all neighboring 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 shall 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. Employees of a non-home based business utilizing a home office to telecommute shall not require a business license.

(d) Standards. Home occupations are permitted as an accessory use to the residential use of a property only when ~~all of all~~ 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) If the home occupation is 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: Areas accessible to customers shall be legally established. Additional building permits may be required.
- (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~~ vehicles 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 or in any yard areas and must be parked in allowed vehicle accommodation areas such as driveways and garages.
~~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 and which are more typically used for business operations identified as prohibited home occupations in subsection (f) - such as dump trucks, tow trucks, and 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 handler's card from the Snohomish Health District.
- (16) Food related businesses shall comply with all applicable WSDA cottage food operation regulations in RCW 69.22.

(ed) The following is a non-exhaustive list of examples of enterprises that may be ~~granted-approv~~ 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.

(g) 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~~.

(h) 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.

(i) 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.

(j) 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.

(k) 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 ~~outright permitted~~allowed in the Local Business zoning districts 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 parcels.
 - (ii) The use coverage is defined as the amount of space solely devoted to supporting the storage use on each development. This ~~shall may~~ include building footprints, drive aisles between storage facilities, loading bays, parking, landscape screening, offices and associated appurtenances. The ~~total~~ use coverage percentage ~~shall may~~ exclude critical areas and features shared within a development like pedestrian facilities, internal access and circulation roads, and shared parking.
- (2) ~~With each storage facility application, the proponent must submit an economic analysis with the development application, supporting the need for additional self-storage facilities rather than more intensive commercial uses that generate higher employment density. The analysis, at a minimum, shall demonstrate that the storage use does not diminish the City's overall economic viability as set forth in the goals, policies, and strategies of the Comprehensive Plan given preference to non-land intensive uses and will not contribute to the city's inability to meet its long-term employment growth targets.~~

(d) Design Standards.

(24) 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](#).

(32) 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.

(43) 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](#).

(54) 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)

14.44.065 Accessory Apartment in Industrial Zones

Any accessory apartments permitted in the Light or General Industrial Zone ~~pursuant to Use Class 1.115~~ shall meet the following standards:

- (a) The total number of accessory dwellings on a site shall not exceed one.
- (b) The gross floor area of an accessory apartment site shall not exceed 1,000 square feet.
- (c) The accessory apartment shall be integrated into a larger building which also houses activities for the principally permitted use.
- (d) The apartment use shall not enjoy the protection of the Manufacturing and Processing Performance Standards as contained in Part III of this chapter. (Ord. 1030, Sec. 2 (Exh. B), 2018; Ord. 606, 1999)

14.44.070 Recreational Park Trailers and Recreational Vehicles (RV) Regulations

(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:

- (i1) Utility hookups shall meet local, State, and federal building code standards;
- (i2) 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;
- (i3) 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;
- (i4) The unit shall be placed on an impervious pad made of cement concrete or asphalt concrete; and
- (i5) 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.

(4e) 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)

14.44.075 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 legally established use of the property under county regulations at the time of annexation may maintain said use, but may not increase the number of animals kept, reduce the existing wetland or stream buffer, or otherwise expand the scope or scale of the nonconformance to LSCM 14.44.075.

14.44.210 Noise. SHARE

- (a) All uses shall comply with the maximum noise levels outlined in Chapter 173-60 WAC No 4.000 classification use in any permissible business district may generate noise that tends to have an annoying or disruptive effect upon (1) uses located outside the immediate space occupied by the 4.000 use if that use is one of several located on a lot, or (2) uses located on adjacent lots.
- (b) Except as provided in subsection (f) of this section, the table set forth in subsection (e) of this section 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.

(e) 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 this A-weighted filter.

(d) The standards established in the table set forth in subsection (e) of this section 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 14.44-I: Maximum Permitted Sound Levels, dB(A).

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Table 14.44-I: 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	LI	GI
	7:00 a.m. - 9:00 p.m.	9:00 p.m. - 7:00 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) of this section, except that this higher level of permissible noise shall not apply from 9:00 p.m. to 7:00 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 7:00 a.m. and 9:00 p.m. shall be exempt from the requirements of this section. (Ord. 811, Sec. 46, 2010; Ord. 590, 1998; Ord. 468, 1995)

14.44.220 Vibration.

(a) No subject 4.000 classification use in any permissible business district may generate any ground-transmitted vibration that is perceptible to the human sense of touch measured at (1) the outside boundary of the immediate space occupied by the enterprise generating the vibration if the enterprise is one of several located on a lot, or (2) the lot line if the enterprise generating the vibration is the only enterprise located on a lot.

(b) No subject 4.000 classification use in a Light Industrial or General Industrial district may generate any ground-transmitted vibration in excess of the limits set forth in subsection (e) of this section. Vibration shall be measured at any adjacent lot line or residential district line as indicated in the table set forth in subsection (d) of this section.

