

CITY COUNCIL MEETING AGENDA



City of Lake Stevens Vision Statement

By 2030, we are a sustainable community around the lake with a vibrant economy, unsurpassed infrastructure and exceptional quality of life.

December 6, 2022 - 6:00 PM

TWO WAYS TO PARTICIPATE:

In Person: The Mill, Sawyers Room, 1808 Main Street, Lake Stevens.

OR Join Zoom Meeting: <https://us02web.zoom.us/j/86552274877>

or call in at (253) 215-8782 Meeting ID 86552274877

- 1. Call to Order**
- 2. Roll Call**
- 3. Flag Salute**
- 4. Approval of the Agenda**
- 5. Guest Business**
 - A. Recognition of Doug Levy, City's Lobbyist Mayor
- 6. Citizen Comments**
- 7. Action Items**
 - A. Ordinance 1154 Amending the 2023 Budget Ordinance 1150, Concerning the Salary Schedule for Non-Exempt Employees Barb Stevens
 - B. Amendment to Lake Stevens Food Bank Funding Agreement Barb Stevens
- 8. Discussion Items**
 - A. Code Enforcement Update Russ Wright, Cameron Fauth
 - B. Source Control Ordinance Olin Anderson, Shannon Farrant
 - C. Parks and Recreation Department 5-Year Plan Sarah Garceau
 - D. Draft Agenda for the December 13, 2022 Meeting (Will be handed out at the meeting) Gene Brazel

9. Executive Session (Confidential Session per RCW 42.30)

- A. Discuss Qualifications of a Candidate for Appointment to Elective Office and Potential Litigation

10. Adjourn

THE PUBLIC IS INVITED TO ATTEND

The City of Lake Stevens strives to provide accessible opportunities for individuals with disabilities. Please contact Human Resources, City of Lake Stevens ADA Coordinator, (425) 622-9400, 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, (800) 833-6384, and ask the operator to dial the City of Lake Stevens City Hall number.

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

CITY COUNCIL STAFF REPORT



Agenda Date: 12/6/2022

Subject: Ordinance 1154 Amending the 2023 Budget Ordinance 1150, Concerning the Salary Schedule for Non-Exempt Employees

Contact Person/Department: Barb Stevens, Finance

Budget Impact: Corrects the non-exempt employee salary range table as part of the 2023 Budget

Legal Review: Yes

RECOMMENDATION(S)/ACTION REQUESTED:

APPROVE: Ordinance No. 1154, amending the 2023 budget Ordinance No. 1150, correcting the Non-exempt employee salary range table.

SUMMARY/BACKGROUND:

The City Council approved Ordinance No. 1150 adopting the 2023 budget on November 22, 2022. Included as part of the adopted budget, the Council approves the organizational chart and the salary range tables as attachments to the ordinance.

Through post-budget implementation and review processes, it was discovered that the non-exempt salary range table attached to the budget ordinance was not the correct version. The range table included was calculated at the 50th percentile, not the 60th percentile, as was the Council's intent.

The budgeted amounts related to the market rate study were correctly included in the budget. This ordinance amends the 2023 Budget Ordinance No. 1150, to correct the salary range table only and does not have a monetary effect on the budgeted fund balances.

APPLICABLE CITY POLICIES:

RCW 35A.33.105 Adjustment of wages, permissible budget notwithstanding.

ATTACHMENTS:

1. Ord 1154 - Amending Ord 1150

**CITY OF LAKE STEVENS
LAKE STEVENS, WASHINGTON
ORDINANCE NO. 1154**

AN ORDINANCE OF THE CITY OF LAKE STEVENS, WASHINGTON, CONCERNING THE SALARY SCHEDULE FOR NON-EXEMPT EMPLOYEES; AMENDING THE 2023 BUDGET ORDINANCE NO. [1150](#); PROVIDING FOR SUMMARY PUBLICATION BY ORDINANCE TITLE, AND FOR AN EFFECTIVE DATE.

WHEREAS, the City of Lake Stevens adopted the 2023 budget pursuant to Ordinance No. 1150; and

WHEREAS, the non-exempt salary range table approved as part of the 2023 budget ordinance No. 1150, contained errors; and

WHEREAS, the sole purpose of this amending ordinance is for the approval of a corrected non-exempt employee salary range table prior to the January 1, 2023 start date for the schedule,

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

SECTION 1. The 2023 budget, as adopted in Ordinance No. 1150, is hereby amended to correct the non-exempt employee salary range table as follows:

CORRECTED SALARY RANGES NON-EXEMPT							
Proposed Grade	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7
8	\$47,999	\$49,919	\$51,916	\$53,993	\$56,152	\$58,399	\$60,735
9	\$49,199	\$51,167	\$53,214	\$55,343	\$57,556	\$59,859	\$62,253
10	\$50,429	\$52,446	\$54,544	\$56,725	\$58,994	\$61,354	\$63,808
11	\$51,691	\$53,759	\$55,909	\$58,145	\$60,471	\$62,890	\$65,406
12	\$52,982	\$55,101	\$57,305	\$59,597	\$61,981	\$64,460	\$67,039
13	\$54,309	\$56,481	\$58,741	\$61,090	\$63,534	\$66,075	\$68,718
14	\$55,666	\$57,892	\$60,208	\$62,616	\$65,121	\$67,726	\$70,435
15	\$57,058	\$59,340	\$61,714	\$64,182	\$66,750	\$69,420	\$72,196
16	\$58,483	\$60,822	\$63,255	\$65,785	\$68,417	\$71,153	\$74,000
17	\$59,947	\$62,345	\$64,838	\$67,432	\$70,129	\$72,934	\$75,852
18	\$61,443	\$63,901	\$66,457	\$69,116	\$71,880	\$74,755	\$77,746
19	\$62,980	\$65,499	\$68,119	\$70,844	\$73,678	\$76,625	\$79,690
20	\$64,554	\$67,136	\$69,822	\$72,615	\$75,519	\$78,540	\$81,682
21	\$66,168	\$68,815	\$71,568	\$74,430	\$77,408	\$80,504	\$83,724
22	\$67,823	\$70,536	\$73,358	\$76,292	\$79,344	\$82,517	\$85,818
23	\$69,518	\$72,299	\$75,191	\$78,198	\$81,326	\$84,579	\$87,963
24	\$71,255	\$74,105	\$77,070	\$80,152	\$83,358	\$86,693	\$90,160
25	\$73,036	\$75,958	\$78,996	\$82,156	\$85,442	\$88,860	\$92,414
26	\$74,862	\$77,857	\$80,971	\$84,210	\$87,578	\$91,081	\$94,725
27	\$76,733	\$79,803	\$82,995	\$86,315	\$89,767	\$93,358	\$97,092
28	\$78,651	\$81,797	\$85,069	\$88,472	\$92,011	\$95,691	\$99,519

29	\$80,618	\$83,843	\$87,197	\$90,685	\$94,312	\$98,084	\$102,008
30	\$82,634	\$85,939	\$89,377	\$92,952	\$96,670	\$100,537	\$104,558
31	\$84,699	\$88,087	\$91,610	\$95,275	\$99,086	\$103,049	\$107,171
32	\$86,817	\$90,290	\$93,901	\$97,657	\$101,564	\$105,626	\$109,851
33	\$88,987	\$92,546	\$96,248	\$100,098	\$104,102	\$108,266	\$112,596
34	\$91,213	\$94,862	\$98,656	\$102,602	\$106,706	\$110,975	\$115,414
35	\$93,493	\$97,233	\$101,122	\$105,167	\$109,373	\$113,748	\$118,298
36	\$95,831	\$99,664	\$103,651	\$107,797	\$112,109	\$116,593	\$121,257
37	\$98,226	\$102,155	\$106,241	\$110,491	\$114,910	\$119,507	\$124,287

SECTION 2. Except as set forth above, all other provisions of Ordinance 1150 shall remain in full force, unchanged.

SECTION 3. Effective Date and Publication. A summary of this ordinance consisting of its title shall be published in the official newspaper of the City. This ordinance shall take effect and be in force five (5) days after the date of publication.

PASSED by the City Council of the City of Lake Stevens this 6th day of December, 2022.

Brett Gailey, Mayor

ATTEST/AUTHENTICATION:

Kelly Chelin, City Clerk

Presented: December 6, 2022

APPROVED AS TO FORM:

Greg Rubstello, City Attorney

Published:
Effective:

CITY COUNCIL STAFF REPORT



Agenda Date: 12/6/2022

Subject: Amendment to Lake Stevens Food Bank Funding Agreement

Contact Person/Department: Barb Stevens, Finance

Budget Impact: N/A

Legal Review: Yes

RECOMMENDATION(S)/ACTION REQUESTED:

APPROVE: Amendment to the Lake Stevens Food Bank Funding Agreement

SUMMARY/BACKGROUND:

On September 13, 2022, the City Council approved the Lake Stevens Community Food Bank funding agreement for an amount not to exceed \$500,000 from Pandemic Recovery Funds. At the same meeting, the president of the Food Bank, Sophina Nunez, presented their current cost projections and funding sources and asked the City Council to consider increasing the approved contribution amount by an additional \$450,000 for a total of \$950,000.

On September 20, 2022, the City Council approved the revised agreement increasing the not to exceed amount to \$950,000. No other edits were made to the agreement.

On November 15, 2022, the Lake Stevens Food Bank Board voted unanimously not to approve the agreement due to references made related to the real estate purchase and sale agreement (REPSA) from 2019 and the covenants that run with it.

City and Food Bank staff have met and reviewed contract language and agreed references to the REPSA are not appropriate within this funding agreement. Those covenants are separate and remain intact.

The proposed amendments are as follows:

1. Contract Duration: Updated to September 20, 2022 through (20) twenty years following the date of occupancy of the constructed project building, in line with the Snohomish County grant agreement.
2. Removed all "Whereas" statements pertaining to the real estate purchase and sale agreement, the covenants, and the lease agreements. Although all of this is just background information, we felt it would be cleaner to remove the statements from the funding agreement.
3. Term of Agreement; Time of Performance was updated to "(20) years following the date of occupancy of the constructed project building."
4. Reporting requirements have been changed to annual versus quarterly reporting to City Council, with a close out report within 30 days of building occupancy. (May be written, or in person to Council)
5. Use for Recipient-Owned Property: edited to "food bank and human services" for a period of "(20) years after completion and building occupancy."
6. Certification of Funds: Removed the requirement that in-kind contributions be "subject to the City's approval" as the City is not requiring a "match" for these granted funds.

The Lake Stevens Food Bank Board set forth a motion to accept the agreement on 12/1/2022. A final vote will be taken prior to 12/6.

The Food Bank has also requested a review of the covenants related to the REPSA, as some may no longer be necessary or relevant. City staff will bring these to the Council as a separate discussion in the coming months.

APPLICABLE CITY POLICIES:

City Council must approval all funding agreements.

ATTACHMENTS:

1. Amendment to City of Lake Stevens - Lake Stevens Food Bank Funding Agreement

RECIPIENT: Lake Stevens Food Bank
CONTACT PERSON: Sophina Nunez, President
ADDRESS: PO Box 1031
Lake Stevens, WA 98258
FEDERAL TAX ID / EIN NUMBER: 91-1215080
TELEPHONE: (425) 478-9416

CITY DEPARTMENT: Barb Stevens, Finance
TELEPHONE NUMBER: (425) 622-9410
PROJECT: Construction of new building
AMOUNT: \$950,000.00
FUNDING SOURCE: **General Fund**

CONTRACT DURATION: **September 20, 2022**, through (20) twenty years following the date of occupancy of the constructed project building-life of the constructed building.

