



LAKWOOD CITY COUNCIL STUDY SESSION AGENDA

Monday, January 27, 2014

Following Council Special Meeting

City of Lakewood
City Council Chambers
6000 Main Street SW
Lakewood, WA 98499

Page No.

Call to Order

Items for Discussion:

- (1) 1. Review of lodging tax collection and guidelines. - (Memorandum)
- (10) 2. Review of a proposed Section 108 financing loan for the IMG LLC, Curb Side Motors project along the 9915-10005 block of South Tacoma Way. - (Memorandum)
- (24) 3. Update on the 2015 Comprehensive Plan. - (Memorandum)
- (41) ~~AA .AAAAU~~ Review of proposed amendments to the Lakewood Municipal Code relative to dangerous and potentially dangerous dog appeals. - (Memorandum)

Briefing by the City Manager

Items Tentatively Scheduled for the February 3, 2014 Regular City Council Meeting:

1. Item Nos. 1 and 4 above.
2. Appointing individuals to serve on the Planning Advisory Board. - (Motion - Regular Agenda)
3. Authorizing the execution of a labor agreement with Teamsters Local Union 117 from January 1, 2013 through December 31, 2015. - (Motion - Regular Agenda)

City Council Comments

Adjournment

The City Council Chambers is accessible to persons with disabilities. Equipment is available for the hearing impaired. Persons requesting special accommodations or language interpreters should contact the City Clerk's Office, 589-2489, as soon as possible in advance of the Council meeting so that an attempt to provide the special accommodations can be made.

<http://www.cityoflakewood.us>

The Council Chambers will be closed 15 minutes after adjournment of the meeting.



To: Mayor and City Councilmembers

From: Heidi Ann Wachter, City Attorney

Through: John J. Caulfield, City Manager

A handwritten signature in cursive script, reading "John J. Caulfield".

Date: January 27, 2014

Subject: Review collection of "Transient Occupation Tax" by the City

This is to review the status of the collection of "Transient Occupation Tax" by the City of Lakewood in order to evaluate existing Code in terms of conducting the most effective practice and for purposes of compliance with recent changes in State law, which authorizes collection of the tax.

1. State law authorizes collection of a tax labeled in the City of Lakewood as the "Transient Occupation Tax", which is more commonly known as the "Hotel-Motel Tax" or "Lodging Tax".

Since incorporation the City has collected seven percent of charges for lodging which is comprised of three separately authorized taxes on lodging, each of which is detailed in City Code.¹ The three separate authorizations are for two, two and three percent, respectively.²

State Authorization	City Authorization	Amount	Source
RCW 67.28.180	LMC 3.36.010	2%	Credit against sales tax
RCW 67.28.181(1)	LMC 3.36.020	2%	City
RCW 67.28.181(2)	LMC 3.36.025	3%	City

¹ See LMC 3.36.010, 020 and 025.

² Id.

Revenue collected under any of these is to be credited to a special fund “used solely for the purpose of paying all or any part of the cost of tourism promotion, acquisition of tourism-related facilities, or operation of tourism-related facilities”.³ There is no requirement as to a minimum expenditure of this fund in any given year. Over the years the question as to how this revenue may be spent has been the topic of legislative changes and assorted legal interpretations. Most recently, the state legislature enacted a law which changes the authority of the Lodging Tax Advisory Committee.

The obligations attached to the collection of lodging tax are triggered by collecting the tax, which the City is not mandated to do. The City may choose to collect any, all or none of the previously described tax. Such tax is generally favored by municipalities as having less impact on residents than other types of tax, since it is specifically applied to lodging. Once employed, the City is obligated to have a Lodging Tax Advisory Committee consistent with state law.⁴

2. In order to spend revenue collected as Lodging Tax, the City of Lakewood must have a properly appointed Lodging Tax Advisory Committee which authorizes the expenditures pursuant to application.

a) The City of Lakewood has properly appointed a Lodging Tax Advisory Committee.