(c) The instrument used to measure vibrations shall be a three-component measuring system capable of simultaneous measurement of vibration in three mutually perpendicular directions.

(d) The vibration maximums set forth in subsection (e) of this section are stated in terms of particle velocity, which may be measured directly with suitable instrumentation or computed on the basis of displacement and frequency.

When computed, the following formula shall be used:

$$PV = 6.28 F \times D$$

Where:

PV Particle velocity, inches per-
= second

F = Vibration frequency, cycles per-
second

D = Single amplitude displacement of
the vibration, inches.

The maximum velocity shall be the vector sum of the three components recorded.

(e) Table 14.44 II: Table of Maximum Ground Transmitted Vibration.

Table 14.44-II: Maximum Ground-Transmitted Vibration

Zoning District	Particle Velocity, Inches Per Second	
	Adjacent Lot Line	Residential District
M-1	0.10	0.02
M-2	0.20	0.02

(f) The values stated in subsection (e) of this section may be multiplied by two for impact vibrations, i.e., discrete vibration pulsations not exceeding one second in duration and having a pause of at least one second between pulses.

(g) Vibrations resulting from temporary construction activity that occurs between 7:00 a.m. and 9:00 p.m. shall be exempt from the requirements of this section. (Ord. 811, Sec. 92, 2010)

14.44.230 Odors.  SHARE

(a) For purposes of this section, the "odor threshold" is defined as the minimum concentration in air of a gas, vapor, or particulate matter that can be detected by the olfactory systems of a panel of five healthy observers beyond the subject property.

(b) No subject 4.000 classification use in any district may generate any odor that reaches the odor threshold, measured at:

- (1) The outside boundary of the immediate space occupied by the enterprise generating the odor.
- (2) The lot line if the enterprise generating the odor is the only enterprise located on a lot.

14.44.240 Smoke and Air Pollution.  SHARE

(a) Any subject 4.000 classification use that emits any "air contaminant" as defined in Regulations I1, I2, or I3 of the Puget Sound Clean Air Agency shall comply with applicable state standards concerning air pollution, as set forth in Regulations 1, 2, or 3 of the Puget Sound Clean Air Agency.

(b) No Planning Director approval, administrative conditional use, or conditional use permit may be issued with respect to any development covered by subsection (a) of this section until the Puget Sound Clean Air 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.

(Ord. 903, Sec. 35, 2013; Ord. 811, Sec. 47, 2010).

14.44.250 Disposal of Liquid and Hazardous Wastes.

(a) No subject 4.000 classification use in any district may discharge any waste contrary to the provisions of Chapter [70.105](#) RCW (Hazardous Waste Management) or Chapter [90.48](#) RCW (Water Pollution Control).

(b) No subject 4.000 classification use in any district may discharge into the City sewage treatment facilities any waste that cannot be adequately treated by biological means.

14.44.260 Water Consumption.

No subject 4.000 classification use shall consume and/or use water supplied by the Snohomish County Public Utility District No. 1 in a manner inconsistent with the requirements and water service policies of the Snohomish County Public Utility District No. 1.

14.44.270 Electrical Disturbance or Interference.

No subject 4.000 classification use may:

- (a) Create any electrical disturbance that adversely affects any operations or equipment other than those of the creator of such disturbance; or
- (b) Otherwise cause, create, or contribute to the interference with electronic signals (including television and radio broadcasting transmissions) to the extent that the operation of any equipment not owned by the creator of such disturbance is adversely affected.

Part V. Multifamily Apartments Annexed into the City

14.44.500 Authority.

This chapter contains the City's procedures and policies related to the expansion or replacement of existing multifamily structures located in [WR, R4, R6, or R8-12](#) Zoning Districts, annexed into the City on or after January 1, 2006. (Ord. 871, Sec. 3, 2012)

14.44.510 Conditional Use Permit Required.  SHARE

Any requests to expand and/or replace existing multifamily structures (regardless of reason), located in WR, R4, R6, or R8-12 Zoning Districts, annexed into the City on or after January 1, 2006, shall require a Conditional Use Permit per Section [14.16C.045](#) prior to approval of the expansion and/or replacement. (Ord. 871, Sec. 3, 2012)

