

# PLANNING COMMISSION MEETING AGENDA



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## *City of Lake Stevens Vision Statement*

*We are a thriving community that promotes a vibrant economy, preserves natural beauty, and supports an exceptional quality of life for all.*

September 2, 2026 - 6:00 PM  
**In Person at The Mill or Remote via Zoom**  
[Zoom Link](#)

**or call in at: 253-215-8782** Meeting ID: 83632123283 Passcode: 932123

- 1. Call to Order**
- 2. Roll Call**
- 3. Guest Business**
- 4. Action Items**
  - A. Approve Minutes of August 5, 2026 Planning Commission Meeting
- 5. Discussion Items**
  - A. Review of Public Comments on Critical Areas Ordinance (CAO) David Levitan
  - B. Overview of Upcoming Code Amendments David Levitan
- 6. Commissioner Report**
- 7. Planning Director's Report**
- 8. 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, 48 hours prior to this council meeting 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.*

# PLANNING COMMISSION STAFF REPORT



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**Agenda Date:** 9/2/2026

**Subject:** Approve Minutes of August 5, 2026 Planning Commission Meeting

**Contact Person/Department:** , Community Development

**Budget Impact:**

**Legal Review:** No

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**RECOMMENDATION(S)/ACTION REQUESTED:**

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**SUMMARY/BACKGROUND:**

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**APPLICABLE CITY POLICIES:**

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**ATTACHMENTS:**

1. 8-5-26 Planning Commission Minutes

# PLANNING COMMISSION MEETING MINUTES



HYBRID/REMOTE AND IN-PERSON AT THE MILL

August 5, 2026

CALL TO ORDER: 6:00 PM by Chair Bruce Morton

MEMBERS PRESENT: Chair Bruce Morton, Vice-Chair Mike Duerr, Commissioner Janice Huxford, Commissioner Jennifer Davis, Commissioner Tony Matesi

MEMBERS ABSENT: Commissioner Amy Lewandowski, Commissioner Connor Davis

STAFF PRESENT: Planning Manager Christi Schmidt, Planning & Community Development Intern Alicia McAfee, Planning & Community Development Director Russ Wright, Administrative Assistant Dawn Erickson

OTHERS PRESENT: None

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Chair Morton called the meeting to order at 6:00 p.m. and led the Pledge of Allegiance. City Clerk Kelly Chelin (remote) swore in new Planning Commissioner Tony Matesi.

Roll Call: As noted above. Vice-Chair Duerr moved to excuse Commissioners Lewandowski and Connor Davis; Commissioner Huxford seconded the motion, which passed unanimously.

Guest business: None.

Approval of Minutes: The July 15, 2026 meeting minutes were unanimously approved as written, with Commissioner Huxford making the motion and Commissioner Jennifer Davis seconding.

Discussion Items: Planning & Community Development Intern Alicia McAfee presented an updated Public Engagement Plan, with new and updated sections for consideration. The plan was first presented to the Planning Commission in June 2025 and was placed on hold in favor of the Long Range Planning agenda. New features included a “Level of Participation” section, a flowchart and graphic to support Table 1, “Ground Rules for Creative Creativity” figure context, and resources, templates, and graphics throughout the document. Updated features include a Public Participation Spectrum Table and a sample engagement timeline. Questions and comments from the Commissioners were positive, with suggestions including leveraging AI to summarize the deliberative process, communicating clearly with the public (especially to dispel misconceptions), adding AWC to the list of stakeholders, and compiling a library of previous engagements to assist with planning future ones. Planning Manager Schmidt commented that the document is intended to be a living document, with material added over time.

#### Commissioner Reports:

Vice-Chair Duerr commented that there is a learning curve for a new commissioner and encouraged Commissioner Matesi to ask questions and ask if the other commissioners start talking in jargon. Chair Morton suggested that Commissioner Matesi look through the Comprehensive Plan. He also asked whether the split-rail fences between private property and critical areas are subject to state law. Director Wright and Planning Manager Schmidt said it is not state law, but is codified in Lake Stevens.

#### Director's Report

Director Wright highlighted Planning & Community Development's 2nd Quarter report, discussed staff changes, school projects, and paper records management. Chair Morton inquired about permit statistics and compliance with SB5290 deadlines. Planning Manager Schmidt explained that the city has been short-staffed, and so some of our permits did not meet the requirements. The department hopes to improve that in 2026.

Adjourn: Commissioner Huxford moved, and Vice-Chair Duerr seconded, to adjourn the meeting. The motion passed unanimously, and the meeting was adjourned at 6:43 p.m.

Respectfully,

Dawn Erickson, Administrative Assistant

# PLANNING COMMISSION STAFF REPORT



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**Agenda Date:** 9/2/2026

**Subject:** Review of Public Comments on Critical Areas Ordinance (CAO)

**Contact Person/Department:** David Levitan, Community Development

**Budget Impact:**

**Legal Review:** No

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## **RECOMMENDATION(S)/ACTION REQUESTED:**

No formal action is required. Staff will provide an overview of comments received from state agencies, tribes, and the public on the Critical Areas Ordinance (CAO) draft that was released on July 22, 2026, and potential revisions to the CAO in advance of the Planning Commission's September 16 public hearing.

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## **SUMMARY/BACKGROUND:**

At the Planning Commission's [June 17, 2026 meeting](#), staff introduced an updated draft of the CAO ([meeting video](#)), which is codified in [Chapter 14.88 LSMC](#) and associated chapters. The [updated draft](#) included several revisions to the initial draft reviewed by commissioners at their [January 21, 2026 meeting](#).

At the City Council's [July 21 meeting](#), staff provided additional information on the proposed hybrid approach for stream buffers ([meeting video](#)) that was discussed with the Planning Commission on June 17. This included an analysis of 2017 actual tree height data from the Washington Department of Fish and Wildlife (WDFW) for areas within stream buffers (in place of site potential tree height (SPHT)), which found that tree canopy height is generally between 30 and 148 feet within the city's stream buffers, with isolated areas having trees up to 170 feet in height. Staff is currently finalizing edits to its Best Available Science (BAS) review to document how its hybrid approach is consistent with BAS.

After hearing that both the Planning Commission and City Council were comfortable with the draft code language, on July 22, 2026 staff issued its 60-day Notice of Intent to

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Adopt the CAO update to the Washington Department of Commerce. The draft code language was subsequently distributed to other state agencies and local tribes, and staff also emailed it to neighboring jurisdictions and other stakeholders. Comments were requested by August 19, 2026.

As of August 26, staff has received comments from two tribes (the Snoqualmie Tribe and the Tulalip Tribes), three state agencies (WDFW, the Department of Ecology (DOE), and the Department of Natural Resources (DNR), and the Master Builders Association of King and Snohomish Counties (MBAKS). Those comments are provided in Attachments 1-6 and are summarized below

#### Snoqualmie Tribe (Attachment 1)

The Snoqualmie Tribe had a variety of comments, including:

- Concerns about allowing new trails within the outer 25% of wetland and stream buffers (which is permitted in Section 14.88.220(f) of the current CAO);
- A request to expand the hybrid approach for stream buffers – which requires buffers based on site potential tree height (SPTH<sub>200</sub>) if certain conditions exist within the riparian corridor – to all streams, as opposed to just Type F streams; and
- A request to incorporate “Traditional Ecological Knowledge/Indigenous Knowledge” (TEK/IEK) – that is, factoring in the tribe’s historic, place-based knowledge of critical areas - into its BAS review and CAO.

Staff is currently reviewing the BAS documents from WDFW and DOE and considering minor revisions to address the tribe’s comments.

#### Tulalip Tribes (Attachment 2)

The Tulalip Tribes were generally comfortable with the city’s proposed changes but did have specific comments on the disconnected buffers language in LSMC 14.88.220(n) and 14.88.296. The tribes recommended that the city revise these sections to clarify that structures/roads that functionally disconnect buffers must have been created legally and continue to be used as they were originally intended. Staff is proposing minor revisions to address the tribe’s comments.

#### Master Builders of King and Snohomish County (Attachment 3)

MBAKS included a letter of support for the city’s proposed changes but did identify a few changes that they would like the Planning Commission to consider. Their primary request is for the city to consider maintaining its existing 50-foot stream buffers for Type N<sub>p</sub> (perennial) and N<sub>s</sub> (seasonal) streams. Their letter notes that the city must balance critical area protection with other important components of the Growth Management Act (GMA) – such as ensuring adequate housing supply - as opposed to increasing the

buffers to 100 feet as proposed, and that expanding buffers would have an adverse impact on potential development.

Their letter opines that applicable stormwater regulations in urban environments such as Lake Stevens provide adequate mitigation for non-fish-bearing streams, and that local jurisdictions have the authority to interpret BAS in a way that factors in local conditions and engineered systems, which are often overlooked within urban environments.

MBAKS also contends that there is little evidence to support expanding Type F stream buffers beyond 150 feet (via the hybrid SPTH approach), as the majority of pollution removal and surface nitrogen removal is provided within the first 100 feet of the buffer. When factoring in the city's stormwater regulations, they believe that adequate protection and mitigation measures are in place to ensure that habitat and wildlife are protected.

Staff is recommending that the buffers for Type N stream buffers be updated to 100 feet (as proposed), which is the minimum distance identified in BAS to provide adequate pollution removal (as noted above). While cities such as Everett and Marysville have adopted stream buffers of less than 100 feet for Type N<sub>p</sub> streams (Everett) and Type N<sub>s</sub> streams (both cities), the majority of cities have adopted a minimum Type N stream buffer of 100 feet. Staff also believes that a hybrid approach for Type F streams is warranted in very specific conditions, as outlined in the draft code. However, the Planning Commission has the discretion to incorporate potential revisions into its recommendation to City Council.

#### Department of Natural Resources (Attachment 4)

DNR's comments are fairly brief, with a primary focus on requirements/processes for geologically hazardous areas. These include fencing, signage and recording requirements; a request to add more references, such as to the WAC's definition of geologically hazardous areas and to resources such as DNR's Geologic Information Portal; and suggestions on the Critical Areas Study submittal requirements. Staff is currently making minor revisions to address DNR's comments.

#### Department of Ecology (Attachment 5)

DOE provided comments via an annotated draft of a few sections of the document, including several suggestions on how to standardize definitions to match the WAC/RCW, tie the regulations to BAS, and describe how the CAO interacts with other regulations. Some of their more substantive comments include:

- A recommendation that trails within critical areas be no wider than five (5) feet;
- A suggestion that that city adopt a time limit for restoration, rehabilitation, or replacement of a critical area damaged by emergency activities;

- A request to add language noting that wetland buffer reductions (which they generally don't recommend) and buffer averaging cannot be combined for the same wetland.

Staff is considering minor revisions to address DOE's comments.

#### Department of Fish and Wildlife (Attachment 6)

WDFW provided the most extensive list of comments of any agency. Table 1 includes the relevant code section and the code language (with WDFW suggestions in red), along with their reasoning behind the proposed changes. They include several additional terms to include in the Definitions section (Chapter 14.08), along with more technical recommendations with Chapter 14.88. Some of the more substantive comments include:

- A proposal to remove language allowing the expansion of allowed activities into critical areas and their buffers;
- A recommendation to include additional language on avoidance/mitigation analysis requirements for site-specific critical areas studies;
- A request to expand upon what constitutes a functionally disconnected buffer (notably, the absence of functions and values);
- A recommendation to *not* utilize DNR's stream typing system, and instead to incorporate standards based on WDFW's BAS, which found that all streams should receive equal protection (regardless of the presence of fish);
- A request to eliminate all references to stream buffers and instead establish and refer to riparian management zones (RMZs), the width of which is established by the site potential tree height (SPTH<sub>200</sub>) within the RMZ;
- A suggestion to add language about wildlife habitat corridors;
- A request to eliminate any allowances for stream buffer reductions (which are currently allowed in exchange for restoration and enhancement) and stream buffer averaging, which they do not believe are supported by BAS; and
- A recommendation to establish a specific buffer requirement for piped stream segments (of 50 feet)

Staff has had numerous conversations with WDFW about its stream buffer approach, which is largely consistent with those of several other jurisdictions within the urban areas of Snohomish County including Lynnwood, Mountlake Terrace, Everett and Marysville. Staff believes that there are certain situations where establishing RMZs based on SPTH are warranted, which are covered in Section 14.88.430. It does not agree with WDFW's assessment that the proposed changes are inconsistent with BAS and is currently working on refining the city's BAS document to expand upon other conditions, regulations and standards that should be considered when establishing stream buffers within an urban area such as Lake Stevens. These include the existence of stringent stormwater regulations and their role in ensuring adequate water quality

and function within stream buffers; the fact that the vast majority of pollution removal is achieved within the first 100 feet of a stream buffer; and the fact that trees within riparian corridors in the city do not currently (and are unlikely to) approach the  $SPTH_{200}$  values, as reflected in the 2017 WDFW tree canopy data (Attachment 7).

Staff is currently working on minor revisions to address several of WDFW's comments but is proposing to maintain the hybrid approach for Type F streams and the standard buffer widths for Type N<sub>p</sub> and N<sub>s</sub> streams, as opposed to adopting a standalone  $SPTH_{200}$  classification system. Staff believes this is consistent with both BAS and the approaches from other local jurisdictions.

### *Next Steps*

The Planning Commission is currently scheduled to hold their public hearing and make a recommendation to City Council on the CAO Update at their September 16 meeting. Staff continues to make minor refinements to the code language in advance of the public hearing and is preparing maps to help illustrate the actual tree height, updated stream buffers and the concept of disconnected buffers.

Staff will incorporate any requested changes from the Planning Commission into the CAO Update, before issuing the Notice of Public Hearing and SEPA Threshold Determination (for a Determination of Nonsignificance, or DNS). That notice must be published by September 5 to meet the noticing requirements for a September 16 public hearing. The City Council is tentatively scheduled to hold their public hearing to consider the Planning Commission's recommendation and adopt the proposed changes in early October.