State law requires a Lodging Tax Advisory Committee to include at least two members who represent businesses required to collect the tax and at least two who are involved in activities authorized to be funded by the tax.⁵ The representatives of businesses required to collect the tax have been more challenging to recruit and retain. Informal feedback suggests that these business owners are concerned with taking time from their business to serve responsibly on the committee. The current expectation of a committee member is about three evenings a year and one full day. Filling vacancies to represent authorized funding recipients has been less of a challenge. More representatives of this type are available in the City than businesses required to collect the tax.

b) The City’s expenditure of Lodging Tax funds comply with state law and local code guidelines.

Attached is a spreadsheet reflecting expenditures by year and category. This was prepared by the Finance Department in coordination with staff who work with the Lodging Tax Advisory Committee. This spreadsheet documents the City’s adherence to both state law and City code, which is more restrictive as to expenditures. The only existing guidelines for this committee are also attached. The expenditures have been made consistent with law in place at the time of the expenditure and the guidelines, although there is some question as to whether and how regularly the guidelines are consulted.

³ RCW 67.28.1815

⁴ See RCW 67.28.1817.

⁵ RCW 67.28.1817(1)

- c) The process employed by the Lodging Tax Advisory Committee meets legal requirements and is sufficiently flexible to address compelling opportunities.

The Lodging Tax Advisory Committee has typically met once a year in a joint meeting with City Council and a second meeting held later in the year, usually during late summer or early fall to review applications and hear presentations from firms requesting funds for tourism-oriented projects. While this is typical, the Committee has met three times in some years, two as previously described and a third time to review and respond to an “out of cycle” request.

The funds accrued or collected in a specific year have been allocated for the next year’s tourism activities. For example, tourism funds that came to the city in 2013 are awarded in 2013 for 2014 contracts and deliverables. This timing allows many of our recipients to plan in advance for expenditures such as tourism ads and scheduling television spots or programming. Since our larger tourism season is spring through late fall, publications and programming opportunities are available in January or February to have production complete so that new information is available for the spring through fall season.

Normally the City will advertise that it is open for funding requests in early summer and have a timeframe for submittal so all proposals may be considered at the same time. It gives the committee the opportunity to look at the “whole program” for a year of what will be done to raise awareness of tourism in Lakewood and to grow the lodging nights in our hotels. The requests that have been considered “out of cycle” have been the result of an emerging opportunity that is compelling or pursuant to City Manager request.

3. The authority of the Council includes whether to collect the tax, appointments to the Committee, guidelines to be followed by the Committee and approval or denial of Committee recommendations.

In the most recent state law passed on this topic, the Committee is to select from applicants for Lodging Tax revenue candidates and proposals send on to the City Council for final funding determination.⁶ The Council may choose to approve or deny any individual proposal but may not alter the proposals or add to the list submitted by the Committee.⁷ This begs the question of authority between the Committee and the Council.

The guidelines to be followed by the Committee are within the authority of the Council. By previous legislation the City Council has restricted the expenditure of the three percent detailed above to “acquisition, construction, expansion, marketing, management, and financing of convention facilities, and facilities necessary to support major tourism destination attractions.”⁸ This restriction does not appear in state law but is within the authority of the Council. Ultimately the only restriction on any of the seven percent collected is that it “may be used, directly by any

⁶ RCW 67.28.1816

⁷ “The municipality may choose only recipients from the list of candidates and recommended amounts provided by the local lodging tax advisory committee.” Id.

⁸ LMC 3.36.025

municipality...for: (a) tourism marketing; (b) The marketing and operations of special events and festivals designed to attract tourists; (c) Supporting the operations and capital expenditures of tourism-related facilities owned or operated by a municipality ...”⁹ Thus, the Council may express a vision of the proper expenditure of lodging tax revenue to the Committee in the form of authorizing legislation, as it has in the past. This may include allocations for capital, operational support staff or any other expenditure supporting tourism as detailed in state law.

The most recent regulation of the expenditure of Lodging Tax might suggest that the Lodging Tax Advisory Committee is bound only by state law and is not required to follow guidelines set by Council. First, as a legislative body, the Council may enact as law restrictions on lodging tax expenditures within the bounds of state law and the Committee is subject to City Code. Alternatively, the Council can adopt less formal guidelines and use the guidelines as the basis for approval or denial of recommendations from the Committee. Essentially, the Council holds “veto power” under current law.