14.72 Parking

TABLE 14.72-I: TABLE OF PARKING REQUIREMENTS

Use	Parking Requirement
1.110 Single family detached residences.	2 spaces per dwelling unit plus one space per room rented out (see Accessory Uses, Section 14.40.050)
1.200 <u>Duplex</u> <u>Two family</u> residences.	2 spaces for each dwelling unit, except that one-bedroom units require only one space.
1.220 Accessory dwelling units.	Single-family detached residences with accessory dwelling units require 1 space in addition to the 2 spaces required for the principal dwelling.
1.300 Multifamily residences.	2 spaces per unit plus 1 additional space for every four units in the development, except multifamily units limited to senior citizens require only 1 space per unit.
1.410 Level I health and social service facility.	3 spaces for every five beds except for uses exclusively serving children under 16, in which case 1 space for every three beds shall be required.
1.420 Level II and III health and social service facility.	To be determined by the Planning Director on a case by case basis.
1.440 Group Homes for Juvenile Offenders	1 space for each staff person on site during the maximum shift plus 1 space for each facility vehicle plus 1 space for every three beds.
1.510 Rooming and boarding houses.	1 space for each bedroom.
1.520	
1.530 Tourist homes, hotels and motels.	1 space for each room to be rented plus additional space (in accordance with other sections of this table) for restaurant or other facilities.
1.700 Temporary emergency, construction, and repair residences.	2 spaces per dwelling unit plus one space per room rented out (see Accessory Uses, Section 14.40.050)

TABLE 14.72-I: TABLE OF PARKING REQUIREMENTS

Use	Parking Requirement
2.111 2.210	Retail sales high volume traffic. 1 space per 200 square feet of gross floor area.
2.112	Convenience stores. 1 space per 150 square feet of gross floor area.
2.120 2.130 2.220 2.230	Retail sales low volume traffic, wholesale sales. 1 space per 400 square feet of gross floor area.
3.110 3.120 3.130 3.210 3.220	Offices. 1 space per 400 square feet of gross floor area.
3.230	Banks. 1 space per 200 square feet of area within main building plus reservoir land capacity equal to 5 spaces per window (10 spaces if window serves two stations).
4.110	Manufacturing: majority of business from walk in trade. 1 space per 400 square feet of gross floor area.
4.120 4.200	Manufacturing: majority of business does not come from walk in trade. 1 space for every employee on the maximum shift except that, if permissible in the commercial districts, such uses may provide 1 space per 200 square feet of gross floor area.
5.110	Elementary and secondary schools. 1.75 spaces per classroom in elementary schools, 5 spaces per classroom in high schools.
5.120	Trade and vocational schools. 1 space per 100 square feet of gross floor area.
5.130	Colleges and universities. 1 space per 150 square feet of gross floor area.

TABLE 14.72-I: TABLE OF PARKING REQUIREMENTS

Use	Parking Requirement
5.200 Churches, synagogues and temples.	1 space for every four seats in the portion of the church building to be used for services plus spaces for any residential use as determined in accordance with the parking requirements set forth above for residential uses, plus 1 space for every 200 square feet of gross floor area designed to be used neither for services nor residential purposes.
5.300 5.400 Libraries, museums, art galleries, art centers. Social, fraternal clubs and lodges, union halls.	1 space per 300 square feet of gross floor area.
6.110 Bowling alleys, skating rinks, indoor tennis and squash courts, billiard and pool halls, indoor athletic and exercise facilities.	1 space for every three persons that the facilities are designed to accommodate when fully utilized (if they can be measured in such a fashion—example, tennis courts or bowling alleys) plus 1 space per 200 square feet of gross floor area used in a manner not susceptible to such calculation.
6.120 6.130 Movie theaters. Coliseums, stadiums, and <u>amphitheaters all other facilities in the 6.100 use class designed to seat or accommodate more than 1,000 people at a time.</u>	1 space for every four seats.
6.210 6.220 <u>Privately owned outdoor recreational facilities.</u> <u>Publicly owned</u> <u>O</u> utdoor recreational facilities.	1 space per 200 square feet of area within enclosed buildings, plus 1 space for every three persons that the outdoor facilities are designed to accommodate when used to the maximum capacity.

TABLE 14.72-I: TABLE OF PARKING REQUIREMENTS

Use	Parking Requirement
6.230 Golf driving ranges not accessory to golf courses, par 3 golf courses, miniature golf courses, skateboard parks, water slides. Outdoor recreational facilities - Specialized	Miniature golf course, skateboard park, water slide, and similar uses--1 space per 300 square feet of area plus 1 space per 200 square feet of building gross floor area; Driving range--1 space per tee plus 1 space per 200 square feet in building gross floor area; Par Three Course—2 spaces per golf hole plus 1 space per 200 square feet of building gross floor area.
6.240 Horseback riding stables.	1 space per horse that could be kept at the stable when occupied to maximum capacity.
6.250 Automobile and motorcycle racing tracks.	1 space for every three seats.
6.260 Drive-in movie theater.	1 space per speaker outlet.
6.300 Recreational activities compatible with regional recreation facilities and/or intended to cater to users of such facilities.	1 space for every three persons that the facilities are designed to accommodate when fully utilized (if they can be measured in such a fashion example, tennis courts or bowling alleys) plus 1 space per 200 square feet of gross floor area used in a manner not susceptible to such calculation. (Ord. 501, Sec. 13, 1995)
7.100 Secure community transition facilities	1.5 spaces for each staff person on site during the maximum shift plus 1 space for each facility vehicle plus 1 space for every three beds.
7.400 Penal and correctional facilities.	1 space for every two employees on maximum shift.
8.100 Restaurants without substantial carry-out or delivery service, no drive-in service, no outdoor seating.	1 space per 100 square feet of gross floor area.