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## **APPLICABLE CITY POLICIES:**

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### **ATTACHMENTS:**

1. Attachment 1 - Snoqualmie Tribe Comments
2. Attachment 2 - Tulalip Tribes Comments
3. Attachment 3 - MBAKS Comments
4. Attachment 4 - DNR Comments
5. Attachment 5 - DOE Comments
6. Attachment 6 - WDFW Comments
7. Attachment 7 - Average Tree Canopy Heights

## David Levitan

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**From:** Jillian Hendrix <jillian.hendrix@snoqualmietribe.us>  
**Sent:** Monday, August 17, 2026 2:03 PM  
**To:** David Levitan  
**Cc:** ENR Review  
**Subject:** Snoqualmie Tribe Comments for LS CAO Update  
**Attachments:** SIGNED\_SIT\_Comments\_for\_Lake\_Stevens\_CAO\_update.docx.pdf

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good afternoon,  
Please see the attached document for comments from Snoqualmie Tribe.  
Thank you,  
Jillian



**Jillian Hendrix**  
Environmental Review Analyst  
[jillian.hendrix@snoqualmietribe.us](mailto:jillian.hendrix@snoqualmietribe.us)

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**From:** David Levitan <dlevitan@lakestevenswa.gov>  
**Sent:** Wednesday, July 22, 2026 4:11 PM  
**To:** David Levitan <dlevitan@lakestevenswa.gov>  
**Cc:** Christi Schmidt <cschmidt@lakestevenswa.gov>  
**Subject:** The City of Lake Stevens Critical Areas Ordinance is Available for Review; Comments Requested by August 19, 2026

Good Afternoon:

The City of Lake Stevens is soliciting comments from state and local agencies, tribes, and other stakeholders on proposed updates to its Critical Areas Ordinance ([Chapter 14.88 LSMC](#) and associated sections).

A copy of the [draft regulations](#) is available on the [project website](#), along with other project materials. A copy was also uploaded to PlanView for distribution to state agencies and tribes (2026-S-14080).

**Comments are requested by Wednesday, August 19** and can be submitted to David Levitan at [dlevitan@lakestevenswa.gov](mailto:dlevitan@lakestevenswa.gov).

Thank you.

[Critical Areas Ordinance Update | Lake Stevens, WA - Official Website](#)



David Levitan, *Principal Planner*

**City of Lake Stevens | Planning and Community Development**

1812 Main Street | PO Box 257

Lake Stevens, WA 98258

(425) 622-9425

[dlevitan@lakestevenswa.gov](mailto:dlevitan@lakestevenswa.gov)

**NOTICE:** All emails and attachments sent to and from the city of Lake Stevens are public records and may be subject to disclosure pursuant to the Public Records Act (RCW 42.56).



August 17, 2026

David Levitan  
City of Lake Stevens, Planning and Community Development  
1812 Main Street  
Lake Stevens, WA 98258

Via email to: [dlevitan@lakestevenswa.gov](mailto:dlevitan@lakestevenswa.gov)

RE: Lake Stevens Critical Areas Ordinance Update

Dear David Levitan,

On behalf of the Snoqualmie Indian Tribe (Tribe), please accept these comments on the City of Lake Stevens Critical Areas Ordinance Update.

The Snoqualmie Tribe is a federally recognized Sovereign Indian Tribe and a signatory to the Treaty of Point Elliott of 1855, in which it reserved to itself certain rights and privileges and ceded certain lands to the United States. As a signatory to the Treaty of Point Elliott, the Tribe specifically reserved to itself among other things, the right to fish at usual and accustomed areas and the "privilege of hunting and gathering roots and berries on open and unclaimed lands" off-reservation throughout the modern-day state of Washington (Treaty of Point Elliot, art. V, 12 Stat. 928). The Tribe has lived on, tended, and managed this land since time immemorial, and the Snoqualmie River, its tributaries, and the surrounding lands, are vitally important both culturally and ecologically.

The Tribe has reviewed the City of Lake Stevens' Critical Area Ordinance Update and appreciates the City's efforts to effectively and meaningfully consult with Tribes. The Tribe is concerned, however, that the City is allowing trails within the outer 25% of wetland, and fish and wildlife conservation area buffers. Critical areas, including wetlands and wildlife conservation areas, provide key habitat and migration corridors for wildlife in an otherwise bustling urban setting. The City must adequately address and mitigate for, the impacts of human activity on the land, especially within critical areas, if the goal is to support sustainability. We urge the City to prioritize the maintenance and upkeep (which in some cases may mean relocation) of existing trails instead of allowing the construction of new trails within critical area buffers. Human presence has the tendency to alter wildlife use of habitat and often drives sensitive species away from key foraging, nesting, and migration areas. By allowing trails within buffers, the City is essentially diminishing the effectiveness and functions of the critical area and its buffer and any benefits it may contribute to habitat and wildlife.



We would like to express appreciation to the City for the incorporation of SPTH<sub>200</sub> into their CAO for Type F streams. Intact riparian areas are vital to protecting the ecological function of fish bearing streams. We do think that the City could take this initiative one step further and incorporate SPTH<sub>200</sub> guidance for *all* streams when it is feasible for a project to do so (Windrope et al. 2020). Riparian Management Zones with buffer widths utilizing SPTH help to preserve water quality, reduce temperature rise in streams, and support ecological functions for both fish, and non-fish bearing streams. There is no scientifically justifiable reason to reduce protections for Type N streams, especially when those streams have the likelihood to provide valuable habitat for other, non-fish species, and could likely flow into Type F waterbodies downstream. State-led Best Available Science (BAS) maintains that “Protecting functions within at least one 200-year SPTH is a scientifically supported approach if the goal is to protect and maintain full function of the riparian ecosystem.” This also aligns with Snoqualmie Indigenous Knowledge, which is another aspect of BAS. To this end, we also recommend the City incorporate Traditional Ecological Knowledge/Indigenous Knowledge (TEK/IK) into their Critical Areas Ordinance Update. TEK/Indigenous Knowledge is an invaluable tool to help assess and determine potential environmental impacts of development and recreation, and Tribes hold a wealth of knowledge that has been historically undervalued and underutilized.

The Snoqualmie Indian Tribe appreciates the opportunity to comment on the draft updates to the City of Lake Stevens CAO. These updates are critical to protect and support sustainable development without compromising critical areas and the valuable habitat they support. We appreciate the City’s incorporation of SPTH<sub>200</sub> for Type F streams and we believe this is a step in the right direction. We ask the City to take the Snoqualmie Tribe’s ancestral relationship with the lands of the region into account when making decisions that affect people and the shape of the landscape now and far into the future. And we urge the City to consider TEK/IK in their policies and decision-making. We remain ready to continue to work with the City to protect the Tribe’s Ancestral Lands.

Thank you for your consideration.

Sincerely,

Signed by:  
  
 166598E8B57F4ED...

Matt Baerwalde

Senior Environmental Policy Analyst

## David Levitan

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**From:** Todd Gray <toddgray@tulaliptribes-nsn.gov>  
**Sent:** Tuesday, August 18, 2026 11:52 AM  
**To:** David Levitan  
**Subject:** RE: The City of Lake Stevens Critical Areas Ordinance is Available for Review; Comments Requested by August 19, 2026

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi David,

Thank you for the opportunity to review Lake Stevens' Critical Areas Ordinance. I'm happy to see the City is both widening standard buffers, and adopting WDF&W's Riparian Management Zone Guidance. Overall, I don't have any real concerns jumping out at me, but I did want to offer one comment:

**14.88.220(n) and 14.88.296:** language regarding functionally disconnected buffers should clarify:

1. Existing structures, roads, etc. must have been created legally
2. Buffer area can only be considered disconnected as long as the existing structure(s) continue to be used as originally intended. Any project proposal that involves abandoning, removing, or otherwise no longer using such a structure, should remove the structure and restore/reconnect the previously disconnected buffer area.

I hope this makes sense, and I appreciate your consideration of our concerns.

Thank you,

**Todd Gray**  
Environmental Protection Ecologist  
The Tulalip Tribes | Natural Resources Dept.  
360-716-4620 | [toddgray@tulaliptribes-nsn.gov](mailto:toddgray@tulaliptribes-nsn.gov)

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**From:** David Levitan <dlevitan@lakestevenswa.gov>  
**Sent:** Wednesday, July 22, 2026 4:11 PM  
**To:** David Levitan <dlevitan@lakestevenswa.gov>  
**Cc:** Christi Schmidt <cschmidt@lakestevenswa.gov>  
**Subject:** The City of Lake Stevens Critical Areas Ordinance is Available for Review; Comments Requested by August 19, 2026

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Good Afternoon:

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A copy of the [draft regulations](#) is available on the [project website](#), along with other project materials. A copy was also uploaded to PlanView for distribution to state agencies and tribes (2026-S-14080).

**Comments are requested by Wednesday, August 19** and can be submitted to David Levitan at [dlevitan@lakestevenswa.gov](mailto:dlevitan@lakestevenswa.gov).

Thank you.

[Critical Areas Ordinance Update | Lake Stevens, WA - Official Website](#)



David Levitan, *Principal Planner*

**City of Lake Stevens | Planning and Community Development**  
1812 Main Street | PO Box 257  
Lake Stevens, WA 98258  
(425) 622-9425  
[dlevitan@lakestevenswa.gov](mailto:dlevitan@lakestevenswa.gov)

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## David Levitan

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**From:** Russell Joe <rjoe@mbaks.com>  
**Sent:** Wednesday, August 19, 2026 4:33 PM  
**To:** Russell Wright  
**Cc:** Christi Schmidt; David Levitan  
**Subject:** CAO Letter of Support from MBAKS  
**Attachments:** Letter Support for CAO.pdf

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Russ Wright,

I hope you are well. Attached please find attached our letter of support for the work done on the Lake Stevens CAO to date.

In generally we are supportive of the CAO as drafted. However, as we discussed at our last meeting, we have asked the Np and Ns buffers remain at 50 feet. We also would request that consideration of using SPTH only be invoked in limited circumstances and when all other alternatives have been exhausted.

If you have any questions, please let me know.

Regards,

Russell Joe



**Russell Joe** | Snohomish County Government Affairs Manager

425.941.7689 | rjoe@mbaks.com | mbaks.com

335 116th Ave. SE, Bellevue, WA 98004



EVERYONE DESERVES A PLACE TO CALL HOME.



August 19, 2026

Lake Stevens Planning Commission  
1812 Main Street  
Lake Stevens, WA 98258

RE: Public Comment in Support of Critical Area Ordinance

Dear Lake Stevens Planning Commission:

The Master Builders Association of King and Snohomish Counties (MBAKS), with more than 2,400 members, is the largest and oldest local homebuilders' association in the United States. We make home happen. We are committed to helping cities advance housing solutions that support sustainable growth, economic development, and attainable housing. As you know, homes open windows to possibility.

MBAKS appreciates the work done by Lake Stevens to incorporate Best Available Science (BAS) and meet its requirements under the Growth Management Act (GMA). At the same time, we urge the Planning Commission to ensure that environmental objectives are balanced with other GMA goals, including urban growth, economic development, housing, permitting efficiency, and property rights. The GMA does not prioritize one goal over another.

Please note, under the GMA cities retain broad discretion to craft local development regulations that reflect Lake Stevens' unique conditions and policy priorities. Moreover, the GMA does not require a single statewide model for critical areas ordinance. Each jurisdiction must substantively consider BAS in adopting or updating a CAO but may also consider other factors the city deems appropriate for its goals, infrastructure, landscape, and growth obligations.

MBAKS would like to submit comments on the proposed CAO update. MBAKS strongly supports three of the proposed CAO sections as outlined below. Additionally, we have some comments to consider on the subject of stream buffers. Overall, however, MBAKS commends staff for bringing forward a thoughtful proposal and encourages its adoption to advance this important initiative to expand housing supply.

### **Areas of Support**

MBAKS is encouraged that the current CAO draft retains several important tools for flexibility and predictability in housing development:

- **Functionally Disconnect Buffers**



As noted in LMC 14.88.296, the city recognizes stream and wetland buffers may exclude areas that are functionally and effectively disconnected. Some examples include public or private roads, or existing residential structures. MBAKS supports this tool in the CAO to adjust buffer requirements to fit conditions on the ground as it is critical for infill and redevelopment feasibility.

- **Buffer Averaging Options**

MBAKS supports the continued allowance for wetland and stream buffer averaging in Lake Stevens. This provision appropriately recognizes site-specific conditions and maintains ecological function while still allowing development to occur.

- **Mitigation and Fee-In-Lieu Options**

Finally, MBAKS supports maintaining flexibility through mitigation banks and in-lieu-fee programs. These approaches are scientifically sound and offer ecological benefits while also supporting housing feasibility. The goals of HB 1220 (2021) are also met by providing housing at all economic levels and household sizes in Lake Stevens. Communities are stronger when they have room for young adults, retirees, and families at every stage of life.

## **Primary Concerns**

- **Np and Ns Stream Buffers**

While the proposed CAO balances these objectives and includes provisions that MBAKS strongly supports, we respectfully request the Planning Commission consider re-examining the proposed one hundred-foot buffers for Type Np and Ns streams in the CAO. Expansion beyond the current buffers could unnecessarily limit opportunities to promote infill, redevelopment, and intensification of scarce land in areas where ecological functions are low.

Lake Stevens must balance its obligation to protect critical areas with the other GMA Planning Goals. Here, type N streams are intermittent and non-fish-bearing and often provide limited habitat value compared to fish-bearing or perennial streams. The total acreage impacted by the new stream buffers for Np and Ns streams is low according to the city. For this small area of land, the reduced buffers, paired with protective measures, would be sufficient to maintain ecological functions and values while supporting community development goals.