AGREEMENT FOR FUNDING BETWEEN
CITY OF LAKE STEVENS
AND
LAKE STEVENS COMMUNITY FOOD BANK

THIS AGREEMENT (the “Agreement”) is made by and between ~~CITY~~THE CITY OF LAKE STEVENS, a political subdivision of the State of Washington (the “City”), and **Lake Stevens Community Food Bank Association**, a Washington nonprofit corporation (the “Recipient”).

~~WHEREAS, the City sold the real property upon which the project set forth in **Schedule A** hereto is to be constructed to Tim Kaintz at a discounted purchase price on condition the property be donated to the Recipient for use by the Recipient, its assigns and all successors in interest for the operations of a Food bank; and on further condition that a building for the operations of the Food Bank consistent with the project described in **Schedule A** be constructed and operating no later than 24 months from the date of conveyance of the Property to the Food Bank; and further conditioned on the Food Bank building provide approximately 1734 square feet of space for the City’s exclusive use for human services related programs and uses; and~~

~~WHEREAS, Tim Kaintz conveyed the Property to the Recipient by Quit claim Deed dated April 25, 2019 (Auditor’s #201904260503) subject to the Recipient granting to the City certain covenants running with the property on April 30, 2019 (Auditor’s #201904300802) providing among other things for the conditions of sale from the City to Tim Kaintz; and~~

~~WHEREAS, the City and the Recipient after entering into a lease agreement dated April 26, 2019 for the 1734 square feet of space for the City’s exclusive use and subsequently entered into a lease termination agreement terminating said lease to allow for the Recipient to work with the Volunteers of America (VOA) to fulfill the need for human services in said space instead of the City (the recorded covenants referenced above remain in place however); and~~

~~WHEREAS, the City and the Recipient agreed to the Amendment of said covenants for the allowance of the Food Bank building to be constructed and operating no later than April 26, 2024~~

allowing additional time for the Recipient to raise the funding necessary for the project described in Schedule; and

WHEREAS, the City has available funds for the making of a grant to the Recipient for partial funding of the project described in **Schedule A** and such funding is in the public interest and will benefit of the citizens in and around the City of Lake Stevens and will help facilitate the funding necessary for the project described in **Schedule A**;

NOW, THEREFORE,

In consideration of the mutual benefits and covenants contained herein, the parties agree as follows:

1. Purpose of Agreement; Project. The purpose of this Agreement is to provide grant funds on a reimbursement basis to the Recipient for the purpose of undertaking the project set forth in **Schedule A** (the "Project"), attached hereto and by this reference made a part hereof.

In consideration for the grant funds, Recipient promises that any work reimbursed by funds provided under this Agreement 1) be performed in accordance with generally accepted practices prevailing in the Western Washington region in the occupation or industry in which the work is performed and 2) be performed in a timely manner and in accordance with the terms of this Agreement. Any materials or equipment funded by this Agreement shall be of good quality.

In consideration for the grant funds, the Recipient shall prepare and present reports and other information as the City may request.

2. Term of Agreement; Time of Performance. This Agreement shall be effective when authorized and executed by both parties (the "Effective Date") and shall terminate at ~~the end of life of the building constructed (or replacement building if damaged) consistent with the City's occupancy of the building space per the recorded covenant and lease agreement between the City and the Recipient. (the "Expiration Date")~~, (20) twenty years following the date of occupancy of the constructed project building.

3. Eligible Expenses; Reports.

a. Eligible Expenses. The City will reimburse Recipient for eligible expenses as and when set forth in **Section 3b** of this Agreement.

b. Invoices. The Recipient shall submit to the City a properly executed invoice for eligible expenses to be reimbursed under this Agreement, solely for those expenses set forth in **Schedule A** of the Agreement. Each invoice shall indicate the eligible expenses for reimbursement during the corresponding quarterly period(s), shall be in sufficient detail and with sufficient documentation to support the amount requested and must be accompanied by a Project Status Report, which describes in narrative form, the progress made on the Project since the last invoice was submitted. Subject to **Section 9** of this Agreement, the City will pay the invoice within thirty (30) calendar days of receipt.

c. Reports. In consideration of the grant funds provided under this Agreement ~~and by no later than the dates indicated,~~ the Recipient shall deliver ~~quarterly annual~~ reports ~~to the City Council no later than January 31 of the following year~~ and a close out report to the City within

thirty (30) days following building occupancy summarizing the expenses funded pursuant to this Agreement. Each annual report shall include a narrative description of the construction of the building including pictures of the progress following completion of project construction shall contain:

- ~~• A narrative description of the construction of the building including pictures of the progress.~~
- Number of individuals assisted, and type of assistance received during the report period.
- Details of programs initiated or expanded because of this new building.
- Amount of food distributed during the report period.

~~Reports are due as follows:~~

- ~~• April 15: Quarterly report for the period January 1—March 31~~
- ~~• July 15: Quarterly report for the period April 1—June 30~~
- ~~• October 15: Quarterly report for the period July 1—September 30~~
- ~~• January 15: Quarterly report for the period October 1—December 31~~
- ~~• Within thirty (30) days the date when the facility constructed with grant funds is made usable to the public as a food bank: Close out report.~~

~~When the due date for a report falls on a non-business day, the report shall be due to the City by the close of the next business day. For the purposes of this section, “delivery” shall mean either physical delivery to the City by the due date, receipt by the City in electronic format by the due date or a postmark showing the report was mailed to the City by no later than the due date.~~

If physically delivered or mailed, annual reports shall be sent to:

Matthew Heist
PO Box 257
Lake Stevens, WA 98258

If transmitted by email, annual reports shall be sent to:

Matthew Heist
mheist@lakestevenswa.gov

The City may, by notice given to the Recipient hereunder, designate any further or different addresses to which subsequent reports shall be delivered.

d. Contract Maximum. Total reimbursable eligible expenses under this Agreement shall not exceed **\$950,000.00**.

e. Duplication of Billed Costs. The Recipient shall not seek reimbursement from the City under this Agreement, and the City shall not pay the Recipient, for otherwise eligible expenses if the Recipient is entitled to payment or has been or will be paid for said expense by any other source, including grants.

f. Disallowed Costs. The Recipient is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its subgrantees.

4. No Employment Or Agency Relationship. This Agreement neither constitutes nor creates an agency or employer-employee relationship. The parties agree that the Recipient is not entitled to any benefits or rights enjoyed by employees of the City. The Recipient specifically has

the right to direct and control Recipient's own activities set out in this Agreement. Nothing in this Agreement shall be construed to render the parties' partners or joint venturers.

The Recipient, for any activities funded by this Agreement, shall furnish, employ and have exclusive control of all persons to be engaged in performing activities funded by this Agreement (the "Recipient personnel"), and shall provide adequate and proper supervision. Such Recipient personnel shall for all purposes be solely the employees or agents of the Recipient and shall not be deemed to be employees or agents of the City for any purposes whatsoever. With respect to Recipient personnel, the Recipient shall be solely responsible for compliance with all rules, laws and regulations relating to employment of labor, hours of labor, working conditions, payment of wages and payment of taxes, including applicable contributions from Recipient personnel when required by law.

The Recipient shall be responsible for all obligations relating to federal income tax, self-employment or FICA taxes and contributions, and all other so-called employer taxes and contributions including, but not limited to, industrial insurance (workers' compensation). Recipient agrees to indemnify, defend and hold the City harmless from any and all claims, valid or otherwise, made to the City because of these obligations.

Recipient assumes full responsibility for the payment of all payroll taxes, use, sales, income, or other form of taxes, fees, licenses, excises, or payments required by any city, City, federal or state legislation which are now or may during the term of the Agreement be enacted as to all persons employed by the Recipient and as to all duties, activities, and requirements by the Recipient under this Agreement. The Recipient shall assume exclusive liability therefor and shall meet all requirements thereunder pursuant to any rules or regulations that are now or may be promulgated in connection therewith.

5. Capacity. The Recipient, by signing this Agreement, acknowledges that it has the institutional, managerial, and financial capability to ensure proper planning, management, and completion of the Project set forth in **Schedule A**.

6. Certification of Funds. The release of City funds under this Agreement is contingent upon the Recipient certifying that it has expended or has access to funds from non-City sources as set forth in **Schedule B** (Certification of the Availability of Funds to Complete the Project), hereof. Such non-City sources may consist of a combination of any of the following:

- a. Eligible Project expenditures prior to the execution of this Agreement.
- b. Cash dedicated to the Project.
- c. Funds available through a letter of credit or other binding loan commitment(s).
- d. Pledges from foundations or corporations.
- e. Pledges from individual donors.
- f. The value of real property when acquired solely for the purposes of this Project, as established and evidenced by a current market value appraisal performed by a licensed, professional real estate appraiser, or a current property tax statement. The City will not consider appraisals for prospective values of such property for the purposes of calculating the amount of non-City matching fund credit.
- g. In-kind contributions, ~~subject to the City's approval~~.

7. Changes. No changes or additions shall be made in this Agreement except as agreed to by both parties, reduced to writing and executed with the same formalities as are required for the execution of this Agreement.

8. Contact Persons. The assigned contact person (or project manager) for the City for this Agreement shall be:

Name: **Barb Stevens**
Title: **Finance Director**
Department: **Finance**
Telephone: **(425) 622-9410**
Email: bstevens@lakestevenswa.gov

The assigned contact person (or project manager) for the Recipient for this Agreement shall be:

Name: **Sophina Nunez**
Title: **President**
Telephone: **(425) 478-9416**
Email: president@lakestevensfoodbank.org

9. City Review and Approval. City shall review each invoice submitted by Recipient for compliance with eligible expenses set forth in **Schedule A**. If all expenses comply with **Schedule A**, City will approve and reimburse the invoice within 30 days of receipt. If the City determines that an expense is not reimbursable, the City will notify Recipient within 10 days following its determination that the expense is not reimbursable. City may withhold payment of any invoice in the event Recipient fails to submit any required report or fails to perform any other obligation under this Agreement.

Recipient agrees, upon 24 hour notice, to allow the City to perform site visits and to take pictures in relation to reimbursement requests submitted by the Recipient.

10. Use for Recipient-Owned Property. The Recipient understands and agrees that for the term of this Agreement defined in Section 2 of this Agreement, any and all real property or facilities owned by the Recipient that are acquired, constructed, or otherwise improved by the Recipient using City funds under this Agreement shall be held and used by the Recipient for the food bank and human services purpose or purposes as stated elsewhere in this Agreement, for the life of the building constructed consistent twenty years (20) after completion of construction and building occupancy, with the recorded covenants referenced above.