TABLE 14.72-I: TABLE OF PARKING REQUIREMENTS

Use	Parking Requirement
<p>8.200 Restaurant without <u>substantial carry-out or delivery service, no drive-in or drive-through service, but with outdoor seating.</u> <u>Restaurants with carry-out and delivery service, and outside seating.</u></p>	<p><u>1 space per 100 square feet of gross inside floor area.</u> <u>Same as 8.100 plus 1 space for every four outside seats.</u></p>
<p>8.400 Restaurants with <u>carry-out and delivery service, drive-in and outside seating, or drive-through service</u></p>	<p><u>1 space per 100 square feet of inside gross floor area</u> <u>Same as 8.200 plus 1 space for every four outside seats plus</u> reservoir lane capacity equal to 5 spaces per drive in window.</p>
<p>9.100 Motor vehicle sales or rental; 9.200 mobile home sales. 9.300 Sales with installation of motor vehicle parts or accessories. 9.400 Motor vehicle repair and maintenance.</p>	<p>1 space per 200 square feet of gross floor area.</p>
<p>9.500 Gasoline sales.</p>	<p>1 space per 200 square feet of gross floor area of building devoted primarily to gas sales operation, plus sufficient parking area to accommodate vehicles at pumps without interfering with other parking spaces.</p>
<p>9.600 Car wash.</p>	<p>Conveyer type--1 space for every three employees on the maximum shift plus reservoir capacity equal to five times the capacity of the washing operation. Self-service type--2 spaces for drying and cleaning</p>

TABLE 14.72-I: TABLE OF PARKING REQUIREMENTS

Use	Parking Requirement
	purposes per stall plus two reservoir spaces in front of each stall.
10.210 <u>Personal storage facilities</u> 10.220 <u>Storage of goods not being sold on the same site.</u>	1 space for every two employees on the maximum shift but not less than 1 space per 5,000 square feet of area devoted to storage (whether inside or outside).
11.000 Scrap materials, salvage yards, junkyards, automobile graveyards.	1 space per 200 square feet of gross floor area.
12.000 Veterinarian, kennel.	1 space per 200 square feet of gross floor area.
13.000 Emergency services (Police Stations, Fire Stations).	1 space per 200 square feet of gross floor area.
14.000 <u>Agriculture, silviculture, mining, quarrying, soil processing .</u>	1 space for every two employees on maximum shift.
15.100 Post office, airport. 15.200	1 space per 200 square feet of gross floor area.
15.300 Solid waste facilities.	1 space for every two employees on maximum shift.
15.400 Military reserve, national guard centers.	1 space per 100 square feet of gross floor area.
16.000 Dry cleaner, <u>Laundromat.</u>	1 space per 200 square feet of gross floor area.
19.000 Open markets and horticultural sales.	1 space per 1,000 square feet of lot area used for storage, display, or sales.
20.000 Funeral home.	1 space per 100 square feet of gross floor area.
21.200 Crematorium.	1 space per 200 square feet of gross floor area.
22.000 Commercial nursery schools, day care centers.	1 space per employee plus 1 space per 200 square feet of gross floor area.

TABLE 14.72-I: TABLE OF PARKING REQUIREMENTS

Use	Parking Requirement
24.000	Bus and train stations. 1 space per 200 square feet of gross floor area.
25.000	Commercial greenhouse. 1 space per 200 square feet of gross floor area.

(Ord. 1030, Sec. 2 (Exh. B), 2018; Ord. 811, Sec. 92, 2010; Ord. 666, Sec 11, 2002; Ord. 468, 1995)

5.08.010 Definitions.

I. Covered Animal. Any hoofed animal usually found on farms, such as horses, ponies, mules, bovine animals, sheep and goats.

M. Farm Animals. Includes but is not limited to covered animals, poultry, and rabbits Any animal typically found on farms and kept predominantly outdoors, including but not limited to horses, ponies, mules, cows, sheep, goats, fowl, and rabbits. (See 14.44.075).



One Community Around the Lake

Staff Report Lake Stevens Planning Commission

Planning Commission Briefing

Date: **September 15, 2021**

Subject: **Briefing on Proposed Amendments to the Nonconforming Code (LSMC 14.32)**

Contact Person/Department: Melissa Place, *Senior Planner*

SUMMARY:

Staff has revised the draft nonconforming code (LSMC 14.32 and other associated sections of LSMC Title 14) to incorporate the Commission's input from the August 18, 2021 meeting. Commissioners are asked to review the revised code language shown in Attachment 1 and indicate whether they are ready to hold a public hearing at one of the Commission's October 2021 meetings.