There are additional factors in the urban setting that could support no changes to Type N streams. For instance, stormwater regulations help provide appropriate mitigation and protective measures for Type N streams. There is sparse evidence that Lake Stevens' current stream and wetland buffers have failed to protect ecological functions and



values. Without that baseline, it is hard to justify buffer increases that would further limit buildable land.

As noted in the quote below from the City of Covington's CAO Gap Analysis (Facet, June 2024), riparian studies often overlook urban infrastructure contributions to ecological function. Cities have discretion to interpret BAS in ways that reflect local conditions and engineered systems.

***Many of the scientific studies that examine the functions and values associated with riparian areas have been conducted in forested environments. Since there are fundamental differences between forested, agricultural, and urban areas, including land use and hydrology. Riparian studies often do not account for the contribution of engineering and public works projects, such as surface-water detention facilities, that can supplement natural riparian function in more urban settings. Thus, although stream and riparian conservation measures should be based in Best Available Science (BAS), some level of policy interpretation must be made by each local jurisdiction.***

— **Facet. June 2024. Covington Critical Areas Ordinance Gap Analysis**

The contribution of engineering and public works projects can supplement natural riparian function in urban settings. As a result, increases to Type Ns and Np buffers may not be necessary. Proposed increases in stream buffers may significantly reduce development capacity, particularly in already constrained infill zones. We recommend flexibility for urban areas and request that buffer changes be tied to clear, localized performance data demonstrating the need for expansion. While well-intentioned, changes to Ns and Np buffers could significantly impact housing development.

- **Stream Buffer Modifications**

Modifications under consideration that may be implemented to add a buffer of more than 150-feet for Type F streams should be used sparingly. Under LMC 14.88.430(b) buffers may be increased for Type F streams where conditions exist to warrant expanding the buffer to reflect the height of trees in the area. There is little rationale to increase F buffers beyond 150 feet proposed. As noted in the July 21<sup>st</sup> Staff Report:

***The vast majority of pollution removal (95%) and surface nitrogen removal (85%) is provided within the first 100 feet (citation omitted) of the buffer, even before factoring in other environmental protections such as stormwater regulations.***

As a result, most of the pollution and surface nitrogen are removed within the first one hundred feet. When the additional environmental protections of stormwater regulations (outlined above) are factored in it would be a rare occurrence where the provisions of



LMC 14.88.430(b)(2) would be invoked. As a result, MBAKS would urge this provision only be used in situations where all other alternatives have been fully exhausted.

We support the amend CAO on the first three points in this letter. We would welcome a recommendation to council for adoption, but only after careful review of the two areas of concern outlined above. First, the Np and Ns stream buffer expansions should be scrutinized and balanced against all the GMA goals. Finally, the circumstances and justifications for expanding the Type F Steams beyond the prescribed 150 feet should be carefully considered and analyzed before a recommendation is forwarded to the Lake Stevens City Council.

MBAKS believes everyone deserves a place to call home—and you are helping make that a reality in Lake Stevens through your work on the CAO.

Sincerely,

*Russell Joe*

Russell Joe  
Snohomish County Government Affairs Manager  
Master Builders Association of King and Snohomish Counties

cc: Russell Wright, Community Development Director

## David Levitan

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**From:** Sears, Tricia (DNR) <Tricia.Sears@dnr.wa.gov>  
**Sent:** Tuesday, July 28, 2026 3:03 PM  
**To:** David Levitan  
**Cc:** Sears, Tricia (DNR); Aken, Jeff (COM)  
**Subject:** Lake Steven's critical areas ordinance amendments (2026-S-14080): WGS comments

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hello David,

In keeping with the interagency correspondence principles, I am providing you with comments on Lake Steven's critical areas ordinance amendments (2026-S-14080).

For this proposal submitted via Planview, I looked at the proposal and focused on areas related to WGS work. Of note, but not limited to, I look for language around the geologically hazardous areas, mineral resource lands, mining, climate change, and natural hazards mitigation plan.

Specifically in this proposal, for critical areas I reviewed the Lake Stevens Critical Areas Ordinance Update July 2026 Public Review Draft.

### Lake Stevens Critical Areas Ordinance Update July 2026 Public Review Draft

Chapter 14.08 Definitions. No comments.

Chapter 14.48. Looks ok.

Chapter 14.88. Critical Areas.

The only changes to the geologically hazardous areas provisions in Part VI is 14.88.620 Allowed Activities is in strikethrough/is proposed for removal. Allowed activities are being removed from other sections of the code.

Section 14.88.220 Allowed Activities remains the same.

Section 14.88.235 Best Available Science is reduced to a simple reference to the WACs.

Section 14.88.260 Submittal Requirements is very brief, with four requirements. Two of the requirements refer to other sections in Chapter 14.88. One refers to the SEPA provisions located elsewhere in the code. One refers to all other reports to comply with the chapter requirements. Suggest adding more specificity like the related code provisions for that. The code could have a table that lists the critical areas with the related code provisions that apply.

14.88.270 Site/Resource-Specific Reports. For geologically hazardous areas, geotechnical studies are required. Good to see mitigation, monitoring, and bonding requirements.

14.88.280 Maps and Inventory, suggest adding reference to the Washington Department of Natural Resources Geologic Information Portal (noted below).

14.88.287 Fencing and Signage. It appears that permanent signage for geologically hazardous areas is optional, but permanent fencing is required. Is that correct? With optional provisions, would it be the Planning Director who decides if it is required?

14.88.290 Critical Areas Tracts and Easements. Do the options for geologically hazardous result in their always being something recorded to title that states/shows there is geologically hazardous areas on the property? It's not clear.

Below, I include our usual language for this and future endeavors.

Recognizing the limitations of the current proposals, I want to mention that it would be great for you to consider these in current or future work, be it in your comprehensive plan, development code, and SMP updates, and in your work in general:

- Consider adding a reference to the definition of geologically hazardous areas, WAC 365-190-120, in other areas besides the CAO. In addition, consider adding a reference to WAC 365-196-480 for natural resource lands.
- Consider adding in other areas besides the CAO. If you have not checked our interactive database, the Washington Geologic Information Portal, lately, you may wish to do so. [Geologic Information Portal | WA - DNR](#)
- If you have not checked out our Geologic Planning page, you may wish to do so. [Geologic Planning | WA - DNR](#)

Thank you for considering our comments. If you have any questions or need additional information, please contact me. For your convenience, if there are no concerns or follow-up discussion, you may consider these comments to be final as of the 60-day comment deadline of 9/20/26.

Have a great day!

Tricia

Tricia R. Sears (she/her/hers)

**Geologic Planning Liaison**

Washington Geological Survey (WGS)

Washington Department of Natural Resources (DNR)

Cell: 360-628-2867 | Email: [tricia.sears@dnr.wa.gov](mailto:tricia.sears@dnr.wa.gov)

## David Levitan

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**From:** Atkins, Emily (ECY) <eatk461@ECY.WA.GOV>  
**Sent:** Wednesday, August 19, 2026 9:25 AM  
**To:** David Levitan  
**Subject:** Ecology Comments on Lake Stevens Draft CAO Update (PlanView ID 2026-S-14080)  
**Attachments:** ECYSummmmaryComments\_LakeStevensCriticalAreasOrdinance\_Update\_July2026\_PublicReviewDraft.pdf

You don't often get email from eatk461@ecy.wa.gov. [Learn why this is important](#)

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hello David,

Thank you for submitting your draft CAO update to PlanView on 7/22/2026 and giving Ecology the opportunity to provide comments. We offer the following recommendations to your draft CAO to ensure that it will adequately protect the functions and values of wetlands in Lake Stevens. We have attached a comment summary of our comments to this email. Most of our feedback is based on the 2022 [Wetland Guidance for Critical Area Ordinance \(CAO\) Updates: Western and Eastern Washington](#) document. We would suggest looking at this document for more information about our comments and wetland guidance on CAOs.

We also checked your current definition section (Chapter 14.08 **BASIC DEFINITIONS AND INTERPRETATIONS**) for wetland related language that is not being proposed to be updated in your submitted draft. In this section you have two definitions of wetlands with "regulated wetlands" and "wetlands". For clarity and consistency, we would recommend removing "regulated wetlands" from your definition section and deferring to the "wetlands" definition which aligns closer to the Growth Management Act (GMA) required definition for CAOs.

Thank you again for working with Ecology on your periodic update. We would welcome the opportunity to discuss our comments and feedback with the City if you have any questions. I would be happy to schedule a virtual meeting so please let us know what time and day would work best for you.

Best,

Emily Atkins  
*She/Her*  
Critical Areas Ordinance Coordinator  
Shorelands and Environmental Assistance Program  
WA State Dept of Ecology  
[emily.atkins@ecy.wa.gov](mailto:emily.atkins@ecy.wa.gov) | 360-628-6680

Part I. Purpose and Intent

**14.88.010 Purpose and Intent.**

The purpose of this chapter is to designate, classify, and protect the critical areas, as defined by RCW 36.70A.030(12), of the Lake Stevens community by establishing regulations and standards for development and use of properties which contain or adjoin critical areas for protection of the public health, safety, and welfare. ~~The purpose and intent of this chapter is also –~~ It also provides a regulatory framework to ensure that there is no net loss of ~~the~~ acreage, ~~or~~ functions ~~and or~~ values of critical areas regulated by this chapter.

This chapter serves to:

(a) Establish the mitigation sequencing hierarchy by which Aa project proponent projects and activities shall make are evaluated for making all reasonable efforts to avoid and minimize impacts to critical areas and buffers, in the following sequential order of preference:

(1) Avoidance: Avoiding impacts altogether by not taking a certain action or parts of an action; ~~or~~

(2) Minimization: When avoidance is not possible, minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps, such as project redesign, relocations, or timing, to avoid or reduce impacts ~~and mitigating for the affected functions and values of the critical area; and~~

(3) Rectification: Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;

~~(4)~~ Reduction: Reducing or eliminating impacts over time by preservation and maintenance operations during the life of the action.

~~(5)~~ Compensation: Compensating for unavoidable impacts by replacing, enhancing or providing substitute resources or environments; and

(6) Monitoring: Monitoring the impact and taking appropriate corrective measures.

(b) Protect the public from personal injury, loss of life, or property damage due to flooding, erosion, landslides, seismic events, or soil subsidence.

(c) Protect against publicly financed expenditures due to the misuse of critical areas which cause:

(1) Unnecessary maintenance and replacement of public facilities;

(2) Publicly funded mitigation of avoidable impacts;

(3) Cost for public emergency rescue and relief operations where the causes are avoidable;

(4) Degradation of the natural environment.

(d) Protect aquatic resources.

(e) Protect unique, fragile, and valuable elements of the environment, including wildlife and its habitat.

(f) Alert appraisers, assessors, owners, potential buyers, or lessees to the development limitations of critical areas.

(g) Provide City officials with sufficient information to adequately protect critical areas when approving, conditioning, or denying public or private development proposals.

# Summary of Comments on Lake Stevens Municipal Code

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 Number: 1      Author: eatk461      Subject: Comment on Text      Date: 8/6/2026 11:26:06 AM

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You might consider including mention of the GMA requirement to protect critical areas using best available science.

- (h) Give guidance to the development of Comprehensive Plan policies ~~in regard to~~about the natural systems and environment of the Lake Stevens Watershed~~;~~ and
- (i) Provide property owners and developers with succinct information regarding the City's requirements for property development. (Ord. 984 Sec. 3 (Exh. C), 2019; Ord. 903, Sec. 51, 2013; Ord. 773, Sec. 2, 2008; Ord. 741, Sec. 2, 2007)

## Part II. Definitions

### 14.88.100 Definitions.

The definitions related to critical areas are included in Chapter 14.08. (Ord. 984 Sec. 3 (Exh. C), 2019; Ord. 855, Secs. 3, 23, 2011; Ord. 773, Sec. 2, 2008; Ord. 741, Sec. 2, 2007; Ord. 590, 1998; Ord. 468, 1995)

## Part III. General Provisions

### **14.88.200 Applicability.**

The provisions of this chapter apply to all lands, land uses and development activity within the City. No person shall take action ~~No action shall be taken by any person~~ which results in any alteration of any critical areas except as consistent with the purposes, objectives, and goals of this chapter. The provisions of the current Lake Stevens Shoreline Master Program Appendix B apply to shoreline critical areas within Lake Stevens. (Ord. 984 Sec. 3 (Exh. C), 2019; Ord. 773, Sec. 2, 2008; Ord. 741, Sec. 2, 2007)

### 14.88.210 Regulated Activities.

(a) For any regulated activity identified in subsection (b), a critical areas report ~~that meets~~meeting the requirements of LSMC 14.88.270 shall be prepared~~is required to support the requested activity~~. All land use and/or development activities on lands containing critical areas are subject to this chapter and are prohibited unless:

- (1) The use or activity is found to be exempt by the Planning and Community Development Director or designee per the "allowed activities" sections (14.88.220) of this chapter; or
  - (2) The use or activity meets the performance standards found in the "requirements" sections of this chapter; or
  - (3) It can be demonstrated that the denial of authorization of such an activity would deny all reasonable economic uses, as demonstrated per Section 14.88.310. In such a case, approval in writing shall be issued by the Planning and Community Development Director or designee. Approval of a reasonable economic use must be attached to another type of development permit obtained from the City of Lake Stevens prior to undertaking the regulated activity in the critical area or its buffer.
- (b) Land use and development activities include, but are not limited to, the following activities:
- (1) The removal, excavation, grading, or dredging of soil, sand, gravel, minerals, organic matter, or material of any kind.
  - (2) The dumping, discharging, or filling with any material.
  - (3) The draining, flooding, or disturbing of the water level or water table.
  - (4) The driving of pilings.
  - (5) The placing of obstructions.
  - (6) The construction, reconstruction, demolition, or expansion of any structure.
  - (7) The destruction or alteration of vegetation in a critical area through clearing, harvesting, shading, intentional burning, or planting of vegetation that would alter the character of a critical area.