4. While amending the Code is likely not necessary solely for purposes of legal compliance, amending the Code will facilitate clear understanding of the City’s intent for lodging tax in the City as well as best practices and guidelines for the program.

Neither current Code nor guidelines with regard to lodging tax have been reviewed or revised recently for purposes beyond legal compliance. Thus the City has a legally compliant Code but may wish to explore better practices and processes for administrating the program.

5. Despite changes in State law, expenditure of lodging tax funds on administrative activities and staff is authorized.

State law does authorize the expenditure of lodging tax funds on purely administrative activities, provided those activities meet the threshold for generating tourism and follow the proper process for requesting and receiving the funds. Any given City may categorically exclude such expenditures and uniformly deny any such request recommended by the Committee.

Conclusion:

The City of Lakewood, as a municipality benefitting from the collection of Lodging Tax as authorized by state law, must properly appoint a Lodging Tax Advisory Committee. The Council may proscribe the process by which the Committee exercises the authority to form recommendations for the Council. Once the Committee submits a list of recommended recipients together with amounts, the Council may approve or deny individual recommendations.

⁹ RCW 67.28.1816(1)

City of Lakewood

Lodging Tax Funding Guidelines

Background

The objective of the City of Lakewood Lodging Tax Advisory Committee process is to support projects, which encourage eligible tourism and cultural activities and support tourism facilities in Lakewood. The source of funds is the City's share of sales taxes collected on overnight stays within the City of Lakewood.

The City of Lakewood collects a 7% sales tax on hotels and motels located within the City. The tax is broken down into three sections; a first 2%, a second 2%, and a 3%. These funds can be retained by the City or can be expended for a narrow range of projects and activities established by State law (Chapter 67.28) and City Code (Chapter 3.36).

Eligible Uses:

- 2%+2% - Can be used for tourism promotion, or the acquisition of tourism-related facilities, or operation of tourism-related facilities.
- 3% - Can only be used for the acquisition, construction, expansion, marketing, management, and financing of convention facilities, and facilities necessary to support major tourism destination attractions that serve a minimum of one million visitors per year.

Objectives for Hotel/Motel Tax Funds:

- Generate increased tourism in Lakewood resulting in over-night stays at local hotels.
- Generate maximum economic benefit through overnight lodging, sale of meals and goods, and construction of tourism-related facilities.
- Increase recognition of Lakewood throughout the region as a destination for tourism.
- Increase opportunities for tourism by developing new visitor activities.

Allocation Guidelines:

- The City shall seek proposals for funding on an annual basis from organizations seeking to use Hotel/Motel Tax funds for promoting tourism or for acquisition/operation of tourism related facilities.
- Organizations seeking funding must complete an application form.
- The Lodging Tax Advisory Committee shall review the proposals and make recommendations to City Council as to which applications should receive funding.
- The final funding decision will be made by City Council.
- Once approved for funding an organization must enter into a contract and funding will be provided in quarterly installments or on a reimbursable basis.
- Organizations receiving funding must submit a report at the end of the calendar year.
- Funds collected during previous years will be expended the following year. (i.e. 1999 funds will be distributed in 2000)
- The City shall maintain a reserve fund of at least 25% for future capital projects.