ACTION REQUESTED OF PLANNING COMMISSION: No formal action is required; this is an informational discussion. Commissioners are asked to provide input on the draft code prior to public hearing.

DISCUSSION:

The purpose of this briefing is to discuss proposed amendments to the city's nonconforming regulations ([Chapter 14.32 LSMC](#)). Staff first introduced the scope and goal of the amendments on [June 2, 2021](#). Staff then provided the Commission with draft code and additional research at their [August 18, 2021](#) meeting. The draft code was essentially a complete re-write and reformatting of Chapter 14.32.

At the Commission's August 18th meeting, commissioners discussed and provided feedback on several aspects of the draft code. The August 18 staff report included several specific questions which were discussed in detail at the meeting. In general, commissioners provided the following feedback (as summarized by staff):

- Subareas should not be treated differently than other parts of the city
- Language that distinguishes between benign and detrimental nonconformities appears difficult to implement and should not be included
- The code should not create additional opportunities to expand nonconforming uses, either through the Hearing Examiner or Planning Commission
- No amortization clauses or provisions should be included in the code
- Code language should generally allow for the retention of single-family residences (SFRs), including within subareas

- The threshold for determining whether a nonconforming structure can be rebuilt without complying with all current zoning regulations should be 75% of the assessed value of the structure
- Substandard septic systems do not need to be specifically referenced in Chapter 14.32 as they are adequately addressed in other code sections and regulations
- Additional detail and context are needed to determine whether the addition of a story to a building that does expand the footprint of the building should be treated as an expansion of a nonconformity

Based on the above feedback from the Commission, staff has made the following revisions to the draft code (shown as redlines in Attachment 1):

- Removed language regarding subareas, amortization, substandard septic systems, a new hearing body process for expanding nonconformities, and benign vs. detrimental nonconformities.
- Revised the purpose and intent statement in Section 14.32.010.
- Revised Section 14.32.040(c) to provide more clarity on determining what constitutes an expansion to a nonconformity, including language about additional building stories that do not expand the building footprint.
- Updated language in Section 14.32.020 to match the terminology for *Repair or Maintenance Activities* as currently defined in 14.08.010.
- Revised the language in 14.32.060 replacing “abandonment” and “termination” with “vacation” and “cessation” based on recent land use case law updates (Brown vs. Mason County).

In addition, staff would like to revisit the conversation with the Commission about the percentage of valuation threshold for rebuilding a nonconforming structure as proposed per LSMC 14.32.040(d); currently proposed at 75 percent. From staff’s perspective, this threshold wouldn’t be consistent with the purpose and intent statement in 14.32.010 and its goal to encourage the eventual elimination of nonconformities nor be consistent with meeting the city’s future job targets in areas slated for economic growth by allowing the rebuild of nonconforming structures. Staff believes additional discussion on this is warranted to determine the appropriate threshold for our city.

NEXT STEPS:

Staff is scheduled to brief the City Council on the proposed code amendment at their September 21, 2021 workshop meeting. On September 10, staff provided the required 60-day notice to the Department of Commerce. Should the Planning Commission feel comfortable holding a public hearing date for the code amendment at their next October 6, 2021 regular meeting, staff will prepare the notice of public hearing. As a Type VI land use code amendment, the Commission will be asked to make a recommendation to City Council on the proposed amendment. The City Council would be required to hold their own public hearing and act on the recommendation, with the earliest potential date being November 9, 2021.

Attachments

Attachment 1: Draft Code LSMC 14.32

Attachment 2: Draft Code LSMC Title 14 – other applicable sections

Chapter 14.32

NONCONFORMING SITUATIONS NONCONFORMITIES

Sections:

- 14.32.010 Purpose and Intent
- 14.32.020 General Provisions
- 14.32.030 Nonconforming Uses
- 14.32.040 Nonconforming Structures
- 14.32.050 Nonconforming Development
- 14.32.060 ~~Abandonment and Termination~~Vacation or -ofCessation of Nonconformities

14.32.010 Purpose and Intent.

The purpose of this chapter is to provide for the continuation, modification or eventual elimination of nonconforming uses, structures, and development in accordance with the standards and conditions in this chapter. While nonconformities may continue, the provisions of this chapter are designed to encourage the improvement or elimination of nonconformities in order to better achieve the purposes of these regulations and consistency with the Comprehensive Plan. In general, a nonconformity that was lawful at the time it was established is permitted to continue to exist. A nonconformity shall not be permitted to continue to exist if it was unlawful at the time it was established. Most nonconforming uses and development may be maintained, but may not be altered, without land use review. It is the purpose of the city to ultimately have all structures and uses brought into conformity with the land use codes and regulations adopted by the city, as completely and as speedily as possible with due regard to the special interests and property rights of those concerned.