In the event the Recipient is found to be out of compliance with this section, the Recipient shall repay to the City general fund the principal amount of the grant, interest at twelve percent (12%) per annum, and an amount representing the prorated, appreciated value of the Property. Repayment shall be made pursuant to **Section 22**. ‡

11. Records and Access; Audit; Ineligible Expenditures. The Recipient shall maintain adequate records to support its invoices. Said records shall be maintained for a period of seven (7) years after completion of this Agreement by the Recipient. The City or any of its duly authorized representatives shall have access at reasonable times to any books, documents, papers and records of the Recipient that are directly related to this Agreement for the purposes of making audit examinations, obtaining excerpts, transcripts or copies, and ensuring compliance by the City with applicable laws. Expenditures under this Agreement, which are determined by

audit to be ineligible for reimbursement and for which payment has been made to the Recipient, shall be refunded to the City by the Recipient within thirty (30) days of written request by the City. The Recipient shall use the funds that are the subject of this Agreement only for purposes set forth in this Agreement.

12. Signage, Markers and Publications. If, during the period covered by this Agreement, the Recipient displays or circulates any communication, publication, or donor recognition identifying the financial participants in the Project, any such communication or publication must identify "The City of Lake Stevens" as a participant.

13. Indemnification. To the maximum extent permitted by law and except to the extent caused by the sole negligence of the City and, if any funds for this Agreement are provided by the State, ~~the State~~, the Recipient shall indemnify and hold harmless the City and the State, their officers, officials, agents and employees, from and against any and all suits, claims, actions, losses, costs, penalties and damages of whatsoever kind or nature arising out of, in connection with, or incidental to the services and/or deliverables provided by or on behalf of the Recipient. In addition, the Recipient shall assume the defense of the City and, if applicable, the State and their officers and employees in all legal or claim proceedings arising out of, in connection with, or incidental to such services and/or deliverables and shall pay all defense expenses, including reasonable attorneys' fees, expert fees and costs incurred by the City and, if applicable, the State, on account of such litigation or claims.

The above indemnification obligations shall include, but are not limited to, all claims against the City and, if applicable, the State by an employee or former employee of the Recipient or its subcontractors, and the Recipient, by mutual negotiation, expressly waives all immunity and limitation on liability, as respects only the City and, if applicable, the State, under any industrial insurance act, including Title 51 RCW, other worker's compensation act, disability benefit act, or other employee benefit act of any jurisdiction which would otherwise be applicable in the case of such claim.

In the event that the City or, if applicable, the State incurs any judgment, award and/or cost including attorneys' fees arising from the provisions of this section, or to enforce the provisions of this section, any such judgment, award, fees, expenses and costs shall be recoverable from the Recipient.

In addition to injuries to persons and damage to property, the term "claims," for purposes of this provision, shall include, but not be limited to, assertions that the use or transfer of any software, book, document, report, film, tape, or sound reproduction or material of any kind, delivered hereunder, constitutes an infringement of any copyright, patent, trademark, trade name, and/or otherwise results in an unfair trade practice.

The indemnification, protection, defense, and save harmless obligations contained herein shall survive the expiration, abandonment, or termination of this Agreement.

Nothing contained within this provision shall affect or alter the application of any other provision contained within this Agreement.

14. Insurance Requirements. The Recipient shall procure by the time of execution of this Agreement, and maintain for the duration of this Agreement, (i) insurance against claims for injuries to persons or damage to property which may arise from or in connection with the

performance of the services hereunder by the Recipient, its agents, representatives, or employees, and (ii) a current certificate of insurance and additional insured endorsement when applicable.

a. General. Each insurance policy shall be written on an "occurrence" form, except that Professional Liability, Errors, and Omissions coverage, if applicable, may be written on a claims-made basis. If coverage is approved and purchased on a "claims-made" basis, the Recipient warrants continuation of coverage, either through policy renewals or the purchase of an extended discovery period, if such extended coverage is available, for not less than three (3) years from the date of completion of the work which is the subject of this Agreement.

By requiring the minimum insurance coverage set forth in this **Section 14**, the City shall not be deemed or construed to have assessed the risks that may be applicable to the Recipient under this Agreement. The Recipient shall assess its own risks and, if it deems appropriate and/or prudent, maintain greater limits and/or broader coverage.

b. No Limitation on Liability. The Recipient's maintenance of insurance as required by this Agreement shall not be construed to limit the liability of the Recipient to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity.

c. Minimum Scope and Limits of Insurance. The Recipient shall maintain coverage at least as broad as, and with limits no less than:

(i) General Liability: \$2,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage, and for those policies with aggregate limits, a \$3,000,000 aggregate limit. CG 00 01 current edition, including Products and Completed Operations.

(ii) Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury and property damage. CA 0001 current edition, Symbol 1.

(iii) Workers' Compensation: To meet applicable statutory requirements for workers' compensation coverage of the state or states of residency of the workers providing services under this Agreement.

(iv) Employers' Liability or "Stop Gap" coverage: \$1,000,000.

(v) Fidelity Insurance. Every officer, director, employee, or agent who is authorized to act on behalf of the Recipient for the purpose of receiving or depositing funds into program accounts or issuing financial documents, checks, or other instruments of payment for program costs shall be insured to provide protection against loss:

A. The amount of fidelity coverage secured pursuant to this Agreement. shall be \$2,000,000 or the highest of planned reimbursement for the Agreement. period, whichever is lowest. Fidelity insurance secured pursuant to this paragraph shall name the City as beneficiary.

B. Subgrantees that receive \$10,000 or more per year in funding through this Agreement shall secure fidelity insurance as noted above. Fidelity insurance secured by Subgrantees pursuant to this paragraph shall name the Recipient and the Recipient's fiscal agent as beneficiary.

C. The Recipient shall provide, at the City's request, copies of insurance instruments or certifications from the insurance issuing agency. The copies or certifications shall show the insurance coverage, the designated beneficiary, who is covered, the amounts, the period of coverage, and that the City will be provided thirty (30) days advance written notice of cancellation.

d. Other Insurance Provisions and Requirements. The insurance coverages required in this Agreement for all liability policies except workers' compensation and Professional Liability, if applicable, must contain, or must be endorsed to contain, the following provisions:

(i) The City, its officers, officials, employees, and agents are to be covered as additional insureds as respects liability arising out of activities performed by or on behalf of the Recipient in connection with this Agreement. Such coverage shall be primary and non-contributory insurance as respects the City, its officers, officials, employees and agents. Additional Insured Endorsement shall be included with the certificate of insurance; "CG 2026 07/04" or its equivalent is required.

(ii) The Recipient's insurance coverage shall apply separately to each insured against whom a claim is made and/or lawsuit is brought, except with respect to the limits of the insurer's liability.

(iii) Any deductibles or self-insured retentions must be declared to, and approved by, the City. The deductible and/or self-insured retention of the policies shall not limit or apply to the Recipient's liability to the City and shall be the sole responsibility of the Recipient.

(iv) Insurance coverage must be placed with insurers with a Best's Underwriting Guide rating of no less than A: VIII, or, if not rated in the Best's Underwriting Guide, with minimum surpluses the equivalent of Best's surplus size VIII. Professional Liability, Errors and Omissions insurance coverage, if applicable, may be placed with insurers with a Best's rating of B+: VII. Any exception must be approved by the City.

Coverage shall not be suspended, voided, canceled, reduced in coverage or in limits until after forty-five (45) calendar days' prior written notice has been given to the City.

If at any time any of the foregoing policies fail to meet minimum requirements, the Recipient shall, upon notice to that effect from the City, promptly obtain a new policy, and shall submit the same to the City, with the appropriate certificates and endorsements, for approval.

e. Subcontractors. The Recipient shall include all subcontractors as insured under its policies or shall furnish separate certificates of insurance and policy endorsements for each subcontractor. **Insurance coverages provided by subcontractors instead of the Recipient as evidence of compliance with the insurance requirements of this Agreement shall be subject to all of the requirements stated herein.**

f. Local Governments that Participate in a Self-Insurance Program. With prior approval from the City, the Recipient may provide the coverage above under a self-insured/liability pool or self-insured risk management program. In order to obtain permission from the City, the Recipient shall provide: (1) a description of its self-insurance program, and (2) a certificate and/or letter of coverage that outlines coverage limits and deductibles. All self-insured risk management

programs or self-insured/liability pool financial reports must comply with Generally Accepted Accounting Principles (GAAP) and adhere to accounting standards promulgated by: 1) Governmental Accounting Standards Board (GASB), 2) Financial Accounting Standards Board (FASB), and 3) the Washington State Auditor's annual instructions for financial reporting. Recipient's participating in joint risk pools shall maintain sufficient documentation to support the aggregate claim liability information reported on the balance sheet. The City need not be named as additional insured under a self-insured property/liability pool, if the pool is prohibited from naming third parties as additional insured.

Recipient shall provide annually to the City a summary of coverages and a letter of self-insurance, evidencing continued coverage under Recipient's self-insured/liability pool or self-insured risk management program. Such annual summary of coverage and letter of self-insurance will be provided on the anniversary of the start date of this Agreement.

15. City Non-Discrimination. It is the policy of the City to reject discrimination which denies equal treatment to any individual because of his or her race, creed, color, national origin, families with children, sex, marital status, sexual orientation, age, honorably discharged veteran or military status, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability as provided in Washington's Law against Discrimination, Chapter 49.60 RCW. These laws protect against specific forms of discrimination in employment, credit transactions, public accommodation, housing, City facilities and services, and City contracts.

16. Federal Non-discrimination. Recipient shall ensure that no person shall on the grounds or race, color, national origin, or sex as provided by Title VI of the Civil Rights Act of (Pub. L. No. 88-352), as amended, and the Civil Rights Restoration Act of 1987 (Pub. L. No. 100-259) be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to the services, benefits, or facilities funded by this Agreement.

Recipient shall ensure that no funds provided under this Agreement are used for inherently religious activities or for a religious purpose.

17. Prevailing Wage. Recipient shall cause compliance with Washington State Prevailing Wage laws for the project. For work financed under this Agreement, Recipient shall pay their laborers and mechanics at wage rates not less than those prevailing on similar construction in the locality in accordance with 39.12 RCW pertaining to payment of state prevailing wages on public works projects. For work financed under this Agreement, Recipient shall require all contractors and subcontractors to comply with RCW 49.28.060 and 49.28.065. Recipient shall file and ensure that any subcontractor file with Department of Labor and Industries a Statement of Intent to Pay Prevailing Wages and Affidavit of Wages Paid. Compliance with this section is material to this Agreement, any breach of this Section is cause for City termination under **Section 21.**

18. Compliance with Other Laws. The Recipient shall comply with all other applicable federal, state and local laws, rules, and regulations in performing this Agreement.

19. Compliance with Grant Terms and Conditions. The Recipient shall comply with any and all conditions, terms and requirements of any federal, state or other grant, if any, that wholly or partially funds this Agreement.

20. Force Majeure. If either party is unable to perform any of its obligations under this Agreement as a direct result of an unforeseeable event beyond that party's reasonable control, including but not limited to an act of war, act of nature (including but not limited to earthquake and flood), embargo, riot, sabotage, labor shortage or dispute (despite due diligence in obtaining the same), or governmental restriction imposed subsequent to execution of the Agreement (collectively, a "force majeure event"), the time for performance shall be extended by the number of days directly attributable to the force majeure event. Both parties agree to use their best efforts to minimize the effects of such failures or delays.