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 Number: 1      Author: eatk461      Subject: Comment on Text      Date: 8/6/2026 11:08:59 AM

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You might consider adding the following to make it clear how this CAO interacts with other state, federal, local regulations:

"Compliance with the provisions of the Title does not constitute compliance with other federal, state, and local regulations and permit requirements that may be required (for example, Shoreline Permits, HPA permits, Army Corps of Engineers Section 404 permits, Ecology Section 401 permits, NPDES permits). The applicant is responsible for complying with these requirements, apart from the process established in this Title. Where applicable, the Designated official will encourage use of information such as permit applications to other agencies or special studies prepared in response to other regulatory requirements to support required documentation submitted for critical areas review."

(8) Class IV – General Forest Practices under the authority of Chapter 14.50, Part II (Forest Practices) and the 1992 Washington State Forest Practices Act Rules and Regulations per WAC 222-12-030, or as thereafter amended.

(9) Activities that result in a significant change of water temperature, a significant change of physical or chemical characteristics of water sources, including quantity, or the introduction of pollutants.

(10) Land that is located wholly within a critical area or its buffer may not be subdivided, unless specifically allowed elsewhere in this chapter. (Ord. 984 Sec. 3 (Exh. C), 2019; Ord. 773, Sec. 2, 2008; Ord. 741, Sec. 2, 2007)

#### **14.88.220 Allowed Activities.**

Unless specifically prohibited elsewhere in this chapter, the following uses are allowed in any critical area or buffer; provided, that a site/resource-specific report is prepared when the activity may result in a loss of functions and values, that describes the environmental limitations of and proposed mitigation for the site, shall be submitted, reviewed, and approved by the City prior to permit issuance or land use approval:

(a) Existing and ongoing agricultural activities; provided, that they implement applicable best management practices (BMPs) contained in the latest editions of the USDA Natural Resources Conservation Service (NRCS) Field Office Technical Guide (FOTG); or develop a farm conservation plan in coordination with the local conservation district. BMPs and/or farm plans should address potential impacts from livestock, nutrient and farm chemicals, soil erosion and sediment control and agricultural drainage infrastructure. BMPs and/or farm plans should ensure that ongoing agricultural activities minimize their effects on water quality, riparian ecology, salmonid populations and wildlife habitat.

(b) Those activities and uses conducted pursuant to the Washington State Forest Practices Act and its rules and regulations, WAC 222-12-030, where state law specifically exempts local authority, except those developments requiring local approval for Class IV – General Forest Practice Permits (conversions) as defined in Chapter 76.09 RCW and Chapter 222-12 WAC.

(c) The harvesting of wild crops in a manner that is not injurious to natural reproduction of such crops and provided the harvesting does not require tilling of soil, planting of crops, chemical applications, or alteration of existing topography, water conditions, or water sources.

(d) Enhancement of a wetland-critical area or its buffer through the removal of nonnative invasive plant species. Removal of invasive plant species shall be restricted to hand removal unless permits from the appropriate regulatory agencies have been obtained for approved mechanical, biological or chemical treatments. All removed plant material shall be taken away from the site and appropriately disposed of. Plants that appear on the Washington State Noxious Weed Control Board list of noxious weeds must be handled and disposed of according to a noxious weed control plan appropriate to that species. Revegetation with appropriate native species at natural densities is allowed in conjunction with removal of invasive plant species.

(e) Educational and scientific research activities.

#### **2) Public and Private Pedestrian Trails.**

(1) Existing trails may be maintained subject to subsection (i).

(2) ~~New~~ trails may be constructed within the outer 25 percent of the critical area buffers to wetlands and fish and wildlife conservation areas, when mitigation for impacts is provided in accordance with this chapter.

(3) ~~except that~~ New trails may be located within the remainder of the critical area buffer when it is demonstrated through the site/resource-specific report that:

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 Number: 1      Author: eatk461      Subject: Comment on Text      Date: 8/6/2026 11:33:29 AM

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Do you have existing and ongoing activities defined? In your current definition section you have agricultural use defined but do not outline this specific definition which could be important for clarity.

We have a suggested definition from our CAO Wetland Guidance you might consider to make this more clear:

"Existing and ongoing agricultural activities" means those activities conducted on lands defined in RCW 84.34.020(2), and those activities involved in the production of crops and livestock, including but not limited to operation, maintenance and conservation measures of farm and stock ponds or drainage ditches, irrigation systems, changes between agricultural activities, and normal operation, maintenance or repair of existing serviceable structures, facilities or improved areas. Activities which bring an area into agricultural use are not part of an ongoing activity. An operation ceases to be ongoing when the area in which it was conducted is proposed for conversion to a nonagricultural use or has lain idle for a period of longer than five years, unless the idle land is registered in a federal or state soils conversation program. Forest practices are not included in this definition. "

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 Number: 2      Author: eatk461      Subject: Comment on Text      Date: 8/6/2026 11:38:52 AM

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We also recommend that, if possible, trails be no wider than 5 feet to reduce higher risk of impacts to the wetland.

- (i) No other alternative for the trail location exists which would provide the same educational and/or scientific research opportunities; and
- (ii) The critical area functions and values will not be diminished as a result of the trail, and mitigation for proposed impacts are provided in accordance with this chapter; and
- (iii) The materials used to construct the trail will not harm the critical area; and
- (iv) Raised boardwalks using nontreated pilings may be acceptable; and
- (v) Land disturbance is minimized to the greatest extent possible including removal of significant trees; and
- (vi) Where possible, the number of trails allowed in critical area buffers shall be limited.

~~(42)~~ Trails proposed in geologically hazardous areas shall be constructed in a manner that does not increase the risk of landslide or erosion in accordance with an approved geotechnical report.

(g) Navigation aids and boundary markers.

(h) Site investigative work necessary for land use application submittals such as surveys, soil logs, percolation tests and other related activities. In every case, impacts shall be minimized and disturbed areas shall be immediately restored.

(i) Normal maintenance, repair, or operation of existing structures, facilities, or improved areas.

(j) Installation or construction of City road right-of-way; or installation, replacement, operation, repair, alteration, or relocation of all water, natural gas, cable communication, telephone, or other utility lines, pipes, mains, equipment or appurtenances, not including substations or other buildings, only when required by the City and approved by the Planning and Community Development Director or designee and when avoidance of critical areas and impact minimization has been addressed during the siting of roads and other utilities and a detailed report/mitigation plan is submitted, reviewed, and approved by the City prior to permit issuance or land use approval.

(k) Minor expansion of uses or structures existing at the time of adoption of this code, and which are in compliance with all other chapters of this title; provided, that the applicant obtains all required local, State, and Federal permits, including but not limited to a Department of Fish and Wildlife Hydraulic Permit and a Clean Water Act 404 Permit, and the expansion does not create a loss of critical area and functions nor pose a significant threat to water quality. A site/resource-specific report and mitigation plan shall be prepared to describe the critical area, function, and water quality and submitted to the City for review and approval prior to permit issuance. For the purposes of this subsection, “minor expansion” refers to an addition to or alteration of a use or structure and shall be limited to a maximum of 1,000 square feet of impervious area.

(l) Stormwater Management Facilities. Dispersion outfalls, bioswales and other low impact facilities may be allowed within the outer 25 percent of the buffer to wetlands and fish and wildlife and conservation areas, when the location of such facilities will not degrade the function or values of the critical area based on the recommendation of a qualified professional for the specific critical area type. Stormwater management facilities in geologically hazardous areas shall be constructed in a 1anner that does not increase the risk of landslide or erosion in accordance with an approved geotechnical report. A wetland or its buffer can be physically or hydrologically altered to meet the requirements of an LID, runoff treatment or flow control BMP if the following criteria are met:

- (1) There will be “no net loss” of functions and values of the wetland;
- (2) The wetland does not contain a breeding population of any native amphibian species;

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 Number: 1      Author: eatk461      Subject: Comment on Text      Date: 8/10/2026 4:02:07 PM

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We have additional recommendations for stormwater management facilities. Please consider adding this following criteria:

"a. The wetland is classified as a Category IV or a Category III wetland with a habitat score of 3-5 points. "

(3) The hydrologic functions of the wetland can be improved;

(4) The wetland lies in the natural routing of the runoff, and the discharge follows the natural routing;

(5) All regulations regarding stormwater and wetland management are followed, including but not limited to local and State wetland and stormwater codes, manuals, and permits;

(6) Modifications that alter the structure of a wetland or its soils will require permits. Existing functions and values that are lost would have to be compensated/replaced.

(7) Stormwater LID BMPs required as part of new and redevelopment projects can be considered within wetlands and their buffers. However, these areas may contain features that render LID BMPs infeasible. A site-specific characterization is required to determine if an LID BMP is feasible at the project site. (Ord. 984 Sec. 3 (Exh. C), 2019; Ord. 773, Sec. 2, 2008; Ord. 741, Sec. 2, 2007)

(m) **1** Emergency Activities. Those activities that are necessary to prevent an immediate threat to public health, safety, or welfare or pose an immediate risk of damage to private property, and that require remedial or preventative action in a time frame too short to allow for compliance with the requirements of this chapter.

(n) Development when the subject property is functionally and effectively separated from a critical area or its buffer by preexisting, intervening, and lawfully created structures, public roads, or other substantial improvements. Per LSMC 14.88.296, t~~t~~he preexisting improvements must be found to separate the subject property from the critical area or impair the delivery of buffer functions. (Ord. 984 Sec. 3 (Exh. C), 2019; Ord. 773, Sec. 2, 2008; Ord. 741, Sec. 2, 2007)

(o) Hazardous tree removal, subject to the mitigation and replacement requirements in Section 14.88.295(b) and evaluation of the tree as critical habitat.

(p) Activities consistent with the species located within fish and wildlife conservation areas and all applicable State and Federal regulations regarding the species, when the requirements of Section 14.88.430 have been met and mitigation adequate to alleviate any other impacts has been proposed, as determined by the Planning and Community Development Director or designee, who may consult with other resource agencies as to their recommendations.

(q) Bridges and other crossings over streams for public and private rights-of-way, when the requirements of Section 14.88.430 have been met and mitigation adequate to alleviate any other impacts has been proposed. (Ord. 984 Sec. 3 (Exh. C), 2019; Ord. 773, Sec. 2, 2008; Ord. 741, Sec. 2, 2007)

(r) For frequently flooded areas, those activities allowed per Section 14.64.030, when the requirements of Section 14.88.530 have been met and mitigation adequate to alleviate any other impacts has been proposed.

(s) For critical aquifer recharge areas, those activities that meet the performance standards in Sections 14.88.710 and .720, and which are not prohibited by Section 14.88.730.

(t) For wetlands, conservation or preservation of soil, water, vegetation, fish, shellfish, and/or other wildlife that does not entail changing the structure or functions of the existing wetland, when the requirements of Sections 14.88.830 and 14.88.840 have been met and mitigation adequate to alleviate any other impacts has been proposed.

#### **14.88.230 Compliance.**

All land uses or development applications shall be reviewed to determine whether or not a critical area exists on the property for which the application is filed, what the action's impacts to any existing critical area would be, and what actions are required for compliance with this chapter. No construction activity, including land clearing

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 Number: 1      Author: eatk461      Subject: Comment on Text      Date: 7/27/2026 1:42:26 PM

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Ecology also recommends including a time limit for restoration, rehabilitation, or replacement of a critical area damaged or altered by emergency activities; for example, the restoration must be initiated within one year of the date of the emergency and completed in a timely manner.

**14.88.297 Limited On-Site Density Transfer for Critical Areas.**

On-site density transfers may be permitted when critical areas are located on the property subject to the following provisions:

- (a) Only the area contained in the following critical areas and their associated buffers are eligible to be used in the density transfer calculation:
  - (1) Category II, III, and IV wetlands;
  - (2) Fish and wildlife conservation areas; and
  - (3) Geologically hazardous areas, not approved for alteration.
- (b) The development must be proposed to connect to sewer service and sewer service must be available.
- (c) The base density shall be consistent with the densities set forth in Chapter 14.36 for the zoning districts. The site density shall be calculated using the area of the subject property divided by the minimum lot size of the applicable zone.
- (d) The overall density of the proposed site may be transferred from the undevelopable portion to the developable part of the site and the development when the development is not using other allowed reductions or modifications to critical areas and buffers defined in this chapter.
- (e) The development shall meet applicable policies, setbacks and other standards of the City except:
  - (1) The minimum lot size of the underlying zoning district may be reduced by 30 percent in order to accommodate the transfer in densities;
  - (2) Lot widths of Chapter 14.48, Table 14.48-I may not be less than 40 feet;
  - (3) The front setbacks specified in Chapter 14.48, Table 14.48-I may be reduced by five feet, but in no instance may the garage setback be less than 19 feet;
  - (4) The proposed development must be compatible with the character of the area and adjacent uses; and
  - (5) The area to which density is transferred must not be constrained by other critical areas. (Ord. 984 Sec. 3 (Exh. C), 2019; Ord. 773, Sec. 2, 2008)

**14.88.298 Innovative Development Design.**

A project permit applicant may request approval of an innovative design, which addresses wetland, fish and wildlife habitat conservation area or buffer treatment in a manner that deviates from the standards set forth in Sections 14.88.400 through 14.88.440, Fish and Wildlife Conservation Areas, and Sections 14.88.800 through 14.88.840, Wetlands.