City of Lakewood
Fund 104 - Lodging Tax

Year	2005	2006	2007	2008	2009	2010	2011	2012	Prelim 2013	Estimated 2014	Total 2005 - 2014
Revenues											
Lodging Tax	\$ 180,041	\$ 204,859	\$ 298,997	\$ 431,145	\$ 344,044	\$ 400,243	\$ 375,170	\$ 341,154	\$ 336,791	\$ 315,000	\$ 3,227,444
Transient/Stadium Tax	78,602	88,855	82,990	156,789	137,617	160,098	150,069	145,555	134,716	115,000	1,250,292
Interest Income	15,169	30,940	32,059	18,740	4,796	1,936	2,145	1,074	687	-	107,545
Total Revenue	\$ 273,812	\$ 324,654	\$ 414,047	\$ 606,675	\$ 486,457	\$ 562,277	\$ 527,384	\$ 487,782	\$ 472,194	\$ 430,000	\$ 4,585,281
Expenditures:											
Advertise Grant Application Open Periods/LTAC Meetings/Investment Fees	-	-	-	-	-	253	444	291	381	-	1,369
Lakewood Economic Dept - Program & Personnel	-	-	-	-	64,344	32,869	29,937	35,586	33,975	33,040	229,752
Subtotal - Program Administration	-	-	-	-	64,344	33,122	30,381	35,877	34,356	33,040	231,120
Asia Pacific Cultural Center (APCC)	-	-	-	-	-	-	10,000	10,000	-	5,000	25,000
Audubon Washington - Birding Map	-	-	-	-	-	-	-	5,000	-	-	5,000
Daffodil Festival dba Daffodilians	-	4,400	-	-	-	4,000	4,000	4,000	4,000	-	20,400
Grave Concerns - Ft Steilacoom Historic Cemetery Brochure/Genealogy	-	-	-	-	-	-	-	2,943	-	-	2,943
Historic Fort Steilacoom Assoc.	2,000	2,000	2,000	-	3,000	7,000	7,000	6,998	8,000	8,000	45,998
Lakewold Gardens	40,000	31,936	38,855	37,904	38,000	52,986	43,453	45,266	44,195	45,000	417,595
*Lakewood Chamber of Commerce	84,000	68,500	62,000	70,000	73,000	56,446	65,000	80,000	80,000	80,000	718,946
Lakewood Economic Dept - International District Cultural Banners + Road Signs	-	-	-	-	-	-	-	-	12,931	-	12,931
Lakewood Historical Society & Museum	25,000	50,000	40,000	40,000	36,835	21,060	39,500	39,500	39,500	39,500	370,895
Lakewood Landmarks & Heritage Advisory Board Historical Driving Tour Brochure	-	-	-	-	-	-	-	-	9,968	-	9,968
Lakewood Parks & Rec Dept - Lakewood Farmers Market	-	-	-	-	-	-	-	5,000	14,141	10,000	29,141
Lakewood Parks & Rec Dept - SummerFEST	-	22,550	6,917	9,000	6,986	10,000	11,000	17,000	17,000	17,000	117,454

**City of Lakewood
Fund 104 - Lodging Tax**

Year	2005	2006	2007	2008	2009	2010	2011	2012	Prelim 2013	Estimated 2014	Total 2005 - 2014
Lakewood Playhouse, Marketing (2 Capital Impr. in 2013 \$20,178.44 & \$8,403.86)	-	-	20,000	33,300	37,000	25,000	25,880	24,976	25,000	25,000	216,156
Buxton Co. - Tourism Profile	-	-	-	-	-	-	46,500	-	-	-	46,500
Lakewood Sister Cities Assn (LSCA) - International Festival (2012 grant was extended to 2013)	-	2,500	3,245	9,000	9,000	3,500	11,998	-	6,000	12,500	57,743
LSCA's Korean Sister City Committee - Soccer Tournament	-	4,168	-	-	-	-	-	-	-	-	4,168
Northwest Korean Cultural Foundation - International	-	-	-	12,500	10,500	12,500	2,677	-	-	-	38,177
Northwest Korean Golf Assoc. (Tacoma Korean Golf Assn)	-	-	7,200	10,000	-	-	-	-	-	-	17,200
Northwest Tae Kwon Do	-	5,000	-	-	-	-	-	-	-	-	5,000
Dean Paulson Photography - Tourism Photos	-	-	-	-	-	-	-	909	-	-	909
Freelance Graphics - Tourism	-	-	-	-	-	-	-	1,366	-	-	1,366
South Sound User's Guide - Tourism Guides	-	-	-	-	-	-	-	547	200	-	747
*Tacoma Regional Convention + Visitor Bureau	-	-	24,000	15,500	25,000	35,000	35,000	39,997	45,000	45,000	264,497
*Tacoma South Sound Sports Commission	20,000	20,000	25,000	25,000	25,000	30,000	25,000	35,000	50,000	50,000	305,000
Washington Museum of Military Technology	5,000	-	-	-	-	-	-	-	-	-	5,000
Subtotal - Tourism	176,000	211,054	229,216	262,204	264,321	257,492	327,008	318,502	355,935	337,000	2,738,733
Lakewood Economic Dept - Promotion & Outreach (FRAUSE, Media Consultant)	-	-	-	-	31,858	-	23,918	24,000	24,000	24,000	127,776
Today in America - Promotional	-	-	-	-	-	-	-	19,800	-	-	19,800
Subtotal - Promotion	-	-	-	-	31,858	-	23,918	43,800	24,000	24,000	147,576
Clover Park Technical College McGavbick Center (2014 is #8 of 20 Payments)	-	-	101,850	101,850	101,850	101,850	101,850	101,850	101,850	101,850	814,800
Lakewood Colonial Center Theater Rehab & Potential Study + Advertising	-	-	-	-	-	20,219	-	-	-	-	20,219
Lakewood Parks & Rec Dept - Boat Launch Improvements	-	120,000	-	-	-	-	-	-	-	-	120,000