21. Non-Waiver of Breach; Termination.

a. The failure of the City to insist upon strict performance of any of the covenants or agreements contained in this Agreement, or to exercise any option conferred by this Agreement, in one or more instances shall not be construed to be a waiver or relinquishment of those covenants, agreements or options, and the same shall be and remain in full force and effect.

b. If the Recipient breaches any of its obligations hereunder and fails to cure the same within fifteen (15) business days of written notice to do so by the City, the City may terminate this Agreement prior to the Expiration Date, in which case the City shall have the right to recover all amounts previously paid by the City pursuant to **Section 3**.

c. The City may terminate this Agreement prior to its Expiration Date upon fifteen (15) business days' written notice to the Recipient for any reason other than stated in subparagraph b above, in which case payment shall be made in accordance with **Sections 3** and **9** hereof for the invoices submitted under this Agreement prior to receipt of the termination notice.

d. Termination by the City hereunder shall not affect the rights of the City as against the Recipient provided under any other section or paragraph herein. The City does not, by exercising its rights under this **Section 21**, waive, release, or forego any legal remedy for any violation, breach or non-performance of any of the provisions of this Agreement. At its sole option, the City may deduct from the final payment due the Recipient (i) any damages, expenses or costs arising out of any such violations, breaches or non-performance and (ii) any other setoffs or credits including, but not limited to, the costs to the City of selecting and compensating another contractor to complete the work of the Agreement.

22. Recapture. In the event that the Recipient fails to comply with state laws, federal laws, and/or the provisions of this Agreement, the City reserves the right to recapture funds in an amount to compensate the City for the noncompliance in addition to any other remedies available at law or in equity.

Repayment by the recipient of funds under this recapture provision shall occur within the time period specified by the City. In the alternative, the City may recapture such funds from payments due under this Agreement.

23. Notices. Except as provided for the reporting and invoicing purposes set forth in **Section 3** hereof, all notices and other communications shall be in writing and shall be sufficient if given, and shall be deemed given, on the date on which the same has been mailed by certified mail, return receipt requested, postage prepaid, addressed as follows:

If to the City: **City of Lake Stevens**
Attn: City Clerk
PO Box 257

Lake Stevens, WA 98258

If to the Recipient: **Sophina Nunez, President**
PO Box 1031
Lake Stevens, WA 98258

The City or the Recipient may, by notice to the other given hereunder, designate any further or different addresses to which subsequent notices or other communications shall be sent.

24. Public Records Act. This Agreement and all public records associated with this Agreement shall be available from the City for inspection and copying by the public where required by the Public Records Act, Chapter 42.56 RCW (the "Act"). To the extent that public records then in the custody of the Recipient are needed for the City to respond to a request under the Act, as determined by the City, the Recipient agrees to make them promptly available to the City. If the Recipient considers any portion of any record provided to the City under this Agreement, whether in electronic or hard copy form, to be protected from disclosure under law, the Recipient shall clearly identify any specific information that it claims to be confidential or proprietary. If the City receives a request under the Act to inspect or copy the information so identified by the Recipient and the City determines that release of the information is required by the Act or otherwise appropriate, the City's sole obligations shall be to notify the Recipient (a) of the request and (b) of the date that such information will be released to the requester unless the Recipient obtains a court order to enjoin that disclosure pursuant to RCW 42.56.540. If the Recipient fails to timely obtain a court order enjoining disclosure, the City will release the requested information on the date specified.

The City has, and by this section assumes, no obligation on behalf of the Recipient to claim any exemption from disclosure under the Act. The City shall not be liable to the Recipient for releasing records not clearly identified by the Recipient as confidential or proprietary. The City shall not be liable to the Recipient for any records that the City releases in compliance with this section or in compliance with an order of a court of competent jurisdiction.

25. Interpretation. This Agreement and each of the terms and provisions of it are deemed to have been explicitly negotiated by the parties. The language in all parts of this Agreement shall, in all cases, be construed according to its fair meaning and not strictly for or against either of the parties hereto. The captions and headings of this Agreement are used only for convenience and are not intended to affect the interpretation of the provisions of this Agreement. This Agreement shall be construed so that wherever applicable the use of the singular number shall include the plural number, and vice versa, and the use of any gender shall be applicable to all genders.

26. Complete Agreement. This Agreement constitutes the entire understanding of the parties. Any written or verbal agreements that are not set forth herein or incorporated herein by reference are expressly excluded.

27. Conflicts between Attachments and Text. Should any conflicts exist between any attached exhibit or schedule and the text or main body of this Agreement, the text or main body of this Agreement shall prevail.

28. No Third-Party Beneficiaries. The provisions of this Agreement are for the exclusive benefit of the City and the Recipient. This Agreement shall not be deemed to have conferred any rights, express or implied, upon any third parties.

29. Governing Law; Venue. This Agreement shall be governed by the laws of the State of Washington. The venue of any action arising out of this Agreement shall be in the Superior Court of the State of Washington, in and for Snohomish County.

30. Severability. Should any clause, phrase, sentence or paragraph of this Agreement be declared invalid or void, the remaining provisions of this Agreement shall remain in full force and effect.

31. Authority. Each signatory to this Agreement represents that he or she has full and sufficient authority to execute this Agreement on behalf of the City or the Recipient, as the case may be, and that upon execution of this Agreement it shall constitute a binding obligation of the City or the Recipient, as the case may be.

32. Survival. Those provisions of this Agreement that by their sense and purpose should survive expiration or termination of the Agreement shall so survive.

33. Execution in Counterparts. This Agreement may be executed in counterparts, each of which shall constitute an original and all of which shall constitute on and the same Agreement.

(Signature page to follow)

CITY:

The City of Lake Stevens

RECIPIENT:

Lake Stevens Community Food Bank
Association

By _____

Name: _____

Title: _____

Date: _____

By _____

Name: _____

Title: _____

Date: _____

Attest:

Approved as to form only:

City Clerk

Legal Counsel to the Recipient Date

Approved as to form only:

City Attorney Date

SCHEDULE A Project Description

Recipient shall construct Phase II of the Lake Stevens Food Bank building as approved by the City of Lake Stevens Building Department. Phase II of the Lake Stevens Food Bank building shall be located at 8021 20th St. SE, Lake Stevens, WA (legally described in Schedule C hereto) and shall house food bank distribution for the public; a truck bay and receiving area for food shipments; food storage; and food preparation spaces.

Addressing Community needs: The Lake Stevens food bank provides food to approximately 41,000 low income and disabled people on an annual basis.

Consideration for the public: The construction of the Phase II of the Lake Stevens Food Bank building will increase the Recipient's capacity to provide food by 50%. Phase II of the Lake Stevens Food Bank building will house a market-style food bank, allowing participants to select food items directly, as well as a teaching kitchen to provide nutritional cooking and healthy eating programs. Recipient shall ensure that the facility constructed with grant funds operates as a food bank and that food bank benefits are accessible to residents of City of Lake Stevens.

The Recipient may only receive reimbursement according to the following:

1. The Recipient will be reimbursed by the City for eligible expenses incurred in executing the Project, pursuant to the Agreement, in an amount not to exceed the Grant Maximum of **\$950,000.00**.
2. Eligible expenses for which Recipient may request reimbursement:
 - a. Design, engineering, architectural, and planning costs;
 - b. Construction management and observation (from external sources only);
 - c. Construction costs including, but not limited to, the following:
 - i. Site preparation and improvements;
 - ii. Permits and fees;
 - iii. Labor and materials;
 - iv. Taxes on Project goods and services;
 - v. Temporary facilities that are necessary as part of the construction project; and
 - vi. Signage and reprographics.
3. Sufficient documentation of eligible expenses shall include itemized invoices from third parties, if any, for all eligible expenditures for which the Recipient seeks reimbursement. Eligible expenses include those expenditures incident and reasonably necessary to the completion of the project.

SCHEDULE B
Certification of the Availability of Funds to Complete the Project

Non-City Funds	Amount	Total
Cash Donations Raised	\$621,253.00	
WSDA Grant For Ref/Freezer	\$48,000.00	
Norcliffe Foundation	\$20,000.00	
Haggen Foundation	\$25,000.00	
Tulalip Tribe	\$2,500.00	
Lake Stevens Rotary	\$15,000.00	
Snohomish County	\$600,000.00	
Total Non-City Funds		\$1,331,753.00
City of Lake Stevens	\$950,000.00	
Total City Funds		\$950,000.00
Total Non-City and City Sources		\$2,281,753.00

CERTIFICATION PERFORMANCE MEASURE

The Recipient, by its signature, certifies that project funding from sources other than those provided by this Agreement and identified above has been reviewed and approved by the Recipient's governing body or board of directors, as applicable, and has either been expended for eligible Project expenses, or is committed in writing and available and will remain committed and available solely and specifically for carrying out the purposes of this Project as described in elsewhere in this Agreement, as of the date and year written below. The Recipient shall maintain records sufficient to evidence that it has expended or has access to the funds needed to complete the Project and shall make such records available for City's review upon reasonable request.

RECIPIENT

TITLE

DATE

SCHEDULE C

Property Legal Description

**Real property in the City of Lake Stevens, City of Snohomish, State of Washington,
described as follows:**

Section 23 Township 29 Range 05 Quarter SE EAST EVERETT 5 AC TR DIV A & B
BLK 003 D-02 NEW LOT 1 CITY LK ST BLA REC AFN 201901250167 SURVEY
REC AFN 201901255001 BEING PTN LOTS 2 & 3 SD PLAT

Tax Parcel Numbers: 00431400300202

Situs Address: 8021 20th St. SE Ste. 1010, Lake Stevens, WA 98258

CITY COUNCIL STAFF REPORT



Agenda Date: 12/6/2022

Subject: Code Enforcement Update

Contact Person/Department: Russ Wright, Cameron Fauth, Community Development

Budget Impact: Not Applicable

Legal Review: No

RECOMMENDATION(S)/ACTION REQUESTED:

No Action Required

SUMMARY/BACKGROUND:

Code Enforcement promotes an awareness of city regulations using education as a tool to provide the public knowledge of city codes and achieve voluntary compliance. Code Enforcement strives to maintain a high quality of life for residents with strong neighborhoods.

Most enforcement actions are complaint based. Citizen complaints, received through our online portal, trigger an investigation, where the code enforcement officer works to educate property owners with the intent of finding a collaborative resolution of the situation. The most common types of code violations are for building and clearing/grading activities undertaken without permits, work in critical areas, nuisance vehicles, vegetation and garbage. Less common violations are business license violations and occupancy violations.

Coordination, with the correct departments and/or agencies, is an important part of code enforcement. During specific investigations or through regular patrols, code enforcement works with affected departments to ensure the violation is being handled by the correct department. For example, abandoned vehicles located on public streets are referred to the Police Department. Damaged city property or other maintenance

issues are referred to the Public Works or Parks Department depending on location.

Staff responds to all complaints received in a timely manner. Cases are prioritized based on significance and severity to life safety, environmental impacts, and public nuisance. Complaints are also evaluated to determine if they are actual violations of local or state code or civil disputes between neighbors and homeowners' associations.