- (a) An innovative development design will be considered in conjunction with the primary land use project approval or building permit approval, when the project is consistent with subsection (b) of this section and utilizes the mitigation sequencing standards in Section 14.88.010(a) and provides any necessary mitigation. An applicant may include the innovative development design proposal in the project pre-application review packet for review.
- (b) The applicant shall demonstrate in a site/resource-specific report required pursuant to Section 14.88.270 how the innovative development design complies with the following requirements, as well as those identified in Section 14.88.440 (for streams) and 14.88.840 (for wetlands):
  - (1) The innovative development design will achieve protection equivalent to or better than the treatment of the functions and values of the critical areas that would be obtained by applying the standard prescriptive measures contained in this chapter;

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 Number: 1      Author: eatk461      Subject: Comment on Text      Date: 8/6/2026 11:45:13 AM

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For cases where you allow for innovative design we would very strongly recommend that there is language that makes it clear that it must also be consistent with best available science.

(c) Stormwater management facilities. A wetland or its buffer can be physically or hydrologically altered to meet the requirements of an LID, runoff treatment or flow control BMP if the following criteria are met:

- (1) The location of the stormwater management facility is restricted to the outer 25 percent of the buffer around the wetland;
- (2) There will be “no net loss” of functions and values of the wetland;
- (3) The wetland does not contain a breeding population of any native amphibian species;
- (4) The hydrologic functions of the wetland can be improved;
- (5) The wetland lies in the natural routing of the runoff, and the discharge follows the natural routing;
- (6) All regulations regarding stormwater and wetland management are followed, including but not limited to local and State wetland and stormwater codes, manuals, and permits;
- (7) Modifications that alter the structure of a wetland or its soils will require permits. Existing functions and values that are lost would have to be compensated/replaced.
- (8) Stormwater LID BMPs required as part of new and redevelopment projects can be considered within wetlands and their buffers. However, these areas may contain features that render LID BMPs infeasible. A site-specific characterization is required to determine if an LID BMP is feasible at the project site. (Ord. 984 Sec. 3 (Exh. C), 2019; Ord. 773, Sec. 2, 2008; Ord. 741, Sec. 2, 2007)

#### **14.88.825 Exemptions.**

The following wetlands may be exempt from the requirement to avoid impacts and they may be filled if the impacts are fully mitigated based on the remaining actions, pursuant to State and Federal requirements. If available, impacts should be mitigated through the purchase of credits from an in-lieu fee program or mitigation bank, consistent with the terms and conditions of the program or bank.

(a) All isolated Category IV wetlands less than 4,000 square feet:

- (1) Not associated with riparian areas or their buffers;
- (2) Not associated with shorelines of the State or their associated buffers;
- (3) Not part of a wetland mosaic;
- (4) Do not score six or more points for habitat function based on the 2014 update to the Washington State Wetland Rating System for Western Washington: 2014 Update (Ecology Publication No. 14-06-029, or as revised and approved by Ecology); and
- (5) Do not contain a priority habitat or a priority area for a priority species identified by the Washington Department of Fish and Wildlife, do not contain Federally listed species or their critical habitat, or species of local importance.

(b) All categories of Wwetlands less than 1,000 square feet that meet the above criteria and do not contain Federally listed species or their critical habitat are exempt from the buffer provisions contained in this chapter. (Ord. 984 Sec. 3 (Exh. C), 2019)

#### **14.88.830 Wetland Buffer Requirements and Allowed Modifications.**

(a) Buffers. Wetland buffers shall be required for all regulated activities adjacent to regulated wetlands as provided in Table 14.88-II, unless modified elsewhere in this chapter.

- (1) Any wetland created, restored, or enhanced as compensation for approved wetland alterations shall also include the standard buffer required for the category of the created, restored, or enhanced wetland. All

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 Number: 1      Author: eatk461      Subject: Comment on Text      Date: 8/6/2026 11:46:02 AM  
Please update the publication number to the most recent one to be consistent with changes made elsewhere. (Publication #23-06-009)

buffers shall be measured from the wetland boundary as surveyed in the field. The width of the wetland buffer zone shall be determined according to wetland category and the proposed land use.

(2) To facilitate long-range planning using a landscape approach, the Planning and Community Development Director or designee may pre-assess wetlands using the rating system and establish appropriate wetland buffer widths for such wetlands. The Administrator will prepare maps of wetlands that have been pre-assessed in this manner.

(3) All buffers shall be measured perpendicular from the wetland boundary as surveyed in the field. The buffer for a wetland created, restored, or enhanced as compensation for approved wetland alterations shall be the same as the buffer required for the category of the created, restored, or enhanced wetland. Buffers must be fully vegetated ~~in order to to~~ be included in buffer area calculations. ~~Lawns, walkways, driveways, and other mowed or paved areas will not be considered buffers or included in buffer area calculations.~~

(4) Functionally and effectively disconnected areas may be excluded from the buffer area, per LSMC 14.88.296.

(b) The buffer widths in Table 14.88-II assume that the standard buffer is vegetated with a native plant community appropriate for the ecoregion or includes a habitat corridor and impact minimization measures. If the existing buffer is unvegetated, sparsely vegetated, or vegetated with invasive species that do not perform needed functions, the buffer should be planted to create the appropriate plant community, or the nonmitigated buffer should be widened to ensure that adequate functions of the buffer are provided.

**Table 14.88-II Wetland Buffer Requirements**

| Wetland Category        | Buffer Condition*     | Buffer width in feet based on habitat scores |       |       |
|-------------------------|-----------------------|----------------------------------------------|-------|-------|
|                         |                       | 3 – 5                                        | 6 – 7 | 8 – 9 |
| Category I              | Standard              | 75                                           | 110   | 225   |
|                         | <u>1</u> o Mitigation | 100                                          | 150   | 300   |
| Category I (High Value) | Standard              | 190                                          |       | 225   |
|                         | No Mitigation         | 250                                          |       | 300   |
| Category II             | Standard              | 75                                           | 110   | 225   |
|                         | No Mitigation         | 100                                          | 150   | 300   |
| Category III            | Standard              | 60                                           | 110   | 225   |
|                         | No Mitigation         | 80                                           | 150   | 300   |
| Category IV             | Standard              | 40                                           |       |       |
|                         | No Mitigation         | 50                                           |       |       |

\* The buffer condition directly affects the required buffer width. A standard buffer width is to be used when the buffer is vegetated or will be planted to comply with Section 14.88.830(b) and Table 14.88-III; otherwise, the buffer is considered to have no mitigation and an increased buffer is required when limited vegetation exists or no mitigation is proposed to enhance buffer functions.

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 Number: 1      Author: eatk461      Subject: Comment on Text      Date: 8/17/2026 10:04:42 AM

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In this case "no mitigation" seems to refer to the use of impact minimization measures and habitat corridors. You might consider renaming this to make it clear that this is not compensatory wetland mitigation such as restoration, enhancement, etc.

## Chapter 14.88 CRITICAL AREAS – 2026 UPDATE

(d) Wetland Buffer Averaging. Wetland buffer widths may be modified by averaging. In no instance shall the buffer width be reduced by more than 25 percent of the standard buffer. Wetland buffer width averaging shall be allowed only where the applicant demonstrates all of the following as demonstrated in accordance with an approved critical areas report:

- (1) The averaging will not impair or reduce the habitat, water quality purification and enhancement, stormwater detention, groundwater recharge, shoreline protection, erosion protection, and other functions and values of the wetland and buffer;
- (2) The buffer is increased adjacent to the higher functioning area and decreased adjacent to lower functioning area; and
- (3) The total area contained within the wetland buffer after averaging is no less than that contained within the standard buffer prior to averaging.

(e) Buffer Conditions. Except as otherwise specified, wetland buffers shall be retained in their natural condition.

- (1) Where buffer disturbance may or has occurred during construction, revegetation with native wetland vegetation may be required appropriate for the ecoregion or with vegetation performing similar functions.
- (2) If the existing buffer is unvegetated, sparsely vegetated, or vegetated with invasive species that do not perform needed functions, the buffer ~~should be planted to create the appropriate plant community or the buffer should be widened to ensure that adequate functions of the buffer are provided.~~ shall comply with subsection (b).

**1)** Buffer Reductions. Buffer reductions may be allowed for Category III or IV wetlands, provided the applicant demonstrates the proposal meets the criteria in subsections (f)(1) through (4) of this section and either subsection (f)(5) or (6) of this section. Buffer width reduction proposals that meet the criteria as determined by the Planning and Community Development Director or designee shall be reduced by no more than 25 percent of the required buffer. Buffer reductions are distinct from functionally disconnected buffer areas as identified in Section 14.88.296, which may apply to all wetland categories.

- (1) The buffer area meets buffer area planting requirements in Section 14.88.275 and has less than 15 percent slopes; and
- (2) A site-specific evaluation and documentation of buffer adequacy is based on consideration of the best available science as described in Section 14.88.235; and
- (3) Buffer width averaging as outlined in subsection (d) of this section is not being used; and
- (4) A buffer enhancement plan is proposed that would significantly improve the function and value of a degraded wetland and buffer, specifically the required buffer enhancement plan should improve the ability of a degraded buffer to protect the water quality and hydrologic functions even if the width of the buffer is reduced, subject to mitigation requirements of Section 14.88.840; and either
- (5) The subject property is separated from the wetland by preexisting, intervening, and lawfully created structures, public roads, or other substantial improvements. The preexisting improvements must be found to separate the subject upland property from the wetland by height or width that prevents or impairs the delivery of buffer functions to the wetland. In such cases, the reduced buffer width shall reflect the buffer functions that can be delivered to the wetland; or
- (6) The wetland scores five or less points for wildlife habitat in accordance with the rating system applied in Section 14.88.800, and mitigation is provided based on Section 14.88.840(b) and Table 14.88-III, when determined appropriate based on the evaluation criteria in Sections 14.88.275 and 14.88.276.

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 Number: 1      Author: eatk461      Subject: Comment on Text      Date: 8/17/2026 10:52:18 AM

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Ecology doesn't recommend buffer reductions and instead suggests using buffer averaging in order to create buffer flexibility for development while also retaining the functions of the buffer and protect the wetland.

We also would suggest including language making it clear that buffer averaging and any buffer reductions cannot be combined for the same wetland. Further reductions of the buffer width has a higher risk of reducing the ability of the buffer to protect the functions and values of the wetland.

## David Levitan

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**From:** Krueger, Morgan (DFW) <Morgan.Krueger@dfw.wa.gov>  
**Sent:** Tuesday, August 4, 2026 5:14 PM  
**To:** David Levitan  
**Cc:** Christi Schmidt; Berejikian, Marian (DFW); Reaves, Marcus A (DFW); Lakey, Kirk A (DFW); Shaw, Ryan C (DFW); DFW R4Cplanning; Aken, Jeff (COM)  
**Subject:** RE: The City of Lake Stevens Critical Areas Ordinance is Available for Review; Comments Requested by August 19, 2026  
**Attachments:** 8.4.26 WDFW Comments Lake Stevens CAO.pdf

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi David,

Please find WDFW's Critical Area Ordinance (CAO) comments attached for inclusion within the public record. Feel free to reach out to me with any questions.

Sincerely,



Morgan Krueger (she/her)  
Regional Land Use Lead, Habitat Program  
Washington Dept. of Fish and Wildlife, Region 4  
[Morgan.Krueger@dfw.wa.gov](mailto:Morgan.Krueger@dfw.wa.gov)  
425-537-1354

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**From:** David Levitan <dlevitan@lakestevenswa.gov>  
**Sent:** Wednesday, July 22, 2026 4:11 PM  
**To:** David Levitan <dlevitan@lakestevenswa.gov>  
**Cc:** Christi Schmidt <cschmidt@lakestevenswa.gov>  
**Subject:** The City of Lake Stevens Critical Areas Ordinance is Available for Review; Comments Requested by August 19, 2026

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External Email

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Good Afternoon:

The City of Lake Stevens is soliciting comments from state and local agencies, tribes, and other stakeholders on proposed updates to its Critical Areas Ordinance ([Chapter 14.88 LSMC](#) and associated sections).

A copy of the [draft regulations](#) is available on the [project website](#), along with other project materials. A copy was also uploaded to PlanView for distribution to state agencies and tribes (2026-S-14080).

**Comments are requested by Wednesday, August 19** and can be submitted to David Levitan at [dlevitan@lakestevenswa.gov](mailto:dlevitan@lakestevenswa.gov).

Thank you.

[Critical Areas Ordinance Update | Lake Stevens, WA - Official Website](#)



David Levitan, *Principal Planner*

**City of Lake Stevens | Planning and Community Development**  
1812 Main Street | PO Box 257  
Lake Stevens, WA 98258  
(425) 622-9425  
[dlevitan@lakestevenswa.gov](mailto:dlevitan@lakestevenswa.gov)

**NOTICE:** All emails and attachments sent to and from the city of Lake Stevens are public records and may be subject to disclosure pursuant to the Public Records Act (RCW 42.56).



State of Washington  
**Department of Fish and Wildlife, Region 4**  
Region 4 information: 16018 Mill Creek Blvd, Mill Creek, WA 98012 | phone: (425)-775-1311

August 4, 2026

City of Lake Stevens  
David Levitan, Principal Planner  
1812 Main Street | PO Box 257  
Lake Stevens, WA 98258

**RE: PlanView Submittal ID 2026-S-14080, WDFW’s comment letter for the currently proposed amendments to Lake Steven’s Critical Area Ordinance, Chapter 14.88**

Dear David Levitan,

On behalf of the Washington Department of Fish and Wildlife (WDFW), thank you for the opportunity to offer comments on Lake Steven’s draft Critical Area Ordinance (CAO) amendments as part of the current periodic update. Within the State of Washington’s land use decision-making framework, WDFW is considered a technical advisor for the habitat needs of fish and wildlife and routinely provides input into the implications of land use decisions.

We provide these comments and recommendations in keeping with our legislative mandate to preserve, protect, and perpetuate fish and wildlife and their habitats for the benefit of future generations – a mission we can only accomplish in partnership with local jurisdictions.