City of Lakewood
Fund 104 - Lodging Tax

Year	2005	2006	2007	2008	2009	2010	2011	2012	Prelim 2013	Estimated 2014	Total 2005 - 2014
Lakewood Parks & Rec Dept - Fort Steilacoom Park Barn Feasibility Study	-	-	-	10,000	-	-	-	-	-	-	10,000
Lakewood Parks & Rec Dept - Fort Steilacoom Park Bleachers/Soccer Goal Posts	-	-	25,902	-	-	-	-	-	-	-	25,902
Lakewood Parks & Rec Dept - Fort Steilacoom Park Golf Course Feasibility Study + Advertise	-	-	-	-	-	15,113	-	-	-	-	15,113
Lakewood Playhouse, Building Updates	-	40,000	-	-	-	10,000	9,870	12,500	28,582	-	100,952
McCament & Rogers - 2009 Hotel Study + 2011 Update	-	-	-	-	43,888	-	14,070	-	-	-	57,958
Subtotal - Capital	-	160,000	127,752	111,850	145,738	147,182	125,790	114,350	130,432	101,850	1,164,944
Total Expenditures	\$ 176,000	\$ 371,054	\$ 356,968	\$ 374,054	\$ 506,262	\$ 437,796	\$ 507,097	\$ 512,530	\$ 544,724	\$ 495,890	\$ 4,282,374
Revenues Over/(Under) Expenditure	\$ 97,812	\$ (46,400)	\$ 57,079	\$ 232,621	\$ (19,805)	\$ 124,481	\$ 20,287	\$ (24,747)	\$ (72,530)	\$ (65,890)	\$ 302,907
Other Sources / (Uses)											
Transfer In from General Fund	496,490	-	-	-	-	-	-	-	-	-	496,490
Total Net Sources/(Uses)	\$ 496,490	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 496,490
Beginning Balance	\$ -	\$ 594,302	\$ 547,902	\$ 604,981	\$ 837,601	\$ 817,796	\$ 942,277	\$ 962,564	\$ 937,817	\$ 865,287	\$ -
Ending Balance - "Unallocated":	\$ 594,302	\$ 547,902	\$ 604,981	\$ 837,601	\$ 817,796	\$ 942,277	\$ 962,564	\$ 937,817	\$ 865,287	\$ 799,397	\$ 799,397

* Designated a Tourism Promotion Organization by Washington State

Transfer In from General Fund: Transfer of lodging tax revenue previously accounted for in the General Fund to the newly created Lodging Tax Fund in 2005.

Prior to 2005, lodging tax activity was accounted for in the General Fund.