In 2022, we started several proactive projects to improve our code compliance in specific areas, such as:

- Patrolling designated neighborhoods twice a week (Hartford, 20th Street, Hwy 9) with the goal of improving neighborhood aesthetics. Staff identifies issues in violation of city standards and codes, trash, vegetation, nuisance vehicles and properties during these routes.
- Enhanced sign enforcement in the public right-of-way, which has included education and notification to violators, leading to city removal. Sign enforcement occurs twice a week – staff has removed 300+ signs this year.
- Staff has completed quarterly outreach with the marijuana operations in the industrial area through mailers and in-person communications to ensure that they remain compliant with odor control. This effort has resulted in a reduction of noxious odor violations to zero nuisance cases.
- Quarterly education about common code cases is achieved by onsite meetings, postings, website flyers, letters and social media blasts.
- Acting as part of the Homeless Encampment Team, Code Enforcement's role is to contact and work with property owners to remove refuse and correct unsafe conditions.
- We are currently working on an analysis of sight triangles, on main arterials and secondary streets, to identify sight obstructions within the city. Staff will develop a list of areas of concerns and address them with Public Works and private property owners.
- Staff has started the code enforcement process for short-term rental locations and will notify 28 identified owners about current regulations and proposed changes. The outcome would be that existing facilities apply for permits under current "tourist home" regulations or cease operations until they can apply under new regulations when adopted.

The number of new cases varies week by week – on average, the city receives 2 to 3 cases per week. We estimate a similar number of complaints as last year. Not all complaints investigated become enforcement cases. The total number of cases may be underestimated as there was software malfunction mid-year that resulted in new cases not being recorded for a short period of time.

Types of Violations	2022 (as of Nov 30 th)	2021 (Year End)
---------------------	------------------------------------	-----------------

Ongoing cases	57	29
Closed cases	32	28
Voluntary Compliance	22	6
Stop Work Orders	2	4
Notice of Violations	11	11
Complaints Investigated	22	50
Totals	103	128

APPLICABLE CITY POLICIES:

Title 17 Lake Stevens Municipal Code

ATTACHMENTS:

None

CITY COUNCIL STAFF REPORT



Agenda Date: 12/6/2022

Subject: Source Control Ordinance

Contact Person/Department: Olin Anderson, Shannon Farrant, Public Works

Budget Impact: None.

Legal Review: Yes

RECOMMENDATION(S)/ACTION REQUESTED:

Requesting the Council's review and input on the adoption of Ordinance 1151 amending and adding language in Title 11 to define a Source Control Program and clarify existing language.

SUMMARY/BACKGROUND:

The City has a regulatory obligation by the NPDES Phase II Municipal Stormwater Permit (Permit), to implement a Source Control Program for existing businesses by January 1, 2023. Ordinance 1151 defines the regulatory framework to support the Source Control Program. The adoption of Ordinance 1151 will also clarify and amend existing language in Title 11 to reduce redundancy and improve readability. As part of the amendments, a new section was created for Definitions by extracting portions of the original code and moving them to the new section and adding seven new definitions that will aid in clarification of the code.

The purpose of a Source Control Program is to improve water quality by implementing structural and operational practices to control pollution with best management practices (BMPs) at the source. The overall approach of the Source Control Program is to achieve surface water protection through information sharing and voluntary compliance. The Program includes an inspection process coupled with education and outreach and technical assistance to implement BMPs at businesses to improve water quality. The regulatory framework for enforcing water quality currently exists in the Lake Stevens Municipal Code (LSMC) under the illicit discharge code, but Ordinance 1151 builds the

framework for the Source Control Program and clarifies the enforcement process. No new enforcement procedures are proposed. However, the two existing enforcement parameters were amended to maintain consistence with the WAC definition of the penalty. The presentation given at the workshop will feature a PowerPoint presentation summarizing the program and code changes proposed.

Ordinance 1151 has been reviewed and edited based on comments by the Public Works Director, Police Department, and City Attorney. Adoption of a Source Control Program is a regulatory requirement that the City must meet to remain in compliance with the NPDES Phase II Municipal Stormwater Permit.

APPLICABLE CITY POLICIES:

LSMC Title 11

ATTACHMENTS:

1. ord1151_SourceControl_20221201

CITY OF LAKE STEVENS
Lake Stevens, Washington
ORDINANCE NO. 1151

AN ORDINANCE OF THE CITY OF LAKE STEVENS, WASHINGTON, CLARIFYING THE EXISTING STORMWATER AND SURFACE WATER MANAGEMENT REGULATIONS AND ADDING ITEMS DEFINING A SOURCE CONTROL PROGRAM FOR BUSINESS CONDUCTED ON PRIVATE PROPERTY PURSUANT TO THE WESTERN WASHINGTON PHASE II MUNICIPAL STORMWATER PERMIT ISSUED TO THE CITY BY THE WASHINGTON STATE DEPARTMENT OF ECOLOGY AND ADDING CHAPTER 11.03 OF THE LAKE STEVENS MUNICIPAL CODE (LSMC) ENTITLED “STORMWATER DEFINITIONS”; AMENDING PORTIONS OF CHAPTER 11.04 OF LSMC ENTITLED “STORMWATER MANAGEMENT UTILITY”; AMENDING PORTIONS OF CHAPTER 11.06 OF LSMC ENTITLED “STORMWATER MANAGEMENT”; AND PROVIDING BASIS FOR AUTHORITY, ADMINISTRATION, APPLICABLE MEASURES, ENFORCEMENT, PENALTIES, AND PURPOSE OF THE REGULATORY INTENT OF THE SURFACE WATER PROGRAM; AND PROVIDING FOR AN EFFECTIVE DATE AND FOR SUMMARY PUBLICATION BY ORDINANCE TITLE.

WHEREAS, the Federal Clean Water Act, 33 U.S.C. 1251 et seq. (the Act), requires certain local governments such as the City of Lake Stevens to implement stormwater management programs and regulations within prescribed timeframes, and pursuant to said Act the United States Environmental Protection Agency (EPA) has adopted rules for such stormwater programs and regulations; and

WHEREAS, the EPA has delegated authority to the Washington State Department of Ecology (Ecology) to administer such stormwater programs and regulations, and Ecology has issued the Western Washington Phase II Municipal Stormwater Permit, effective August 1, 2019 through July 31, 2024, which requires local governments such as the City of Lake Stevens to implement stormwater management requirements, including adopting Ecology's 2019 Stormwater Management Manual for Western Washington (Stormwater Manual) and related regulations; and

WHEREAS, the Washington State Supreme Court determined that stormwater regulations issued by Ecology are not development regulations subject to vesting upon filing of a complete subdivision or building permit application; and

WHEREAS, in 2009, the City Council adopted Ordinance No. 808, as codified in LSMC 11.06.030, which adopted the 2005 Stormwater Manual and required all stormwater systems to be designed in accordance therewith; and

WHEREAS, in 2018, the City Council adopted Ordinance No. 1010, as codified in LSMC 11.06.030, which adopted the 2012 Stormwater Manual, as amended in 2014, and required all stormwater systems to be designed in accordance therewith; and

WHEREAS, in 2022, the City Council adopted Ordinance No. 1140, as codified in LSMC 11.06.030 and 14.50.100, which adopted the 2019 Stormwater Manual and required all stormwater systems to be designed in accordance therewith; and

WHEREAS, in the previous additions and updates to the surface water and stormwater sections of the LSMC were addressed in a piecemeal fashion with overlapping and disjointed presentation of similar content, and thus the LSMC may be subject to a revision for greater clarity and consistency; and

WHEREAS, in order to comply with portions of the currently effective Western Washington Phase II Municipal Stormwater Permit pertaining to inspections of stormwater discharge and potential pollution sources from commercial activities conducted on private property, the City has prepared proposed amendments to the existing Stormwater Management regulations, as set forth below: and

WHEREAS, the proposed changes to the municipal code were presented to City Council at a workshop on December 6, 2022; and

WHEREAS, the City Council has determined that it is in the public's interest and in furtherance of the public health and welfare to adopt regulations for private property commercial Stormwater Source Control in lieu of other available options for compliance with state stormwater regulations, as set forth below.

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

Section 1. The City Council hereby makes the following findings:

- A. The City attorney determined a public hearing is not required for amendments to Title 11.
- B. As required by LSMC 14.16C.075(f), the adoption and amendment of codes are consistent with the Comprehensive Plan, comply with the Growth Management Act and advance the public health, safety and welfare.

Section 1. Title 11, to be renamed "Stormwater and Surface Water Management", shall include a new chapter 11.03 entitled "Stormwater and Surface Water Definitions" and shall rename chapter 11.04 to "Stormwater Management Utility"; Section 11.03, entitled "Surface Water and Stormwater Definitions"; Section 11.04, entitled "Stormwater Management Utility"; and Section 11.06, entitled "Stormwater Management"; of the Lake Stevens Municipal Code, are hereby amended to be read as referenced and incorporated, in the attached Exhibit A, with additions shown by underline and deletions shown by strikethrough.

Section 2. Severability. If any section, clause, phrase, or term of this ordinance is held for any reason to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance, and the remaining portions shall be in full force and effect.

Section 3. Effective Date and Publication. A summary of this ordinance consisting of its title shall be published in the official newspaper of the City. This ordinance shall take effect and be in full force five days after the date of publication.

PASSED by the City Council of the City of Lake Stevens this 13th day of December 2022

Brett Gailey, Mayor

ATTEST/AUTHENTICATION:

Kelly Chelin, City Clerk

APPROVED AS TO FORM:

Greg Rubstello, City Attorney

First and Final Reading: December XX, 2022

Published:

Effective Date:

EXHIBIT A

Note to reviewers: Highlighted text are edits or additions within a section. Unhighlighted sections represent no change to the section.

Title 11

Stormwater and Surface Water Management

Chapter:

- 11.03 Stormwater and Surface Water Definitions**
- 11.04 ~~Storm Water~~ Stormwater Management Utility**
- 11.06 Stormwater Management**

Chapter 11.03

STORMWATER AND SURFACE WATER DEFINITIONS

Sections:

11.03.010 Definitions.

- A. "AKART" means all known, available, and reasonable methods of prevention, control, and treatment. See also the State Water Pollution Control Act, RCW 90.48.010 and 90.48.520.
- B. "Aquatic habitat" or "aquatic resource" means the portion of the water body below the surface, including fluctuating elevations, aquatic or emergent plants, substrate, water quality, and other physical characteristics of a waterbody regarding its ability to support wildlife.
- C. "Best management practices (BMPs)" means schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and structural or managerial practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.
- D. "Developed parcel" means any parcel altered from the natural state by construction, creation, or addition of impervious surfaces.
- E. "Equivalent service unit" means the average impervious surface area of single-family residential properties in the City.

- F. “Ground water” or “groundwater” means water in a saturated zone or stratum beneath the surface of the land or below a surface water body.
- G. “Hazardous materials” means any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.
- H. “Hyperchlorinated” means water that contains more than 10 mg/liter chlorine.
- I. “Illicit connection” means any manmade conveyance that is connected to a municipal separate storm sewer without a permit, excluding roof drains and other similar type connections. Examples include sanitary sewer connections, floor drains, channels, pipelines, conduits, inlets, or outlets that are connected directly to the municipal separate storm sewer system.
- J. “Illicit discharge” means any direct or indirect nonstormwater discharge to the City’s storm drain system, except as expressly exempted by this chapter.
- K. “Impervious surface” means a hard surface area which either prevents or retards the entry of water into the soil mantle as it entered under natural conditions prior to development, and/or a hard surface area which causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions prior to development. Common impervious surfaces include, but are not limited to, roofs, walkways, patios, driveways, parking lots, storage areas, areas which are paved, graveled or made of packed or oiled earthen materials, or other surfaces which similarly impede the natural infiltration of surface and stormwater. Open, uncovered retention/detention facilities shall not be considered as impervious surfaces for the purpose of this chapter.
- L. “Low Impact Development (LID)” is a common stormwater management approach prescribed through the stormwater manual. The intent of LID as a stormwater approach is to mimic a site’s predevelopment hydrology by employing design techniques that infiltrate, store, evaporate and detain runoff close to its source.
- M. “Maintenance” means the act or process of cleaning, repairing or preserving a system, unit, facility, structure or piece of equipment.