**Table 1. Recommended changes to proposed code language.**

| Code Section                                              | Code Language<br>(with WDFW suggestions in red)                                                                                                                                                                                                                                                        | WDFW Comment                                                                                                                                                                                                     |
|-----------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Chapter 14.08.010<br>Definitions of Basic Terms<br>Page 1 | "Fish habitat" or "habitat that supports fish life" means habitat, which is used by fish life at any life stage at any time of the year including potential habitat likely to be used by fish life, which could reasonably be recovered by restoration or management and includes off-channel habitat. | We recommend that the city include the <a href="#">WAC 220-660-030(52)</a> definition of “fish habitat” to ensure consistency with state regulations and provide comprehensive protection of aquatic ecosystems. |

|                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
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| Chapter<br>14.08.010<br>Definitions of<br>Basic Terms<br><br>Page 1 | Functions and Values. The beneficial roles served by critical areas including, but not limited to, water quality protection and enhancement, fish and wildlife habitat, food chain support, flood storage, conveyance and attenuation, groundwater recharge and discharge, erosion control, wave attenuation, aesthetic value protection, and recreation. These roles are not listed in order of priority.                                                                                                                                                              | <p>Ecosystem functions and values should be defined separately, as they represent two distinct ecosystem attributes. We recommend the following definitions:</p> <p><b>Ecosystem functions:</b> The products, physical and biological conditions, and environmental qualities of an ecosystem that result from interactions among ecosystem processes and ecosystem structures. Ecosystem functions include, but are not limited to, sequestered carbon, attenuated peak streamflows, aquifer water level, reduced pollutant concentrations in surface and ground waters, cool summer in-stream water temperatures, and fish and wildlife habitats. (<a href="#">WAC 365-196-210</a> (17))</p> <p><b>Ecosystem values:</b> The cultural, social, economic, and ecological benefits attributed to ecosystem functions. (<a href="#">WAC 365-196-210</a> (18))</p> |
| Chapter<br>14.08.010<br>Definitions of<br>Basic Terms<br><br>Page 1 | Hazardous Tree: Trees with significant structural defects that are <del>likely to lead to failure</del> <b>considered a threat to life, property, or public safety. Due to their high habitat value, hazard tree removal shall not adversely affect ecosystem functions to the extent practicable, encourage the creation of snags (Priority Habitat features) rather than complete tree removal, involve an avoidance and minimization of damage to remaining trees and vegetation, and require a qualified arborist to evaluate requests for hazard tree removal.</b> | The proposed definition omits important criteria for determining whether a tree qualifies as a hazard. Structural defects alone do not make a tree hazardous; the tree must also pose a threat to life, property, or public safety. WDFW recommends the adjacent edits, which appropriately recognize the ecological value of trees by encouraging snag retention, minimizing impacts to surrounding vegetation, and requiring evaluation by a qualified arborist.                                                                                                                                                                                                                                                                                                                                                                                               |
| Chapter<br>14.08.010<br>Definitions of<br>Basic Terms<br><br>Page 1 | <b>“Monitoring and Adaptive Management” means the process of monitoring and improving permits, regulations, and programs to ensure the protection of critical areas.</b>                                                                                                                                                                                                                                                                                                                                                                                                | <p>This definition comes from the Department of Commerce. Jurisdictions should design a Monitoring and Adaptive Management program to:</p> <ul style="list-style-type: none"> <li>• Collect information on CAO effectiveness,</li> <li>• Evaluate the potential for exemptions and variances to cumulatively affect critical area</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |

|                                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
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|                                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | <p>functions across your jurisdiction, and</p> <ul style="list-style-type: none"> <li>• Improve permit implementation.</li> </ul> <p>See Commerce's <a href="#">Critical Areas Handbook</a>, Chapter 7.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| <p>Chapter 14.08.010 Definitions of Basic Terms</p> <p>Page 1</p> | <p><del>No Net Loss: As it relates to critical areas, the finding that proposed activities or development would not alter or modify the physical limits of an existing critical area or their buffers or result in an overall reduction in ecosystem functions and values within critical areas and their buffers</del></p> <p><b>“No Net Loss of Critical Areas” refers to the actions taken to achieve and ensure no overall reduction in existing ecosystem functions and values or the natural systems constituting the protected critical areas. This may involve fully offsetting any unavoidable impacts to critical area functions and values pursuant to the Growth Management Act, WAC 365-196-830 ‘Protection of critical areas,’ or as amended.</b></p> | <p>A project can alter a critical area or its buffer and still meet a no net loss standard if impacts are avoided, minimized, and fully mitigated. Conversely, a project could leave the mapped boundary unchanged but still degrade ecological functions. We recommend incorporating the adjacent proposed language because focusing on whether a project alters the physical limits of a critical area or buffer but does not accurately define the "no net loss" standard under the Growth Management Act (GMA). No net loss is not limited to maintaining critical area boundaries or preventing direct reductions in functions; it is the regulatory objective of ensuring that existing critical area functions and values are maintained through the application of the mitigation sequence and, where unavoidable impacts occur, appropriate compensatory mitigation. The WDFW definition more accurately reflects this concept and is consistent with WAC 365-196-830.</p> |
| <p>Chapter 14.08.010 Definitions of Basic Terms</p> <p>Page 2</p> | <p>Riparian Management Zone (RMZ): The area that has the potential to provide full riparian functions. <b>In many forested regions of the state, this area occurs within one 200-year site-potential tree height measured from the edge of the stream channel. In situations where a CMZ is present, this occurs within one site potential tree height measured from the edges of the CMZ. which for</b> In nonforest zones, the RMZ is defined as the greater of the outermost point of the riparian vegetative community or the pollution removal function at 100 feet.</p>                                                                                                                                                                                       | <p>The city’s definition omits the core element of what an RMZ is. We strongly recommend incorporating WDFW’s suggested changes. For further related management recommendations, see WDFW’s <a href="#">Riparian Ecosystems, Volume 2: Management Recommendations</a>. If portions of WDFW’s BAS are used (as proposed within this ordinance), it is important to adopt definitions that align with this BAS.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| <p>Chapter 14.08.010</p>                                          | <p><b>“Waters of the state” means lakes, rivers, ponds, streams, inland waters, underground waters, salt waters and all other surface waters and</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | <p>See RCW 90.48.020. ‘Waters of the State’ is used throughout this chapter and should be defined for clarity.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |

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| Definitions of Basic Terms<br>Page 2                      | watercourses within the jurisdiction of the state of Washington.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| Chapter 14.08.010<br>Definitions of Basic Terms<br>Page 2 | “Watershed Plan” means a plan developed by federal, tribal, state, and/or local government agencies and/or appropriate non-governmental organizations, in consultation with relevant stakeholders, for the specific goal of aquatic resource restoration, establishment, enhancement, and preservation. A watershed plan addresses aquatic resource conditions in the watershed, multiple stakeholder interests, and land uses. Watershed plans may also identify priority sites for aquatic resource restoration and protection. Examples of watershed plans include special area management plans, advance identification programs, and wetland management plans. | Including a definition for “Watershed Plan” provides clarity when referencing locally or regionally adopted plans that guide aquatic resource restoration and protection. It helps ensure consistency in implementation, supports landscape-scale planning, and allows jurisdictions to align CAO decisions, such as mitigation, restoration priorities, and buffer considerations, with established, stakeholder-informed watershed efforts. This definition also acknowledges the role of collaborative, science-based planning in achieving long-term ecological outcomes. |
| 14.48.045<br>Accessory Structures<br>Page 3               | (4) For sites with critical areas or their buffers as defined in Chapter 14.08 LSMC and described in Chapter 14.88 LSMC, accessory structures may not be located within 10 feet of a critical area or its buffer, critical areas tract or easement, per Section 14.88.285. Other site improvements identified in Section 14.88.285 may be located within the building setback area                                                                                                                                                                                                                                                                                  | Critical area buffers are integral components of critical area protection and are established to preserve the functions and values of the adjacent critical area. As written, the provision could be interpreted to apply the setback only from the critical area boundary rather than from the outer edge of the associated buffer. Adding "or its buffer" clarifies that accessory structures must maintain the required separation from both the critical area and its protected buffer, consistent with the intent of Chapter 14.88 LSMC.                                 |
| 14.88.010<br>Purpose and Intent.<br>Page 6                | (g) Provide City officials with sufficient information to adequately protect critical areas and their buffers when approving, conditioning, or denying public or private development proposals.                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | We recommend that the city identify and consider critical area <i>buffers</i> alongside any project that identifies critical areas. See comment above. This is especially relevant if ‘stream buffers’ are retained, as WDFW’s BAS identifies these areas as critical areas, replacing outdated ‘stream buffer’ terminology with riparian management zone (RMZ).                                                                                                                                                                                                              |
| 14.88.200<br>Applicability.<br>Page 7                     | The provisions of this chapter apply to all lands, land uses and development activity within the City. No person shall take action which results in any alteration of any critical areas or their buffers...                                                                                                                                                                                                                                                                                                                                                                                                                                                        | See comment above.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |

|                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
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| 14.88.210<br>Regulated<br>Activities.<br><br>Page 7 | (a) For any regulated activity identified in subsection (b), a critical areas report meeting the requirements of LSMC 14.88.270 shall be prepared. All land use and/or development activities on lands containing critical areas <b>or critical area buffers</b> are subject to this chapter and are prohibited unless:                                                                                                                                                            | See comment above.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 14.88.220<br>Allowed<br>Activities<br><br>Page 8    | (a) Existing and ongoing agricultural activities; provided, <b>that there is no expansion of the agricultural activity and</b> they implement applicable best management practices (BMPs) contained in the latest editions of...                                                                                                                                                                                                                                                   | <a href="#">WAC 365-196-830</a> states, “(c) Local governments shall not broadly exempt agricultural activities from their critical areas regulations.”<br>We recommend the adjacent addition to align with state requirements.<br>Typically, existing and ongoing agricultural activities are allowed, but expansion, new clearing, drainage modification, or new structures within critical areas or buffers shall be regulated to achieve no net loss of ecological functions and values consistent with this chapter.                   |
| 14.88.220<br>Allowed<br>Activities<br><br>Page 9    | <del>(k) Minor expansion of uses or structures existing at the time of adoption of this code, and which are in compliance with all other chapters of this title; provided, that the applicant...</del>                                                                                                                                                                                                                                                                             | WDFW recommends removing the allowance of expansions into critical areas and their buffers from the allowed activities section and requiring compliance with the standards of this chapter. Because these actions result in new or increased impacts to protected areas, allowing them outright does not clearly demonstrate consistency with mitigation sequencing or the no net loss standard required under the GMA.                                                                                                                     |
| 14.88.220<br>Allowed<br>Activities<br><br>Page 10   | (o) Hazardous tree removal, subject to the mitigation and replacement requirements in Section 14.88.295(b) and evaluation of the tree as critical habitat. <b>Hazard tree removal shall avoid adverse impacts to ecosystem functions to the extent practicable, prioritize creation of snags (Priority Habitat features) over full removal, minimize damage to remaining vegetation, mitigate for the removed tree, and leave resulting woody material on-site where feasible.</b> | We strongly recommend including the suggestions in red. It is important to ensure that hazard tree removal does not result in unnecessary ecological degradation. Requiring avoidance and minimization practices provides a safeguard against over-removal, protects Priority Habitat features, and helps ensure that exempt activities still align with no-net-loss standards. Snags (standing dead or dying trees) serve as essential habitat features for countless species in Washington. They provide nesting, roosting, foraging, and |

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|                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | shelter opportunities, supporting biodiversity and contributing to the health of ecosystems. Many jurisdictions have included snag protection directly into municipal code (e.g., Seattle, <a href="#">25.09.070</a> ). See <a href="#">WDFW's website</a> for more details.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| 14.88.230<br>Compliance.<br><br>Page 10                                  | All land uses or development applications shall be reviewed to determine whether or not a critical area <b>or critical area buffer</b> exists on the property...                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | See critical area buffer-related comments above.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| 14.88.270<br>Site/Resource-Specific<br>Reports.<br><br>Page 12           | ...The report and conclusions present in the critical area report shall be based on best available science and include mitigation sequencing analysis as established by Section 14.88.010(a). <b>In addition to the mitigation sequencing and supporting analysis required, the applicant must address the following considerations, where applicable, to demonstrate that avoidance has been fully evaluated:</b><br><br><ul style="list-style-type: none"> <li>(A) <b>Alternative building locations on the property;</b></li> <li>(B) <b>Adjustments to the project footprint and orientation;</b></li> <li>(C) <b>Modification of non-critical area setbacks, where feasible, as a first option before encroaching into critical areas or their buffers;</b></li> <li>(D) <b>Multi-story design or alternate building design.</b></li> </ul> | WDFW recommends expanding this section, or Section 4.88.275 (Mitigation/Enhancement Plan Requirements), to specify what an applicant must demonstrate to document compliance with the first step of the mitigation sequence—avoidance. Without clear standards, it may be difficult to determine whether all reasonable opportunities to avoid impacts were adequately considered before proceeding to minimization or compensatory mitigation. The code should identify the types of information or analyses required to demonstrate that avoidance has been fully evaluated, such as alternative site layouts, building footprints, access alignments, or other design modifications that would reduce or eliminate impacts to critical areas and their buffers. |
| 14.88.296<br>Functionally<br>Disconnected<br>Buffer Areas<br><br>Page 18 | ... Disconnected buffer areas and their functionality shall be evaluated in a site-specific critical areas report prepared by a qualified professional, per LSMC 14.88.270. The report shall clearly identify the extent of the disconnected buffer, be based on best available science, and be reviewed and approved by the Planning and Community Development Director or their designee. <b>All functions and values must be absent. For riparian management zones, this includes bank stability, shade, pollution removal, contribution of detrital nutrients, and recruitment of large woody debris.</b>                                                                                                                                                                                                                                    | All applicable critical area buffer functions and values must be demonstrated to be absent before a buffer may be considered disconnected. For riparian management zones, this includes the five core attributes provided in red.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |

|                                                                                                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
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| 14.88.298<br><br>Innovative Development Design<br><br>Page 19                                                              | General comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | We recommend excluding RMZs from eligibility under this innovative design provision. RMZ widths are established using best available science and are carefully delineated to provide the minimum spatial extent necessary to support riparian ecosystem functions and values. Any reduction in RMZ width would diminish those functions and would not be expected to provide equivalent or improved protection.                                                                                                                                                                                                                                                                                               |
| 14.88.320<br>Allowance of Regulated Use in a Critical Area Where Denial of All Economic Use is Demonstrated<br><br>Page 21 | (l) That the inability to derive reasonable economic use of the property is not the result of actions by the <b>previous owner or</b> applicant in segregating or dividing the property and creating the undevelopable condition after the effective date of this chapter; and...                                                                                                                                                                                                                                                                                                                                                                                                                               | Including the previous property owner in the reasonable use criteria prevents self-created hardship from being used to justify regulatory relief, such as when a parcel is divided or altered in a way that creates an undevelopable condition. Without this provision, critical area protections could be easily circumvented through lot segregation or transfer of ownership after the constraint is created.                                                                                                                                                                                                                                                                                              |
| 14.88.400<br>Classification<br><br>Page 22                                                                                 | <del>(a) Lands containing priority habitats and species, including plant and/or animal species listed on Federal or State threatened or endangered species lists.</del> <b>State priority habitats and areas associated with state priority species defined and listed by the Washington Department of Fish and Wildlife in the Priority Habitats and Species List, most recently updated edition. Priority habitats and species known to be identified and mapped by WDFW (<a href="https://geodataservices.wdfw.wa.gov/hp/phs/">https://geodataservices.wdfw.wa.gov/hp/phs/</a>).</b><br><br><b>(b) State or federally listed threatened, endangered, or sensitive species and their associated habitats.</b> | The adjacent designation seems to conflate two separate types of FWHCA's. WDFW's Priority Habitat and Species (PHS) program identifies habitats and species that are high priorities for conservation and management. Unlike state or federally listed species, which receive legally enforceable protections under the Washington State Endangered Species Act or the federal Endangered Species Act, PHS designations are the agency's primary means of transferring fish and wildlife information from our resource experts to local governments, landowners, and others who use it to protect habitat. The state supreme court has held that PHS is a valid source of best available science for the GMA. |
| 14.88.400<br>Classification<br><br>Page 23                                                                                 | <del>(c) Waters of the State, as defined in <a href="#">WAC 173-226-030</a>. WAC Title 222, Forest Practices Rules and Regulations. Waters of the State shall be classified using the system in WAC 222-16-030.</del>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | Waters of the state are not defined in WAC Title 222. WAC Title 173 (Department of Ecology) defines this term.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |

|                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                      | <p><del>In classifying waters of the State as fish and wildlife habitats the following shall be used:</del></p> <p><del>(1) Species are present which are endangered, threatened or sensitive;</del></p> <p><del>(2) Existing surrounding land uses are incompatible with salmonid and other game fish habitat;</del></p> <p><del>(3) Presence and size of riparian ecosystem;</del></p> <p><del>(4) Existing water rights.</del></p> | <p>Additionally, it is unclear how the remainder of '(c)' differs from '(g) Streams shall be classified according to the stream type system as provided in WAC 222-16-030, Stream Classification System, as amended...'</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| <p>14.88.400<br/>Classification<br/><br/>Page 23</p> | <p>(g) Streams shall be classified according to the stream type system as provided in WAC 222-16-030, Stream Classification System, as amended.</p>                                                                                                                                                                                                                                                                                   | <p>We do not recommend utilizing DNR's Forest Practice stream typing system as a mechanism to help establish RMZ widths based on fish use. WDFW's best available science (<a href="#">Riparian Ecosystems, Volume 1: Science Synthesis and Management Implications (2020)</a>) shows that all streams should receive equal protection. Non-fish-bearing streams supply cold water, organic inputs, and sediment regulation essential for the health of downstream fish-bearing waters, and they often serve as critical stormwater overflow channels in flood-prone areas. Reduced buffers on these streams diminish water quality and flood conveyance, creating cascading impacts on downstream habitat and public safety. However, stream typing can be useful for other purposes, such as identifying fish passage requirements, informing culvert design, and supporting more detailed watershed-scale analyses.</p> |
| <p>14.88.400<br/>Classification<br/><br/>Page 24</p> | <p><b>(h) Riparian Management Zones</b></p>                                                                                                                                                                                                                                                                                                                                                                                           | <p>WDFW's current <a href="#">best available science</a> standards and <a href="#">management recommendations</a> outline the need to replace 'stream buffer' terminology with 'Riparian Management Zone' or RMZ for short. 'Stream buffer' implies that the area is comparable to a setback from development. In contrast, RMZ reflects the scientific understanding that these areas are critical areas in their own right, providing essential functions such as</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                   |

|                                                    |                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|----------------------------------------------------|----------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                    |                                              | <p>water quality protection, shading, bank stability, large woody debris recruitment, and wildlife habitat. Using RMZ language clarifies that these areas are not simply buffers but functioning ecological zones that require protection afforded to other critical area types.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| <p>14.88.400<br/>Classification</p> <p>Page 24</p> | <p>(i) <b>Wildlife Habitat Corridors</b></p> | <p>We also recommend designating wildlife habitat corridors here. <a href="#">WAC 365-196-335</a> states, “Each county or city planning under the [growth management] act must identify open space corridors within and between urban growth areas. They must include lands useful for recreation, wildlife habitat, trails, and connection of critical areas as defined in <a href="#">RCW 36.70A.030</a>.” If a method for identifying wildlife habitat corridors has not yet been established, the resources below may be helpful:</p> <ul style="list-style-type: none"> <li>- Renton has a <a href="#">4-3-110 URBAN SEPARATOR OVERLAY</a> that provides regulations (such as permanent low-density) in order to provide for open space corridors in designated areas. The city of Sammamish (<a href="#">21.03.020 Environmentally Critical Areas</a>) and the city of Duvall (<a href="#">14.42.350 - Fish and wildlife habitat conservation areas—Habitat corridors</a>) have specific sections detailing developmental standards in wildlife habitat corridor areas as well.</li> <li>- We strongly recommend using the <a href="#">Integrating Wildlife Habitat Connectivity Into Local Government Planning</a> guidance to establish clear development standards within these areas. This could include limiting zoning densities, incentivizing the transfer or purchase of development rights, requiring open space connectivity within all new development, and incorporating wildlife underpasses or similar</li> </ul> |

|                                                                                               |                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|-----------------------------------------------------------------------------------------------|-------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                                               |                   | <p>structures into applicable road and culvert projects.</p> <p>- See also pages 72-82 of WDFW's <a href="#">Washington Habitat Connectivity Action Plan</a> and <a href="#">mapping resource</a>.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| <p>14.88.430<br/>Stream Buffer<br/>Requirements<br/>and<br/>Modifications.</p> <p>Page 25</p> | General comments. | <p>WDFW recommends revising this section to clearly establish the required stream buffer widths and when Site Potential Tree Height (SPTH<sub>200yrs</sub>) applies. As proposed, the code first establishes a 100-foot buffer for all fish and wildlife conservation areas unless additional criteria are met, but later provides a table with different buffer widths by stream type. It is therefore unclear whether the table establishes the required buffers or whether the 100-foot standard is intended to serve as the default with larger buffers applied only under limited circumstances.</p> <p>WDFW recommends selecting a single, clearly defined approach. If the City intends to implement SPTH<sub>200yrs</sub> as Best Available Science for RMZs, the code should clearly identify when and how it is applied rather than treating it as an exception to a default 100-foot buffer. Alternatively, if fixed buffer widths are intended, the code should rely on the stream buffer table without creating a separate default standard. Clear, objective standards will improve consistency during permit review and reduce uncertainty regarding when expanded buffers are required to protect riparian functions and values. Creating a discretionary mechanism for using SPTH<sub>200yr</sub> may cause permit delays and hardships for both the applicant and permitting staff. Please see the city of Anacortes as an example within <a href="#">19.70.335 Specific standards for other FWHCAs</a>.</p> |

| 14.88.430<br>Stream Buffer<br>Requirements<br>and<br>Modifications.<br><br>Page 26 | <div>Table 14.88-I: Stream Buffer <b>Riparian Management Zone</b> Width</div> <table><tr><th>Stream Type</th><th>Buffer</th></tr><tr><td>S</td><td>150 feet <b>SPTH</b></td></tr><tr><td>F</td><td>150 feet <b>SPTH</b></td></tr><tr><td>Np</td><td>100 feet <b>SPTH</b></td></tr><tr><td>Ns</td><td>100 feet <b>SPTH</b></td></tr></table> | Stream Type                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | Buffer | S | 150 feet <b>SPTH</b> | F | 150 feet <b>SPTH</b> | Np | 100 feet <b>SPTH</b> | Ns | 100 feet <b>SPTH</b> | <p>We appreciate the inclusion of WDFW’s current <a href="#">best available science</a> standards and <a href="#">management recommendations</a> in this section; however, the draft language proposes a 150- and 100-foot protection width, which might not allow for the full SPTH width to be achieved in instances where the SPTH is greater than these distances.</p> <p>Our BAS shows that RMZs should be delineated using the <a href="#">SPTH<sub>200</sub> methodology</a> that takes into consideration site-specific information to determine appropriate protection widths.</p> |
|------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------|---|----------------------|---|----------------------|----|----------------------|----|----------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Stream Type                                                                        | Buffer                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |        |   |                      |   |                      |    |                      |    |                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| S                                                                                  | 150 feet <b>SPTH</b>                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |        |   |                      |   |                      |    |                      |    |                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| F                                                                                  | 150 feet <b>SPTH</b>                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |        |   |                      |   |                      |    |                      |    |                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| Np                                                                                 | 100 feet <b>SPTH</b>                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |        |   |                      |   |                      |    |                      |    |                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| Ns                                                                                 | 100 feet <b>SPTH</b>                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |        |   |                      |   |                      |    |                      |    |                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 14.88.430<br>Stream Buffer<br>Requirements<br>and<br>Modifications.<br><br>Page 26 | <p><del>(e) (2) Buffer widths may be reduced up to 25% in exchange for restoration and enhancement of degraded areas in accordance with an approved plan, or for buffer averaging in accordance with Section 14.88.275 and subsection (e)(4) of this section.</del></p>                                                                     | <p>RMZ widths are established based on the specific ecological functions they are intended to maintain. These functions are directly dependent on the width, continuity, and quality of riparian vegetation. Any reduction in RMZ width results in a measurable loss of habitat function and ecological integrity. Instead of shrinking widths to achieve restoration, we recommend utilizing the following language:</p> <p>“Standard riparian management zone widths presume the area is densely vegetated with a native plant community appropriate for the ecoregion, consisting of an average of 80% native cover comprised of trees, shrubs and groundcover plants. If the existing area is sparsely vegetated or vegetated with invasive species, the RMZ must either be enhanced through an approved mitigation plan or increased by 33%.” Covington (<a href="#">Planning Commission meeting</a>), Woodinville (<a href="#">planning commission packet</a>), Skagit County (meeting agenda packet (<a href="#">14.24.530</a>)), and other jurisdictions all utilize some version of</p> |        |   |                      |   |                      |    |                      |    |                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |

|                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|-------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | <p>the above language to incentivize riparian area restoration.</p> <p>If buffer width reduction is retained, we suggest that it be limited to the most outer 25% of the buffer.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| <p>14.88.430 Stream Buffer Requirements and Modifications.</p> <p>Page 26</p> | <p>(e) (3) If the stream enters an underground culvert or pipe, <del>and is unlikely to ever be restored aboveground,</del> <b>a buffer of 50 feet must be utilized</b> <del>the Planning and Community Development Director may waive the buffer along the underground stream; provided, that where the stream enters and emerges from the pipe the opposite outer edges of the buffer shall be joined by a radius equal to the buffer width, with said radius projecting over the piped stream.</del></p> | <p>Piped streams are engineered infrastructure that will eventually fail and require repair or replacement, and when they do, state law requires that replacements meet current fish passage standards (WAC 220-660-190). If no buffer or setback is preserved along piped segments, there may be insufficient physical space to stage equipment and complete even routine maintenance, let alone full replacement. Establishing a buffer or minimum setback along piped streams helps ensure future access and preserves the flexibility needed to upgrade crossings to meet fish passage and flow capacity standards. It is especially important to avoid piped streams passing beneath structures, as failures in these locations still trigger fish passage compliance requirements and can be far more difficult and costly to address.</p> |
| <p>14.88.430 Stream Buffer Requirements and Modifications.</p> <p>Page 26</p> | <p><del>(4) Stream buffer widths may be modified by averaging. In no instance shall the buffer width be reduced by more than 25 percent of the standard buffer, to a minimum of 100 feet. Stream buffer width averaging shall only be allowed when the applicant demonstrates the following:</del></p>                                                                                                                                                                                                      | <p>As mentioned above, RMZ widths are established based on the specific ecological functions they are intended to maintain. These functions are directly dependent on the width, continuity, and quality of riparian vegetation. Any reduction in RMZ width results in a measurable loss of habitat function and ecological integrity.</p> <p>That said, limited RMZ averaging may be consistent with no net loss standards if it is confined to areas that no longer provide ecological function, such as existing impervious surfaces, as outlined in our comments related to interrupted stream or wetland buffers above.</p>                                                                                                                                                                                                                 |

|                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                       |
|-------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 14.88.440<br>Mitigation<br>Page 27  | (a) Dedicate an exclusive open space easement or tract <b>and establishment of wildlife habitat corridors</b> for the protection <b>and connection</b> of wildlife and/or habitat, creeks, streams, rivers, lakes, or other surface water over the creeks, streams, rivers, lakes, or other surface water and a buffer consistent with the standards listed...                                                                    | As discussed in comments for 14.88.400<br>Classification, Page 24 above, wildlife habitat corridors should be classified as a critical area type and have specific protection measures outlined in code. The City of Tacoma Critical Areas Ordinance ( <a href="#">April 2026 packet</a> ) specifies Biodiversity Areas and Habitat Corridors and includes Priority Habitat, Critical Areas and Open Space Corridors. |
| 14.88.440<br>Mitigation.<br>Page 28 | <del>(c) The applicant may propose innovative site design based on the best available science and pursuant to Section 14.88.298 if the innovative development design will achieve protection equivalent to or better than the standard provisions of this chapter. Approval of the innovative site design will be considered in combination with criteria listed in Section 14.88.298 if the design achieves the following:</del> | Again, we do not recommend this for RMZs. See comments for 14.88.298 Innovative Development Design above.                                                                                                                                                                                                                                                                                                             |

Thank you for taking the time to consider our recommendations to better reflect the best available science for fish and wildlife habitats and ecosystems. We value the relationship we have with your jurisdiction and the opportunity to work collaboratively with you throughout this periodic update cycle. If you have any questions or need our technical assistance or resources at any time during this process, please don't hesitate to contact me.