14.32.020 General Provisions.

The following provisions apply to all nonconforming uses and development:

- (a) Changes in ownership may occur and do not affect the status of a nonconforming use, structure, or development.
- (b) A nonconforming use, structure, or development is allowed to change to a conforming use or development. Once a conforming use, structure, or development occupies the site, the nonconforming status is lost, and the nonconforming use, structure, or development may not be reestablished.
- (c) Routine ~~maintenance and repair~~repair and maintenance activities, as defined in Section 14.08.010, ~~is-are~~ allowed. Alteration or expansion, as defined in Section 14.08.010 and further described in Section 14.32.040, or destruction, as described in Section 14.32.040, may require land use review and/or may result in the loss of the nonconforming status of the use or development.
- (d) Where other sections of the Lake Stevens Municipal Code require nonconforming uses or development to come closer to conformance, those provisions apply instead of the provisions of this chapter.
- (e) Provisions of this chapter do not apply to signs. Nonconforming signs are regulated by Title 14.68.150 Signs.

- (f) The provisions of this chapter do not supersede or relieve a property owner from compliance with:
 - (1) The requirements of the International Building and Fire Codes; or
 - (2) The provisions of this code beyond the specific nonconformance addressed by this chapter.
- (g) For additional requirements related to other nonconformities, see the following sections of this title:
 - (1) Definitions—see Chapter 14.08.010 LSMC;
 - (2) Boundary line adjustments—see Chapter 14.18.200 LSMC;
 - (3) Subarea nonconforming situations—see Chapter 14.38.017 LSMC;
 - (4) Signs—see Chapter 14.68.150 LSMC;
 - (5) Critical areas—see Chapter 14.88.330 LSMC;
 - (6) Uses within shoreline jurisdiction—see shoreline master program.

14.32.030 Nonconforming Uses.

(a) Continuation

Except as may be provided for elsewhere in these regulations, a nonconforming use lawfully existing at the time of the adoption of the city code may be continued subject to the standards and conditions of this chapter.

(b) Repair or Maintenance

Repair or maintenance of a nonconforming use is allowed so long as the repair or maintenance does not increase the extent of any nonconformity. Repair ~~or and~~ maintenance activities is are defined in Section 14.08.010.

(c) Enlargement or Expansion

- (1) A nonconforming use shall not be enlarged or increased nor expanded to occupy a greater area of land than was occupied at the adoption or subsequent amendment of the city code; unless such use is changed to a use permitted in the district in which such use is located.
- (2) Any structure used for single-family residential purposes and maintained as a nonconforming use may be repaired, maintained, or replaced so long as the repair or replacement does not result in an expansion or enlargement of such use or structure.
- (3) No additional structures which do not conform to the requirements of the city code shall be erected in connection with such nonconforming use of land.

(d) Change of Use

In general, a nonconforming use may be changed to a conforming use. If a nonconforming use, building or structure is changed to a more conforming use, building or structure or is replaced by a conforming use, building or structure, the nonconforming use, building or structure shall not revert to its original nonconforming status.

14.32.040 Nonconforming Structures.

(a) Continuation

Except as may be provided for elsewhere in these regulations, a non-conforming structure lawfully existing at the time of the adoption of the city code may be continued subject to the standards and conditions of this chapter.

(b) Repair or Maintenance

Repair or maintenance of a nonconforming structure is permitted. Repair ~~or and~~ maintenance activities are is defined in Section 14.08.010. The interior of said structures may be restored,

remodeled and improved to the extent of not more than 25 percent of the assessed value of the structure at the time of building permit in any consecutive period of 12 months in accordance with required permits.

(c) Alteration or Expansion

Nonconforming structures may be enlarged or altered in a way which does not increase the extent of any nonconformity. An increase in nonconformity would be a change that increases the bulk of the structure encroaching on setbacks or exceeding maximum height or maximum impervious area requirements. Additional stories on a building are permitted so long as they meet all other applicable provisions of city and state code including height limitations, setbacks, septic limitations, do not expand the building footprint, and do and do not increase the extent of any nonconformity.

(d) Destruction

A nonconforming structure or nonconforming portion of a structure that is destroyed to an extent exceeding 75 percent of the assessed value of the structure at the time of damage shall not be reconstructed except in conformity with these regulations. In order for this reconstruction to occur, application must be made for all necessary permits within twenty-four months of the date the damage occurred, and all reconstruction must be completed within two years of permit issuance. All residential structures (including accessory uses and structures) located in a residential district may be reconstructed if destroyed to any extent, provided that such reconstruction does not enlarge the prior building footprint nor increase the extent of the nonconformity(ies) existing prior to destruction.