N. "Municipal separate storm sewer system (MS4)" means a conveyance or system of conveyances, including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains, which are:

(i) Owned or operated by the City of Lake Stevens;

(ii) Designed or used for collecting or conveying stormwater;

(iii) Not part of a publicly owned treatment works (POTW) ("POTW" means any device or system used in treatment of municipal sewage or industrial wastes of a liquid nature which is publicly owned); and

(iv) Not a combined sewer ("combined sewer" means a system that collects sanitary sewage and stormwater in a single sewer system).

O. "National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit" means a permit issued by the Environmental Protection Agency (EPA) (or by the Washington Department of Ecology under authority delegated pursuant to 33 USC Section 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

P. "Nonstormwater discharge" means any discharge to the storm drain system that is not composed entirely of stormwater.

Q. "Open space" means any parcel, property, or portion thereof classified for current use taxation under the provisions of Chapter 84.34 RCW, or for which the development rights have been sold to the City of Lake Stevens.

R. "Operational source control BMP" means a schedule of activities, prohibition of practices, and other best management practices to prevent or reduce pollutants from entering stormwater.

S. "Parcel" means the smallest separately segregated unit or plot of land having an identified owner, boundaries and surface area which is documented for property tax purposes and given a tax number by the Snohomish County Assessor.

T. "Person" means any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner of a premises or as the owner's agent.

U. "Pollution" means any pollutants which cause or contribute to adverse ecological effects or degradation. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; nonhazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

V. "Receiving waters" means bodies of water or surface water systems to which surface runoff is discharged via a point source of stormwater or via sheet flow. Groundwater to which surface runoff is directed by infiltration.

W. "Retention/detention facility" means a type of drainage facility designed either to hold water for a considerable length of time and then release it by evaporation, plant transpiration and/or infiltration into the ground or to hold runoff for a short period of time and then release it to the surface and stormwater management system.

X. "Residence" means a building or structure, or portion thereof, designed for and used to provide a place of abode for human beings. The term "residence" includes the term "residential" or "residential unit" as referring to the type of or intended use of a building or structure.

Y. "Residential parcel" means any parcel which contains no more than two residences or two residential units which are within a single structure and are used primarily for residential purposes or any parcel which does not have impervious surfaces upon it.

Z. "Storm" or "stormwater drainage system" means publicly owned facilities, including the City's municipal separate storm sewer system, by which stormwater is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

AA. "Stormwater" means runoff during and following precipitation and snowmelt events, including surface runoff and drainage.

BB. "Stormwater Manual" means the adopted Washington State Department of Ecology Stormwater Management Manual for Western Washington (Ord. 1140, Sec. 1, Exh. A).

- CC. “Stormwater pollution prevention plan (SWPPP)” means a document which describes the best management practices and activities to be implemented by a person to identify sources of pollution or contamination at a premises and the actions to eliminate or reduce pollutant discharges to stormwater, stormwater conveyance systems, and/or receiving waters to the maximum extent practicable.
- DD. “Source control” or “source control BMP” means a best management practice listed in the Stormwater Manual intended to prevent pollutants from coming into contact with stormwater through physical separation of areas or careful management of activities that are sources of pollutants and thus avoiding a polluted discharge to surface water.
- EE. “Structural source control BMP” means a physical, structural, or mechanical device or facility that is intended to prevent pollutants from entering stormwater as a best management practice.
- FF. “Surface water” means the physical beds and boundaries of receiving waters (perennial, seasonal, and ephemeral streams, rivers, sloughs, wetlands, and lakes), including those natural drainage systems that have been altered by human actions.
- GG. “Surface and stormwater utility services” means the services provided by the Stormwater Utility, including, but not limited to, stormwater management planning, facilities maintenance, regulation, financial administration, public involvement, drainage investigation and enforcement, aquatic resource restoration, surface and stormwater quality and environmental monitoring, natural surface water drainage system planning, intergovernmental relations, and facility design and construction.
- HH. “Treatment BMP” means a best management practice that is intended to remove pollutants from stormwater.
- II. “Undeveloped parcel” means any parcel which has not been altered from its natural state by construction, creation or addition of impervious surfaces. (Ord. 1151, Sec. 1 (Exh. A), 2022; Ord. 1032, Sec. 1, 2018; Ord. 1010, Sec. 2 (Exh. A), 2018; Ord. 808, Sec. 1 (Exh. A), 2009. Formerly 11.06.090; Ord. 549, 1997)

Chapter 11.04

STORMWATER ~~STORM-WATER~~ MANAGEMENT UTILITY

Sections:

- 11.04.010 Stormwater Management Utility Created - Responsibilities**
- 11.04.020 Administrator of Utility**
- 11.04.030 Ownership of City Stormwater Facilities and Assets**
- 11.04.040 Definitions Reserved**

11.04.050 Rates for Surface Water Drainage Service

11.04.060 Billing

11.04.070 Credits Allowed

11.04.090 Remedies

11.04.100 Appeals

11.04.110 Lien for Service/Interest

11.04.040 Reserved Definitions.

A. “Developed parcel” means any parcel altered from the natural state by construction, creation, or addition of impervious surfaces.

B. “Impervious surface” means a hard surface area which either prevents or retards the entry of water into the soil mantle as it entered under natural conditions prior to development, and/or a hard surface area which causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions prior to development. Common impervious surfaces include, but are not limited to, roofs, walkways, patios, driveways, parking lots, storage areas, areas which are paved, graveled or made of packed or oiled earthen materials, or other surfaces which similarly impede the natural infiltration of surface and stormwater. Open, uncovered retention/detention facilities shall not be considered as impervious surfaces for the purpose of this chapter.

C. “Maintenance” means the act or process of cleaning, repairing or preserving a system, unit, facility, structure or piece of equipment.

D. “Open space” means any parcel, property, or portion thereof classified for current use taxation under the provisions of Chapter 84.34 RCW, or for which the development rights have been sold to the City of Lake Stevens.

E. “Parcel” means the smallest separately segregated unit or plot of land having an identified owner, boundaries and surface area which is documented for property tax purposes and given a tax number by the Snohomish County Assessor.

F. “Equivalent service unit” means the average impervious surface area of single-family residential properties in the City.

G. “Retention/detention facility” means a type of drainage facility designed either to hold water for a considerable length of time and then release it by evaporation, plant transpiration and/or infiltration into

the ground or to hold runoff for a short period of time and then release it to the surface and stormwater management system.

H. “Residence” means a building or structure, or portion thereof, designed for and used to provide a place of abode for human beings. The term “residence” includes the term “residential” or “residential unit” as referring to the type of or intended use of a building or structure.

I. “Residential parcel” means any parcel which contains no more than two residences or two residential units which are within a single structure and are used primarily for residential purposes or any parcel which does not have impervious surfaces upon it.

J. “Surface and stormwater utility services” means the services provided by the Stormwater Utility, including, but not limited to, stormwater management planning, facilities maintenance, regulation, financial administration, public involvement, drainage investigation and enforcement, aquatic resource restoration, surface and stormwater quality and environmental monitoring, natural surface water drainage system planning, intergovernmental relations, and facility design and construction.

K. “Undeveloped parcel” means any parcel which has not been altered from its natural state by construction, creation or addition of impervious surfaces. (Ord. 1032, Sec. 1, 2018; Ord. 549, 1997)

Chapter 11.06 STORMWATER MANAGEMENT

11.06.010 Purpose

11.06.020 Authority and Administration

11.06.030 Stormwater Management Manual Adopted

11.06.040 Stormwater Management Review and Approval Required

11.06.050 Standards, Definitions, and Requirements

11.06.060 Adjustments and Exceptions

11.06.070 Low Impact Development and Best Management Practices - Application of Measures

11.06.080 Construction and Maintenance of Stormwater Facilities

11.06.090 Bonding and Insurance for Stormwater Facilities

11.06.100 Prohibited, Allowable, and Conditional Discharges and Connections

11.06.105 Source Control Program for Existing Development

11.06.110 Administration, Right of Entry and Inspection, and Fees

11.06.120 Fees, Enforcement, and Penalties

11.06.130 Appeals

11.06.140 Construction of Chapter

11.06.010 Purpose.

The City Council finds that this chapter is necessary to promote public health, safety, and welfare through the comprehensive management of surface water and stormwater, erosion control, and flooding. The Council also finds that this chapter is necessary to prevent water quality degradation; to prevent flood damage, siltation and habitat destruction in the City's creeks, streams and other water bodies; to protect property owners adjacent to developing land from increased runoff rates which could cause stream erosion and damage to public and private property; to promote sound development and redevelopment policies which respect and preserve the City's watercourses and aquatic habitat; to reduce hard surface and stormwater runoff; to prohibit illicit connections and illicit discharges to the stormwater drainage systems; to control potential and observed pollutants to water resources from sources on properties within the City; to ensure the safety of City streets and rights-of-way; and to promote ground water recharge through the implementation of a thorough permit review, construction inspection, enforcement, and maintenance programs. (Ord. 1151, Sec. 1 (Exh. A), 2022; Ord. 1010, Sec. 2 (Exh. A), 2018; Ord. 808, Sec. 1 (Exh. A), 2009)

11.06.020 Authority and Administration.

A. Authority. This chapter is enacted pursuant to Chapter 35A.63 RCW (Planning and Zoning in Code Cities) and Chapter 36.70A RCW (Growth Management - Planning by Selected Counties and Cities) in compliance with the Federal Clean Water Act (Title 33 United States Code Section 1251 et seq.) and the requirements of the City's National Pollution Discharge Elimination System (NPDES) Phase II permit issued by the Washington State Department of Ecology, effective August 1, 2019, which specifies that the City must undertake certain actions to protect the City's MS4 from existing and future sources of pollution. Its provisions shall be implemented to accomplish the purposes of the NPDES ~~program~~ permit and to protect and preserve public health, safety and general welfare through implementation of the Stormwater Manual.

B. Administration.

- (1) This chapter shall be primarily administered by the Director of Public Works or a designee, hereafter referred to as the Director, with the cooperation and assistance of the Department of Planning and Community Development. The Director of Public Works and the Director of Planning and Community Development shall have the authority to develop and implement administrative procedures to administer and enforce this chapter.