Sincerely,



Morgan Krueger, Regional Land Use Lead (morgan.krueger@dfw.wa.gov)

CC:

Marian Berejikian, Land Use Conservation and Policy Planner (Marian.Berejikian@dfw.wa.gov)

Marcus Reaves, Regional Habitat Program Manager (Marcus.Reaves@dfw.wa.gov)

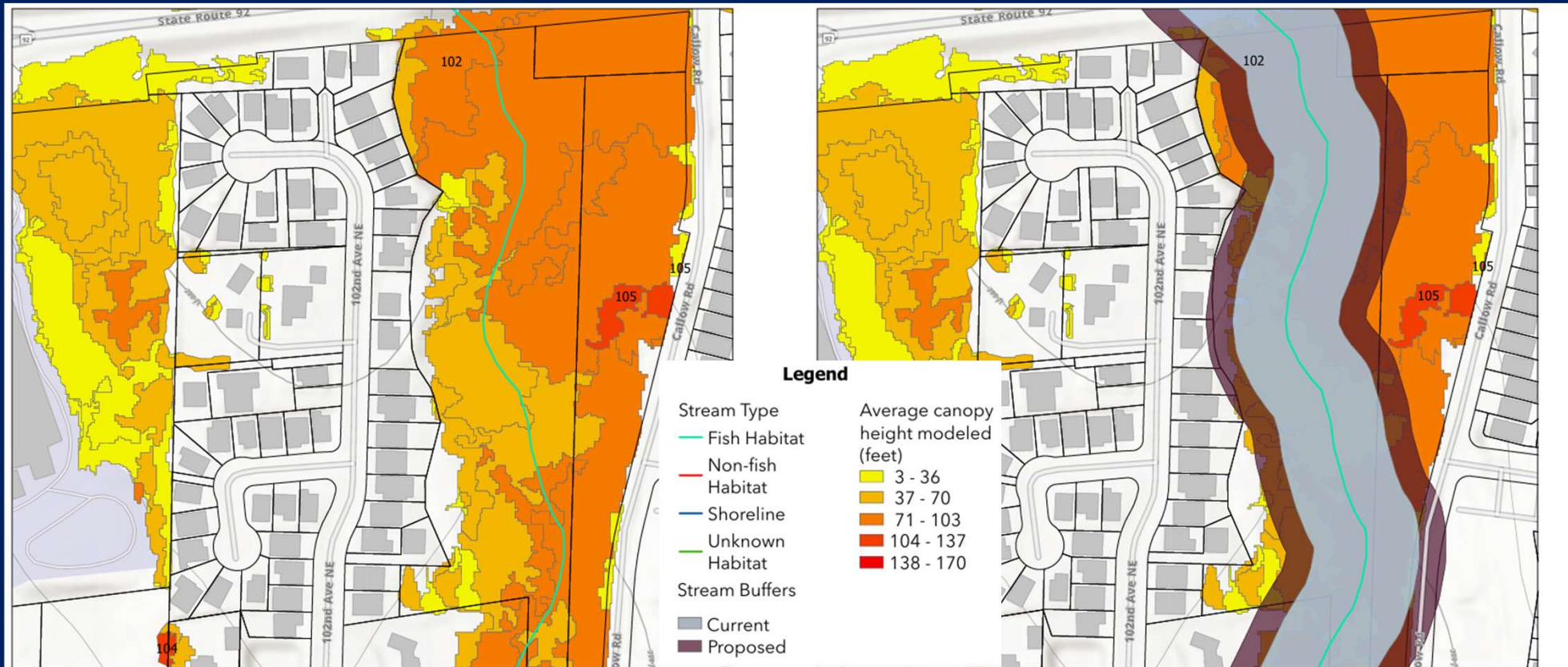
Kirk Lakey, Assistant Regional Habitat Program Manager (Kirk.Lakey@dfw.wa.gov)

Ryan Shaw, Habitat Biologist (Ryan.Shaw@dfw.wa.gov)

Region 4 Central District planning inbox (R4CPlanning@dfw.wa.gov)

Jeff Aken, WA Department of Commerce (Jeff.Aken@commerce.wa.gov)

# Average Tree Canopy Heights near Lundeen Creek



This reach of Lundeen Creek is a Type F stream located just south of Highway 92 and has an existing buffer of 100 feet, which would be increased to 150 feet under the current proposal. Maximum tree heights are generally between 30 and 102 feet.

# PLANNING COMMISSION STAFF REPORT



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**Agenda Date:** 9/2/2026

**Subject:** Overview of Upcoming Code Amendments

**Contact Person/Department:** David Levitan, Community Development

**Budget Impact:**

**Legal Review:** No

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## **RECOMMENDATION(S)/ACTION REQUESTED:**

No formal action is required. Staff will provide an overview of upcoming code amendment work, including several with 2027 deadlines to comply with recent changes to state law.

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## **SUMMARY/BACKGROUND:**

Over the course of the 2025 and 2026 legislative sessions, the Washington State Legislature approved several bills that were subsequently signed by the governor that will require local jurisdictions to update their zoning ordinances to comply with changes to state law. While the remainder of the Planning Commission's 2026 meetings will be focused on completing work identified in the 2026 Long Range Planning Work Plan – including the Critical Areas Ordinance Update and the 2026 Annual Docket – staff wanted to prepare the Commission for items they will need to address in the first half of 2027.

In addition to the state mandates, there are several other code amendments that the Commission will be reviewing over the next year to implement the Comprehensive Plan. As a reminder, land use code amendments – changes to Title 14 of the Lake Stevens Municipal Code (LSMC) - are a Type VI land use application ([LSMC 14.16B.020](#)) requiring a Planning Commission public hearing and recommendation followed by a City Council public hearing and decision.

Lot Splitting (Senate Bill 1096): Deadline July 27, 2027

[Senate Bill 1096](#) was signed by the governor in May 2025, with an effective date of July 27, 2025. It added a new section to the state's subdivision regulations ([RCW 58.17.145](#)) requiring cities to adopt an administrative approval process for lot splitting, which is the creation of one additional lot for the purposes of residential development. In Lake Stevens, 2-lot short plats are currently reviewed as a Type II land use application, which requires public notice and has a public comment period. By July 2027, the city will need to amend [Chapter 14.18 LSMC](#) to allow lot splitting through a Type I process. State law also requires that the city allow concurrent review of building permits during any lot splitting land use review process so long as they are for either single-family housing or middle housing.

Both the parent lot and the newly created lot would need to meet the minimum lot size for the applicable zoning district, and the city could still require right-of-way (ROW) dedication and the completion of frontage improvements. Lots encumbered by critical areas/shoreline buffers or that are otherwise not buildable due to city development regulations such as impervious surface maximums would not be eligible for lot splitting. The lots would be exempt from the middle housing requirements established in [LSMC 14.46.230\(c\)](#), meaning that a lot created by lot splitting would not necessarily be eligible for a duplex on any lot meeting the minimum lot size in the zoning district. Consistent with other recent legislation on parking, lots of 6,000 square feet or less will have a maximum off-street parking requirement of one space.

Child Care Centers in Residential and Industrial Zones (Senate Bill 5509): Deadline July 27, 2027

[Senate Bill 5509](#) was signed by the governor in May 2025, with an effective date of July 27, 2025. It added a new section to Chapter 35.21 RCW ([RCW 35.21.996](#)) requiring cities to allow commercial child care centers (as defined in [RCW 43.216.010](#)) as an outright permitted use in all zoning districts besides industrial districts, and as a conditionally permitted use in industrial zoning districts (except in and around high hazard facilities). While in-home daycare centers with up to 12 children are already permitted in residential zones through a Home Occupation ([LSMC 14.44.015\(k\)](#)), commercial child care centers and preschools with over 12 children are currently only permitted in the city's commercial and mixed use zones. The code amendment will require revisions to [Chapter 14.38](#) (Subarea Plans), [Chapter 14.40](#) (Permissible Uses) and [Chapter 14.72](#) (Parking).

The legislation allows cities to place reasonable restrictions on the facilities, including pickup and drop-off areas, maximum building sizes, frontage improvements and screening requirements, which the city would likely add as supplementary use regulations in [Chapter 14.44 LSMC](#). Child care centers are also affected by [Senate Bill 5184](#), which was signed by the governor at the same time (May 2025) and has the same July 27, 2025 effective date. As part of larger changes to parking standards in

Chapter 14.72 LSMC that are due by July 27, 2028, the city will need to revise its zoning code to remove any parking requirements for commercial child care centers that are licensed or certified by the Washington Department of Children, Youth and Families (DCYF).

Child care centers would also be subject to traffic impact fees. The City Council previously discussed establishing a program to exempt early learning facilities (as allowed by state law) but ultimately decided to limit impact fee waivers/reductions to eligible affordable housing projects.

#### Housing in Commercial and Mixed Use Zones (Senate Bill 6026): Deadline December 11, 2027

[Senate Bill 6026](#) was signed by the governor in March 2026, with an effective date of June 11, 2026. It added a new section to Chapter 36.70A ([RCW 36.70A.816](#)) that applies to cities with 30,000 or more residents (including Lake Stevens) and 1) prohibits those cities from establishing regulations that prohibit residential development in commercial and mixed-use zones and 2) limits development regulations requiring a ground floor commercial or retail component for residential projects to no more than 40% of the total acreage in areas zoned for commercial or mixed use development.

As previously discussed with the Commission, these changes will have potential impacts on the city's ability to meet its 2044 employment growth targets and will require the city to reassess its land capacity within commercial and mixed use zones. As most of the city's supply of commercial and mixed use land is located within the city's subareas, it will also require updates to the three subarea plans.

#### Additional Code Updates Planned for 2027

In addition to the changes required by state law, the city will also be updating several additional code sections to implement the Comprehensive Plan and ancillary documents, such as [the Parks, Recreation and Open Space \(PROS\) Plan](#).

- Industrial zoning district: As previously discussed, the 2024 Comprehensive Plan Update and associated Zoning Map Amendments resulted in the combination of the city's General Industrial and Light Industrial zoning districts into a single Industrial zoning district. This change has not been reflected in [Chapter 14.40](#), so the city will be updating Chapter 14.40 and associated sections to be consistent with the zoning map.
- Parks Impact Fees: The city funds many park improvements through the collection of park impact fees, which are levied on residential development to mitigate their impact on the parks and recreation system. The impact fees are codified in [Chapter 14.120 LSMC](#), and the current formula/calculation for determining impact fees was adopted in 2009, when the city was much smaller. Planning staff will be assisting the Parks and Recreation Department to establish

a simpler and more clear and objective calculation for impact fees that is based on projected growth and planned capital projects. The city went through a similar process when updating its traffic impact fees earlier this year.

#### Additional Updates Required in 2028

In addition to the changes required in 2027, several additional code amendments will be required in 2028, some of which may be integrated into the 2027 Long Range Planning Work Plan. These include:

- [House Bill 2266](#), which became effective on June 11, 2026 and requires cities to adopt STEP Housing regulations and development standards for emergency shelters (S), transitional housing (T), emergency housing (E) and permanent supportive housing (P) that do not differ from the regulations for other residential units, with the exception of certain public health and safety measures. Per [LSMC 14.44.100](#), the city currently requires a Type II “Bridge Housing Permit” for emergency shelters, emergency housing and transitional housing. Under HB 2266, that requirement will need to be revised/removed to be consistent with other residential unit types. The due date for cities to comply with these requirements is June 10, 2028.
- [Senate Bill 5184](#), which was briefly mentioned above, will require the city to overhaul its parking regulations in Chapter 14.72 LSMC and other associated chapters/sections. Among other things, it would limit parking requirements to 0.5 spaces per multifamily dwelling unit, one parking space per single family dwelling unit, and one space per 500 square feet of commercial space. It would also prohibit minimum parking requirements for existing buildings undergoing a change of use, residences under 1,200 square feet, commercial spaces under 3,000 square feet, affordable housing, senior housing, child care facilities, and ground-level nonresidential spaces in mixed-use buildings. The city has the option to complete an empirical parking study evaluating how such requirements might impact the safety of vehicle drivers/passengers, bicyclists, and pedestrians and propose alternative standards. The deadline for cities with a population between 30,000 and 50,000 (including Lake Stevens) is July 27, 2028.

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#### **APPLICABLE CITY POLICIES:**

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#### **ATTACHMENTS:**

None