2013 Revenues includes 12 months actual tax receipts / 2014 Expenditures is based on 2013 Grants Awarded (to be updated with actuals at year-end)

2014 Ending Fund Balance estimate is accumulation of excess revenues over expenditures.

City of Lakewood
Fund 104 - Lodging Tax

Tax	Effective Date	Rate	RCW	Tax Base	Tax Rate	Authorized Use
Transient Rental Income Tax	Mar 1996	2.00%	67.28.180	Charges for lodging at hotels, motels, rooming houses, private campgrounds, RV parks, and similar facilities for continuous periods of less than one month.	Up to 2%. The tax is credited against the state retail sales tax so that the hotel/motel tax is not an additional tax for the customer but represents sharing of the state retail sales tax receipts on lodging with the city.	Use solely for the purpose of paying all or any part of the cost of tourism promotion, acquisition of tourism-related facilities, or operation of tourism-related facilities. Municipalities may, under chapter 39.34 RCW, agree to the utilization of revenue from taxes imposed under this chapter for the purposes of funding a multi-jurisdictional tourism-related facility.
Lodging Tax	2% in Jun 1996 3% in Jun 1997	5.00%	67.28.181	<p><u>Special Hotel/Motel Tax:</u> Charges for lodging at hotels, motels, rooming houses, private campgrounds, RV parks, and similar facilities for continuous periods of less than one month.</p> <p><u>Room Charge:</u> A fee applies to each room that is rented for less than 30 days in lodging facilities that have 40 or more rooms; it is based on the number of days the room is rented. In Lakewood the Tourism Promotion Area (TPA) charge is \$1.00 is charged per night.</p>	The combined rate of state and local retail sales tax (except RTA tax), the state convention center tax, and any special hotel/motel taxes may not exceed 12%. However, a higher aggregate rate cap applies for jurisdictions that previously levied higher hotel/motel tax rates (such as Lakewood which was grandfathered.)	Use solely for the purpose of paying all or any part of the cost of tourism promotion, acquisition of tourism-related facilities, or operation of tourism-related facilities. Municipalities may, under chapter 39.34 RCW, agree to the utilization of revenue from taxes imposed under this chapter for the purposes of funding a multi-jurisdictional tourism-related facility.
		7.00%	Total Tax Rate			

6.50%	State of Washington
1.00%	City of Lakewood
0.10%	Criminal Justice Sales Tax
0.60%	Pierce Transit
0.90%	Sound Transit
0.10%	Pierce County Juvenile Facilities
0.10%	Zoo-Park Fee
0.10%	South Sound 911
<hr/>	
9.40%	Total Sales Tax
2.00%	Transient Rental Income Tax (State Shared Revenue)
-2.00%	Credit to State Sales Tax
5.00%	Lodging Tax
<hr/>	
14.40%	Total Tax on Lodging



TO: Mayor and City Councilmembers
FROM: Jeff Gumm, Program Manager
THROUGH: John J. Caufield, City Manager *John J. Caufield*
DATE: January 27, 2014 (Council Study Session)
SUBJECT: IMG LLC, Curbside Motors

Introduction: The purpose of this memorandum is to provide information and general framework for a proposed combination National Development Council (NDC) Grow America Fund (GAF) financing and Section 108 Loan Guarantee Assistance financing for the IMG LLC, Curbside Motors project. The memo also discusses, as a part of the overall project, the need to execute a contract with NDC to complete the financing and project management.

IMG, LLC Curbside Motors Project: The Curbside Motors Project proposes to assist a for-profit business to acquire and combine three parcels (0319062016, 0319062017, and 0319062044) located along the 9915 -10005 block of South Tacoma Way for the purpose of constructing an automotive dealership and associated service and detailing shops. This project proposes to consolidate and relocate two separate car lots, both of which are currently located within the Tacoma city limits, on to one large lot in Lakewood. The parcels are located along the east side of South Tacoma Way near the intersection of 100th St. SW and South Tacoma Way.

Redevelopment of the site includes the acquisition and demolition of the Rainier Inn Apartments, a dilapidated 50-unit apartment complex which is currently closed due to numerous building and code violations, and a vacant parcel that was the former home of the recently demolished Gloria Motel.

The property is zoned Commercial Two (C2) and is, therefore, consistent with the intended use. Total costs for the project are approximately \$2.9 million; proposed funding sources are outlined below.