(2) The Director may approve, conditionally approve, or deny activities regulated by this chapter. (Ord. 1151, Sec. 1 (Exh. A), 2022; Ord. 1010, Sec. 2 (Exh. A), 2018; Ord. 808, Sec. 1 (Exh. A), 2009. Formerly 11.06.100)

11.06.040 Stormwater Management Review and Approval Required.

A. Stormwater Systems at New Construction or Redevelopment. Stormwater management review and approval by the City are required when any development or proposed project meets or exceeds the threshold conditions defined in the Stormwater Manual (e.g., new and replaced hard area, drainage system modifications, redevelopments, etc.) and is subject to a City development permit or approval requirement as described in this chapter. (Ord. 1140, Sec. 3 (Exh. A), 2022; Ord. 1010, Sec. 2 (Exh. A), 2018; Ord. 808, Sec. 1 (Exh. A), 2009. Formerly 11.06.030)

Commented [SF1]: Adoption of the 2019 Stormwater Manual

B. Source Control at Existing Development, Commercial Properties, and Other Properties. Managing stormwater quality and quantity at existing developed properties by applying Source Control practices described in the Stormwater Manual is the responsibility of all businesses, commercial property owners, and other properties that are conducting activities resulting in discharge, as described by section 11.06.105. (Ord. 1151, Sec. 1 (Exh. A), 2022; Ord. 1010, Sec. 2 (Exh. A), 2018; Ord. 808, Sec. 1 (Exh. A), 2009. Formerly 11.06.030).

11.06.050 Standards, Definitions, and Requirements.

- (a) Unless otherwise specified in this chapter, all standards, definitions, and requirements shall be in accordance with the City's Engineering Design and Development Standards (EDDS) and the Stormwater Manual.
- (b) Plan and Report Submittal. Stormwater site plans, supporting technical analyses and other required documentation shall conform to the requirements contained in the Stormwater Manual.
- (c) Where to Submit. All stormwater site plans prepared in connection with any of the permits and/or approvals set forth in this chapter shall be submitted to the Departments of Planning and Community Development and Public Works.
- (d) All plans, drawings and calculations designed to control stormwater, surface water and subsurface water, submitted to the City, will be prepared by a licensed professional engineer, registered in the State of Washington, or by a person qualified as set forth in the Stormwater Manual, and those plans, drawings and calculations will be stamped showing that engineer's registration, if applicable.
- ~~(e) Interpretation. The provisions of this chapter shall be held to be minimum requirements in their interpretation and application and shall be liberally construed to serve the purposes of this chapter.~~

~~(f) — More Strict Standard Applies. When any provision of any other ordinance of the City's regulations conflicts with this chapter, that which provides greater environmental protection shall apply unless otherwise provided for in this chapter.~~ (e) Stormwater site plans and supporting documentation shall be subject to review by department staff of Planning and Community Development and/or Public Works to confirm said plans meet the standards of the Stormwater Manual and EDDS, or if revisions are necessary. (Ord. 1151, Sec.1 (Exh. A), 2022; Ord. 1140, Sec. 3 (Exh. A), 2022; Ord. 1010, Sec. 2 (Exh. A), 2018; Ord. 808, Sec. 1 (Exh. A), 2009. Formerly 11.06.040)

11.06.070 Low Impact Development and Best Management Practices - Application of Measures.

(a) Low impact development (LID) criteria listed in the Stormwater Manual shall be used to reduce the amount of disruption of the natural hydrological characteristics of the site and of downstream surface water. LID is a common stormwater management approach prescribed through the stormwater manual. The intent of LID as a stormwater approach is to mimic a site's predevelopment hydrology by employing design techniques that infiltrate, store, evaporate and detain runoff close to its source. Applicability of methods is determined through a feasibility analysis according to the Stormwater Manual based on existing site conditions and limitations.

(b) Low impact development is implemented by minimizing hard surface coverage and by managing runoff through dispersion, infiltration, evapotranspiration, or a combination of these approaches as directed by the Stormwater Manual.

(c) A variety of best management practices (BMPs) to minimize hard surfaces and to manage stormwater have been developed and tested for use in Western Washington. Common LID techniques BMPs address stormwater flow control and treatment through using landscape and site features such as rain gardens, bioretention, cells and permeable pavements as directed by the Stormwater Manual. These BMPs and the overall LID approach are described in the Stormwater Manual and further detailed in the LID Technical Guidance Manual for Puget Sound (LID Manual). (Ord. 1140, Sec. 3 (Exh. A), 2022; Ord. 1010, Sec. 2 (Exh. A), 2018; Ord. 808, Sec. 1 (Exh. A), 2009. Formerly 11.06.060)

(d) Source control BMPs are applicable to all properties within the City that are engaged in pollution generating activities that have the potential to discharge pollutants into the storm water drainage system or waters of the state, regardless of whether the property is covered under a separate NPDES permit.

(e) Construction sites and proposed development are subject to preventing stormwater discharge by implementing temporary BMPs and other permanent BMPs as outlined in the Stormwater Manual. (Ord.

1151, Sec. 1 (Exh. A), 2022; Ord. 1140, Sec. 3 (Exh. A), 2022; Ord. 1010, Sec. 2 (Exh. A), 2018; Ord. 808, Sec. 1 (Exh. A), 2009. Formerly 11.06.060).

11.06.100 Prohibited, Allowable, and Conditional Discharges and Connections.

(a) Definitions. The following definitions shall be applicable to this section:

(1) “AKART” means all known, available, and reasonable methods of prevention, control, and treatment. See also the State Water Pollution Control Act, RCW 90.48.010 and 90.48.520.

(2) “Best management practices (BMPs)” means schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and structural or managerial practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

(3) “Ground water” means water in a saturated zone or stratum beneath the surface of the land or below a surface water body.

(4) “Hazardous materials” means any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

(5) “Hyperchlorinated” means water that contains more than 10 mg/liter chlorine.

(6) “Illicit discharge” means any direct or indirect nonstormwater discharge to the City’s storm drain system, except as expressly exempted by this chapter.

(7) “Illicit connection” means any manmade conveyance that is connected to a municipal separate storm sewer without a permit, excluding roof drains and other similar type connections. Examples include sanitary sewer connections, floor drains, channels, pipelines, conduits, inlets, or outlets that are connected directly to the municipal separate storm sewer system.

(8) —“Municipal separate storm sewer system (MS4)” means a conveyance or system of conveyances, including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains, which are:

- (i) — Owned or operated by the City of Lake Stevens;
- (ii) — Designed or used for collecting or conveying stormwater;
- (iii) — Not part of a publicly owned treatment works (POTW) (“POTW” means any device or system used in treatment of municipal sewage or industrial wastes of a liquid nature which is publicly owned); and
- (iv) — Not a combined sewer (“combined sewer” means a system that collects sanitary sewage and stormwater in a single sewer system).

(9) —“National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit” means a permit issued by the Environmental Protection Agency (EPA) (or by the Washington Department of Ecology under authority delegated pursuant to 33 USC Section 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

(10) —“Nonstormwater discharge” means any discharge to the storm drain system that is not composed entirely of stormwater.

(11) —“Person” means any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner of a premises or as the owner’s agent.

(12) —“Pollution” means any pollutants which cause or contribute to adverse ecological effects or degradation. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; nonhazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

(13) —“Storm” or “stormwater drainage system” means publicly owned facilities, including the City’s municipal separate storm sewer system, by which stormwater is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs,

~~inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.~~

~~(14) "Stormwater" means runoff during and following precipitation and snowmelt events, including surface runoff and drainage.~~

~~(15) "Stormwater pollution prevention plan (SWPPP)" means a document which describes the best management practices and activities to be implemented by a person to identify sources of pollution or contamination at a premises and the actions to eliminate or reduce pollutant discharges to stormwater, stormwater conveyance systems, and/or receiving waters to the maximum extent practicable.~~

~~(b)A.~~ Prohibited Prohibition of Illicit Discharges.

(1) No person shall throw, drain, or otherwise discharge, cause or allow others under his/her control to throw, drain or otherwise discharge into the municipal storm drain system any materials other than stormwater.

(2) Examples of prohibited contaminants include but are not limited to the following:

- (i) Trash or debris.
- (ii) Construction materials.
- (iii) Petroleum products including but not limited to oil, gasoline, grease, fuel oil and heating oil.
- (iv) Antifreeze and other automotive products.
- (v) Metals in either particulate or dissolved form.
- (vi) Flammable or explosive materials.
- (vii) Radioactive material.
- (viii) Batteries.
- (ix) Acids, alkalis, or bases.
- (x) Paints, stains, resins, lacquers, or varnishes.
- (xi) Degreasers and/or solvents.
- (xii) Drain cleaners.
- (xiii) Pesticides, herbicides, or fertilizers.
- (xiv) Steam cleaning wastes.
- (xv) Soaps, detergents, or ammonia.
- (xvi) Swimming pool cleaning wastewater or filter backwash.
- (xvii) Chlorine, bromine, or other disinfectants.

- (xviii) Heated water.
- (xix) Domestic animal wastes.
- (xx) Sewage.
- (xxi) Recreational vehicle waste.
- (xxii) Animal carcasses.
- (xxiii) Food wastes.
- (xxiv) Bark and other fibrous materials.
- (xxv) Lawn clippings, leaves, or branches.
- (xxvi) Silt, sediment, concrete, cement or gravel.
- (xxvii) Dyes. Unless approved by the City.
- (xxviii) Chemicals not normally found in uncontaminated water.
- (xix) Any other process-associated discharge except as otherwise allowed in this section.
- (xxx) Any hazardous material or waste not listed above.

(e) B. Allowable Discharges. The following types of discharges shall not be considered ~~illegal-illicit~~ discharges for the purposes of this chapter unless the City determines that the type of discharge, whether singly or in combination with others, is causing or is likely to cause pollution of surface water or ground water:

- (1) Diverted stream flows.
- (2) Rising ground waters.
- (3) Uncontaminated ground water infiltration - as defined in 40 CFR 35.2005(20).
- (4) Uncontaminated pumped ground water.
- (5) Foundation drains.
- (6) Air conditioning condensation.
- (7) Irrigation water from agricultural sources that is commingled with urban stormwater.
- (8) Springs.
- (9) Water from crawl space pumps.
- (10) Footing drains.

(11) Flows from riparian habitats and wetlands.

(12) Discharges from emergency fire fighting activities.

~~(d)~~C. Conditional Discharges. The following types of discharges shall not be considered illegal discharges for the purposes of this chapter, if they meet the stated conditions, or unless the City determines that the type of discharge, whether singly or in combination with others, is causing or is likely to cause pollution of surface water or ground water:

(1) Potable water, including water from water line flushing, hyperchlorinated water line flushing, fire hydrant system flushing, and pipeline hydrostatic test water. These planned discharges shall be dechlorinated to a concentration of 0.1 ppm or less, pH-adjusted if necessary and in volumes and velocities controlled to prevent resuspension of sediments in the stormwater system. Discharges shall be thermally controlled to prevent an increase in temperature of the receiving water. Swimming pool cleaning waste water and filter backwash shall not be discharged to the stormwater system.

(2) Lawn watering and other irrigation runoff.

(3) Dechlorinated swimming pool discharges. These discharges shall be dechlorinated to a concentration of 0.1 ppm or less, pH-adjusted and reoxygenized, if necessary, volumetrically and velocity controlled to prevent resuspension of sediments in the stormwater system.

(4) Street and sidewalk wash water, water used to control dust, and routine external building wash down that does not use detergents. These discharges shall be permitted, if the amount of street wash and dust control water used is minimized. At active construction sites, street sweeping must be performed prior to washing the street.