14.32.050 Nonconforming Development.

Nonconforming development means a lot or site improvement, such as an off-street parking facility, landscaping, or access that does not conform to the city's current development ordinances. Nonconforming development that was legally established and is used for a legal use but which does not meet the current regulations may be maintained and repaired and may be enlarged or expanded provided that said enlargement does not increase the extent of noncompliance with the regulations by further encroaching upon or extending into areas where construction or use would not be allowed for new development. A lot that is nonconforming by virtue of not meeting the minimum lot area required for the zone in which it is located may be used the same as if it were conforming, except that any use that requires a greater lot size than the established minimum lot size for a particular zone (e.g., a two-family residence) is prohibited. LSMC 14.16C.078 further details the legal lot status determination process.

14.32.060 Abandonment or TerminationVacation or Cessation of Nonconformities.

Whenever a nonconforming use, structure, or development of property has been abandoned
vacated or discontinued ceases for any reason, for a period of 12 consecutive months or for twelve months during any two-year period, such nonconformity shall lose its nonconforming status and not thereafter be re-established, and the future use of the property shall be in conformity with the provisions of these regulations. A discontinued vacated or abandoned ceased nonconformity shall not be resumed.

Sections:

~~14.32.010 Continuation of Nonconforming Situations and Completion of Nonconforming Projects~~

~~14.32.020 Nonconforming Lots~~

~~14.32.030 Extension or Enlargement of Nonconforming Situations~~

~~14.32.040 Repair, Maintenance and Reconstruction~~

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

~~14.32.060 Abandonment and Discontinuance of Nonconforming Uses~~

~~14.32.010 Continuation of Nonconforming Situations and Completion of Nonconforming Projects.~~

~~Nonconforming situations that were otherwise lawful on the effective date of this chapter may be continued subject to the restrictions and qualifications of this chapter and, if applicable, of an adopted subarea plan. (Ord. 876, Sec. 15, 2012)~~

~~14.32.020 Nonconforming Lots.~~

~~(a) This section applies only to legal nonconforming lots which have no substantial structures upon it.~~

~~(b) A lot that is nonconforming by virtue of not meeting the minimum lot area required for the zone in which it is located may be used the same as if it were conforming, except that any use that requires a greater lot size than the established minimum lot size for a particular zone (e.g., a two family residence) is prohibited.~~

~~14.32.030 Extension or Enlargement of Nonconforming Situations.~~

~~(a) No person may engage in any activity that causes an increase in the extent of a nonconformity, except as specified below. In particular, physical alteration of structures or the placement of new structures on open land is unlawful if such activity results in:~~

~~(1) An increase in the total amount of space devoted to a nonconforming use, or~~

~~(2) Greater nonconformity with respect to dimensional restrictions such as setback requirements, height limitations, parking or density requirements.~~

~~(b) A legal nonconforming use may be extended throughout any portion of a completed building that was manifestly designed or arranged to accommodate such use. However, a nonconforming use may not be extended to additional buildings or to land outside the original building.~~

~~(c) A nonconforming use of open land may not be extended to cover more land than was occupied by that use when it became nonconforming, except that a use that involves the removal of natural materials from the lot (e.g., a sand pit) may be expanded to the boundaries of the lot where the use was established at the time it became nonconforming if 10 percent or more of the earth products had already been removed on the date on which it became nonconforming and where the proposed expansion conforms to all applicable Federal, State, and local regulations concerning the use.~~

~~(d) The volume, intensity, or frequency of use of property where a nonconforming situation exists may be increased and the equipment or processes used at a location where a~~

~~nonconforming situation exists may be changed if these or similar changes amount only to changes in the degree of activity rather than changes in kind and no violations of other subsections of this section occur.~~

~~(e) Any structure used for single family residential purposes and maintained as a nonconforming use may be enlarged or replaced with a similar structure of a larger size, so long as the enlargement or replacement does not create new nonconformities or increase the extent of existing nonconformities with respect to such matters as setback and parking requirements.~~

~~(f) Whenever: (1) there exists a lot with one or more structures on it, and (2) a change in use that does not involve any enlargement of a structure is proposed for such lot, and (3) the additional parking or loading spaces required by Chapter 14.72 cannot be satisfied because there is not sufficient area available on the lot, then the proposed use shall not be regarded as resulting in an impermissible extension or enlargement of a nonconforming situation. However, the applicant shall be required to comply with all applicable parking and loading requirements that can be satisfied without acquiring additional land. (Ord. 676, Sec. 21, 2003; Ord. 468, 1995)~~

14.32.040 Repair, Maintenance and Reconstruction.

~~(a) Minor repairs to and routine maintenance of property where nonconforming situations exist are allowed. 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 permits issued pursuant to this section.~~

~~(b) If a structure housing a nonconforming 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 nonconforming 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 permit.~~