Proposed Funding Sources:

Source	Amount
NDC Grow America Loan Fund - SBA 7(a) guarantee	\$2,080,000
Equity	\$125,000
Lakewood Section 108	\$700,000
Total Development Costs	\$2,905,000

Project Schedule: The project is scheduled for closing on March 31, 2014. This date is significant as the current Purchase & Sale Agreement is set to expire on that date. It is expected that if the deal is not completed on or before that date the sales contract will not be extended and the project will fall through.

NDC Contract: As part of this project, the City will need to execute a contract with NDC for the purposes of accessing funding through NDC's Grow America Fund and to complete general financing and project management. Staff is currently working with NDC to perfect the contract which will include project specific language, including deliverables and general timelines for completion.

Project Funding Source Information:

Section 108 - The Section 108 Loan Guarantee program was authorized under Section 108 of the Housing and Community Development Act of 1974, as amended. The program provides communities with a source of financing for large scale, capital-intensive economic development, housing, public facilities, and large-scale infrastructure and community development projects. The Section 108 program enables CDBG grantees to access additional CDBG funding by borrowing up to five times their annual entitlement grant, minus any outstanding Section 108 commitments and/or principal balances of Section 108 loans. Eligible activities under the program are different than those under the regular CDBG program; however, the overarching objectives of benefit to low and moderate income individuals, aid in the elimination or prevention of slums and blight, or meeting an urgent need remain the same.

General Loan Details:

- Section 108 obligations are financed by HUD through underwritten public offerings through an interim lending facility.
- Principal security for the loan guarantee is a pledge by the public entity of its current and future CDBG funds. Additional security from the borrower will also be required to assure repayment of guarantee obligations, typically assets financed by the loan or other collateral owned by the borrower.
- Maximum repayment period is 20 years; terms can be flexible when structuring the principal amortization to better match the need of the borrower and project.
- Interest rates for projects are initially set with an interim rate and are typically converted to a fixed rate sometime after project completion. Interim rates are based on the 3 month London Bank Offered Rate

(LIBOR) plus 20 basis points (.2%). Permanent financing is pegged to yields on U.S. Treasuries of similar maturity, with a small basis point spread being added to determine final rate.

Lakewood Section 108 Loan Pool: The City of Lakewood applied for and was awarded \$2,888,000 in Section 108 funding on July 27, 2012. This award represents 5 times Lakewood's FY 2011 CDBG allocation of \$577,790.

The purpose of the Section 108 loan pool is to assist with economic and community development activities throughout the city. Loan proceeds are to be used as gap financing primarily for development and business loans to facilitate economic development. Eligible activities include the following: 1) acquisition, clearance, demolition, and redevelopment of property for economic development purposes; 2) other economic development activities; 3) housing rehabilitation; and 4) public facilities and infrastructure improvements.

The proposed Curbside Motors project would be Lakewood's second Section 108 loan, the first being \$310,000 in assistance provided to the LASA Prairie Oaks Client Services Center. Pending Council approval of this application, staff will forward the Section 108 Loan Application to HUD for approval on or after February 19, 2014.

Grow America Fund: The National Development Council (NDC) Grow America Fund (GAF) works with community partners across the country to provide access to capital for growing small businesses that support the creation of jobs and the expansion of eligible small businesses in underserved areas, particularly minority and women-owned businesses. In Pierce County, this partnership has been established by a \$750,000 investment from the Greater Tacoma Foundation to capitalize a \$3,000,000 loan fund for eligible Pierce County businesses. GAF financing is partially guaranteed by the U.S. Small Business Administration under GAF's Small Business Lending Company license, and GAF has Preferred Lender status nationwide.

GAF lending differs from conventional lending by providing:

- **Longer Terms.** Using repayment schedules up to 25 years that give the borrower smaller monthly loan payments to reserve cash flow for other business needs.
- **Larger Loans.** Providing loan amounts ranging from \$150,000 to \$3.4 million.
- **Lower Down Payments.** Preserves the business's equity and maximizes growth potential.
- **Lower Interest Rates.** that fund growth. Favorable rates result in cash savings that allows your business to continue to provide and add jobs in the community.
- **Better Structure.** Matching the term of the loan to the life of the assets being financed, ensuring debt service does not exceed available cash flow.