(5) Nonstormwater discharges covered by another NPDES permit. These discharges shall be in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations.

(6) Other nonstormwater discharges. These discharges shall be in compliance with the requirements of a stormwater pollution prevention plan (SWPPP) reviewed and approved by the City, which addresses control of such discharges by applying AKART to prevent contaminants from entering surface or ground water.

~~(e)~~D. Prohibited Connections.

(1) The construction, use, maintenance, or continued existence of illicit connections to the stormwater system is prohibited.

(2) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

(3) A person is considered to be in violation of this section, if the person connects a line conveying sewage to the MS4 or allows such a connection to continue.

E. Hazardous discharges.

(1) If upon inspection of a property it is determined that violation of this section results in a hazard to human health and safety, the Director shall immediately notify the responsible party and shall provide a verbal or written determination of the hazard that specifies the discharge of concern to be corrected and the date by which the hazard shall be corrected.

(2) The director may without prior notice require the immediate discontinuance of any violation causing the hazard. Failure to comply shall constitute a willful violation of this chapter.

(3) If incomplete or insufficient action has occurred, by the specified date to control the hazard, the Director may require any person responsible for a property or premises to implement, at their own expense, additional operational BMPs, and if necessary, structural BMPs and/or treatment BMPs or facilities, or both, to prevent further discharge of pollutants.

(4) Should the required corrections or repair not be implemented by the property owner and/or responsible parties within a designated timeframe, the discharge is a violation of this section subject to enforcement under section 11.06.120. (Ord. 1151, Sec. 1 (Exh. A), 2022; Ord. 1010, Sec. 2 (Exh. A), 2018; Ord. 808, Sec. 1 (Exh. A), 2009. Formerly 11.06.090)

11.06.105 Source Control Program for Existing Development.

A. Applicability.

(1) Unless specifically exempted herein, source control applies to all discharges to the City's MS4, and specifically addresses sources of pollutants from business properties, commercially managed properties, residential properties conducting business activities, and from other sources including mobile businesses or residences that may otherwise contribute levels of pollution that violate the NPDES permit.

(2) Surface water pollution control and prevention emphasizes and encourages voluntary cooperation of business owners and the public in applying source control BMPs to reduce or eliminate sources of pollutants.

(3) Implementation of source control BMPs (operational source control BMPs, and if necessary structural source control BMPs or treatment BMPs) are required for all existing pollution generating sources in the MS4 unless otherwise addressed in specific permit requirements.

(4) The source control program will emphasize public and privately owned institutional, commercial, multifamily and industrial sites, and the City will take such actions as may be required to enforce the provisions of this chapter.

(5) As described elsewhere in this chapter, inspections shall be made to determine source control BMPs are maintained in a safe and proper operating condition, and in compliance with all applicable requirements of this chapter.

(6) At any time, the Director may require the application of additional operational or structural source control BMPs as necessary to prevent illicit discharges, subject to enforcement provisions.

(7) Failure to implement source control BMPs shall constitute a violation of this chapter and result in enforcement action.

B. Outreach and Education

(1) The City will provide, upon reasonable request, technical assistance visits, available technical assistance materials, and relevant information to persons or businesses required to comply with this chapter.

(2) To improve general knowledge and increase compliance of the public in regard to surface water pollution prevention, the City will provide open opportunities to learn about BMPs and other aspects of maintaining high quality surface water.

(3) Failure to implement source control BMPs shall constitute a violation of this chapter and result in enforcement action. (Ord.1151, Sec. 1 (Exh. A), 2022)

11.06.110 Administration, Right of Entry and Inspection, and Fees.

(a) Authority

~~(1) This chapter shall be primarily administered by the Director of Public Works or a designee, hereafter referred to as the Director, with the cooperation and assistance of the Department of Planning and Community Development. The Director of Public Works and the Director of Planning and Community Development shall have the authority to develop and implement administrative procedures to administer and enforce this chapter.~~

~~(2) The Director may approve, conditionally approve, or deny activities regulated by this chapter.~~

A. Right of Entry for Stormwater Inspections.

~~(1) To make an inspection to enforce any of the provisions of this chapter, to monitor for proper function of stormwater facilities, or to investigate reasonable cause that violations of this chapter are present on a subject property, the Director or a designee may enter such premises at all reasonable times to inspect the property.~~

~~(2) The Director or their designee shall first make a reasonable effort to locate the owner or other person having charge or control of the premises or portion thereof and request entry in advance of the inspection, during normal business hours.~~

~~(3) During the inspection, the City has the right to take photos, conduct video surveys, use dye or smoke testing, or make other documentation of conditions relevant to the inspection.~~

~~(b)~~B. Inspections.

~~(1) The Director or their designee is authorized to gain access to private property as provided by law and in this chapter, make such inspections of stormwater facilities, and take such actions as may be required to enforce the provisions of this chapter. The City is required to perform inspections of activities that are or may be resulting in prohibited discharges as specified in the Stormwater Manual and the City's NPDES Permit.~~

~~(2) Inspection prior to clearing and during construction will apply to sites with a high potential for sediment damage, as identified by the applicant during civil review based on definitions and requirements of Appendix 7 of in the Western Washington Phase II Municipal Stormwater Permit or Stormwater Manual.~~

~~(3) Upon request by the Director, property owners, occupying business owners, or their representatives shall provide proper ingress and egress to the Director or a designee to inspect, monitor or perform any necessary duty required by this chapter to any stormwater facility or areas~~

~~subject to stormwater flow. As feasible, the grantee should be present to provide access, attend, and to participate in the inspection with City staff. Whenever necessary to make an inspection to enforce any of the provisions of this chapter, monitor for proper function of stormwater facilities, or whenever the Director or their designee has reasonable cause to believe that violations of this chapter are present or operating on a subject property or portion thereof, the Director or a designee may enter such premises at all reasonable times to inspect the same or perform any duty imposed upon the Director or their designee by this chapter; provided, that if such premises or portion thereof is occupied, the Director shall first make a reasonable effort to locate the owner or other person having charge or control of the premises or portion thereof and request entry. If after reasonable effort, the Director or their designee is unable to locate the owner or other person having charge or control of the premises or portion thereof and has reason to believe an imminent hazard exists, the inspector may enter.~~

~~(4) Property owners shall provide proper ingress and egress to any stormwater facility to the Director or a designee to inspect, monitor or perform any duty imposed upon the Director or their designee by this chapter. The Director or their designee shall notify the responsible party in writing of failure to comply with this access requirement. Failing to obtain a response within seven days from the receipt of notification, the Director or their designee may order the work required completed or otherwise address the cause of improper access. The obligation for the payment of all costs that may be incurred or expended by the City in causing such work to be done shall thereby be imposed on the person holding title to the subject property and/or imposed against the subject property by filing a lien.~~

~~(5) Emergency access to a property may be necessary to address certain polluting situations. The above-described communication should be attempted, however immediate emergency access shall be granted for the Director or their designee to inspect a concern of immediate hazard to environmental and human health, safety, and welfare. (Ord. 1151, Sec. 1 (Exh. A), 2022; Ord. 1010, Sec. 2 (Exh. A), 2018; Ord. 808, Sec. 1 (Exh. A), 2009. Formerly 11.06.100)~~

11.06.120 Fees, Enforcement, and Penalties.

~~(a)A. Fees. Fees for reviews, inspections, permits and/or approvals, and appeals, which are set forth in this chapter, shall be set by resolution of the City Council.~~

~~B. Enforcement. Violations of this chapter shall be enforced pursuant to Title 17 and this section.~~

~~(b)C. Penalties. Penalties for violations Violations of this chapter shall either be as follows:~~

(1) A civil violation is subject to a monetary penalty of \$500.00 for each violation per day or portion thereof. a misdemeanor subject to a jail term of not more than one year, a fine of not more than \$1,000, or both such fine and imprisonment., or

(2) a civil violation subject to a monetary penalty of \$500.00 for each violation per day or portion thereof. A misdemeanor violation is subject to a jail term of not more than 90 days, a fine of not more than \$1,000 for each violation, or both such fine and imprisonment.

D. Progressive enforcement. Enforcement actions are used in a progressive manner, such that education and technical assistance, warnings, and penalties to be issued incrementally in order to achieve necessary and appropriate protection. Progressive enforcement is not required based on the Director's assessment of severity of a concern, such as when a person willfully contaminates City surface water and the MS4.

(1) Voluntary compliance. To promote voluntary compliance, the first step of enforcement is to provide education about surface water concerns, BMPs, and regulations including enforceable actions.

(2) Warning and compliance schedule. To promote compliance with potential enforcement, a warning shall be issued paired with a reasonable date of compliance to be met, with information about the level of penalty for failure to comply.

(3) Notification of non-compliance. To rectify problems at an accelerated schedule, a severe penalty may be issued for individuals that knowingly or recklessly endanger the public or environment with polluting activities.

(4) The Director may issue internal directives to provide consistency and to clarify how to apply the above enforcement actions in normal and unique circumstances. (Ord. 1151, Sec. 1 (Exh. A), 2022; Ord. 1010, Sec. 2 (Exh. A), 2018; Ord. 808, Sec. 1 (Exh. A), 2009. Formerly 11.06.110)

11.06.140 Construction of Chapter

A. Intent. This chapter is enacted as an exercise of the City's power to protect and preserve the public health, safety, and welfare. Its provision shall be exempted from the rule of strict construction and shall be liberally construed to give full effect to the objectives and purposes for which it was enacted. This chapter is not enacted to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this chapter.

B. Non-Liability. The primary obligation of compliance with this chapter is placed upon the person holding title to the property. Nothing contained in this chapter is intended to be or shall be construed to create or form a basis for liability for the City, the Public Works department, its officers, employees or agents for any injury or damage resulting from the failure of the person holding title to the property to comply with the provisions of this chapter, or by reason or in consequence of any act or omission in connection with the implementation or enforcement of this chapter by the City, Department, its officers, employees or agents.

C. Interpretation. The provisions of this chapter shall be held to be minimum requirements in their interpretation and application and shall be liberally construed to serve the purposes of this chapter.

D. More Strict Standard Applies. When any provision of any other ordinance of the City's regulations conflicts with this chapter, that which provides greater environmental protection shall apply unless otherwise provided for in this chapter. (Ord. 1151, Sec. 1 (Exh. A), 2022; Ord. 1010, Sec. 2 (Exh. A), 2018; Ord. 808, Sec. 1 (Exh. A), 2009. Formerly 11.06.040)

CITY COUNCIL STAFF REPORT



Agenda Date: 12/6/2022

Subject: Parks and Recreation Department 5-Year Plan

Contact Person/Department: Sarah Garceau, Parks Department

Budget Impact: N/A

Legal Review: No

RECOMMENDATION(S)/ACTION REQUESTED:

Review, discuss and approve.

SUMMARY/BACKGROUND:

The Parks and Recreation Department has a 5-Year Plan that will be handed out at the meeting. This will cover the years of 2023 to 2027, and also shows the current fourth quarter of 2022.

The 5-Year Plan provides a high level overview of the goals and timelines for the various needs of the department. It also has a list of priorities, listed in order of importance, which were identified by the Director and will help guide future decisions for the department.

APPLICABLE CITY POLICIES:

N/A

ATTACHMENTS:

None