~~(c) For purposes of subsections (a) and (b) of this section:~~

~~(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) of this section 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 shall issue a permit authorized by subsection (a) of this section 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. (Ord. 811, Sec. 23, 2010)~~

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, administrative conditional use, or conditional use permit in accordance with Section 14.16C.030 may not be made except in accordance with subsections (b) through (d) of this section.~~

(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.~~

(d) ~~No change in use to another use that is not permissible in the district in which it is located shall be allowed. (Ord. 811, Sec. 24, 2010)~~

14.32.060 Abandonment and Discontinuance of Nonconforming Uses.

(a) ~~When a nonconforming use is discontinued for a consecutive period of 180 days, subsequent uses on the property must be permitted in the zone in which the property is located. (Ord. 676, Sec. 21, 2003; Ord. 590, 1998; Ord. 468, 1995)~~

14.08.010 Definitions of Basic Terms.

Unless otherwise specifically provided, or unless clearly required by the context, the words and phrases defined in this section shall have the meaning indicated when used in this title.

Dimensional Nonconformity. ~~A nonconforming situation that occurs when the height, size, floor space, lot coverage, or other dimensional requirements of a structure or the relationship between an existing building or buildings and other buildings or lot lines does not conform to the regulations applicable to the district in which the property is located.~~

Effective Date of This Chapter. Whenever this title refers to the effective date of this chapter, the reference shall be deemed to include the effective date of the chapter as originally adopted, or the effective date of an amendment to it if the amendment creates a nonconforming situation.

Effective Date of This Title. Whenever this title refers to the effective date of this title, the reference shall be deemed to include the effective date of any amendments to this title if the amendment, rather than this title as originally adopted, creates a nonconforming situation.

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

Repair or Maintenance Activities. An action to restore the character, size, or scope of a project only to the previously authorized condition.

Nonconforming Lot, Legal. ~~A lot which does not meet the current minimum area requirement of the district in which the lot is located, but at the time of its creation, it was legally subdivided consistent with the laws in place at the time the lot was created, as well as it met all area and dimension standards for such a lot at that time.~~

Nonconforming Project. ~~Any structure, development, or undertaking that is incomplete at the effective date of this title and would be inconsistent with any regulation applicable to the district in which it is located if completed as proposed or planned.~~

Nonconforming Sign. See *Sign, Nonconforming*.

Nonconforming Situation. ~~A situation that occurs when, on the effective date of this title, any existing lot or structure or use of an existing lot or structure does not conform to one or more of the regulations applicable to the district in which the lot or structure is located. Among other possibilities, a nonconforming situation may arise because a lot does not meet minimum acreage requirements, because structures exceed maximum height limitations, because the relationship between existing buildings and the land (in such matters as density and setback requirements) is not in conformity with this title, or because land or buildings are used for purposes made unlawful by this title.~~

~~Nonconforming signs shall not be regarded as nonconforming situations for purposes of Chapter 14.32 but shall be governed by the provisions of Sections 14.68.150 (amortization of nonconforming signs).~~

Nonconforming Use. ~~A nonconforming situation that occurs when property is used for a purpose or in a manner made unlawful by the use regulations applicable to the district in which the property is located. (For example, a commercial office building in a residential district may be a nonconforming use.) The term also refers to the activity that constitutes the use made of the property. (For example, all the activity associated with operating a retail clothing store in a residentially zoned area constitutes a nonconforming use.)~~

Sign, Nonconforming. A sign that, on the effective date of this title, does not conform to one or more of the regulations set forth in this title, particularly Chapter 14.68, Signs.

Nonconformity. ~~Uses, structures, lots, or development sites that do not conform to one or more of the requirements of this Ordinance, or any subsequent amendment, which were lawfully established prior to the effective date of this Ordinance, or any subsequent amendment.~~

Nonconforming development. A lot or site improvement, such as an off-street parking facility, landscaping, or access that does not conform to the city's current development ordinances either because it was established prior to the enactment of city ordinances governing the structure or improvement or because the structure or improvement conformed at the time it was established but applicable city ordinances have since changed.

Nonconforming structure. Any structure or portion thereof lawfully existing on the effective date of this Ordinance or amendments thereto which does not conform after the passage of this Ordinance or amendments thereto with the dimensional restrictions of the district in which it is situated.

Nonconforming use. The use of land or the use of any building or portion thereof lawfully existing at the effective date of this Ordinance or amendments thereto which does not conform after the passage of this Ordinance or amendments thereto which does not conform to the use regulations of the zoning district in which it is located.

14.38.017 Nonconformitiesng Situations.

The City will allow legal nonconformitiesng situations to continue within the subareas subject to Chapter 14.32. Legal nonconforming signs may continue subject to Section 14.38.100(i). (Ord. 876, Sec. 5 (Exh. 3), 2012)