Funding for the NDC GAF proposes an initial \$2,780,000 loan to capitalize the project in its entirety. The \$700,000 in Section 108 financing, once approved by HUD in May, will be used as a partial take out for the GAF funds, leaving a GAF loan balance of \$2,080,000.

Actions To-Date:

- January 17, 2014: Publish proposed amendment to FY 2013 Annual Action Plan (AAP) for \$700,000 in Section 108 assistance for services center.
- January 18, 2014 - February 18, 2014: 30-day public comment period on AAP amendment. Comment period closes at 9:00 am on February 18th.
- January 27, 2014: Council review of proposed Curbside project includes \$2,080,000 in NDC GAF financing and \$700,000 Section 108 loan guarantee financing.

Actions Pending:

- February 5, 2014 : Public Hearing on proposed amendment to FY 2013 AAP held by CDBG Citizens Advisory Board.
- February 18, 2014: Council approval of proposed \$700,000 Section 108 loan and NDC contract.
- February 19, 2014: Submittal of loan application to HUD for initial review and approval. Preparation of final loan documents in accordance with HUD Section 108 loan terms sheet.
- March 31, 2014: Loan closing for NDC Grow America financing.
- April 30, 2014: Section 108 loan closing; submittal of final approved loan documents to HUD for approval.

Consistency with Approved Five-Year FY 2010-2014 Consolidated Plan for Housing and Community Development and FY 2013 Consolidated Annual Action Plan: The proposed use of Section 108 funds is consistent with the 5-Yr Consolidated Plan and FY 2013 Consolidated Annual Action Plan as adopted by Council on May 6, 2013. As part of the Plan's proposed use of funds, CDBG funding may be used to support and expand economic development opportunities that provide or retain livable wage jobs for low and moderate income individuals.

Staff is requesting concurrence with the proposal to authorize the City Manager to execute a Section 108 Loan Guarantee Agreement in the amount of \$700,000, which funds will be used for the purpose of funding IMG, LLC Curbside Motors for the redevelopment of multiple parcels along South Tacoma Way for the purpose of constructing an automotive dealership and associated service and detailing shop. This concurrence will take the form of a resolution to commit said funds at your February 18, 2014 meeting.

Attached:

1. 2013 Annual Action Plan Fourth Amendment
2. Section 108 Loan Application Documents
3. Site Map

I. FY 2013 ANNUAL ACTION PLAN FOURTH AMENDMENT

INTRODUCTION

In April 2012, the City of Lakewood requested \$2,888,000 under Section 108 of the Housing and Community Development Act of 1974, as amended, to establish a loan pool to assist with economic and community development activities. The loan pool will be used as gap financing for development and as business loans to facilitate development projects that will have positive economic and community benefits, including job creation. The City's application was approved by the Department of Housing and Urban Development (HUD) on July 27, 2012.

The Fourth Amendment to the FY 2013 Consolidated Annual Action Plan involves the application of \$700,000 in Section 108 assistance for the IMG, LLC Curbside Motors project as described below. This Amendment was prepared in accordance with requirements established by the Department of Housing and Urban Development for local jurisdictions receiving assistance through Section 108 of the Housing and Community Development Act of 1974, as amended, and the Community Development Block Grant funding through the provisions of the National Affordable Housing Act of 1990, as amended.

PURPOSE

The purpose of this Chapter is to describe the amendment to the FY 2013 Consolidated Annual Action Plan for Housing and Community Development.

CITIZEN PARTICIPATION PROCESS

In accordance with Lakewood's Citizens Participation Plan, projects that are substantially changed are submitted to the CDBG Citizens Advisory Board for comments or recommendations prior to implementation by the City Council. On February 5, 2014, the CDBG Citizens Advisory Board reviewed the fourth amendment to the FY 2013 Consolidated Annual Action Plan to apply for \$700,000 in Section 108 assistance to support the IMG, LLC Curbside Motors project. Notification of the proposed amendment to the FY 2013 Consolidated Annual Action Plan was published in THE NEWS TRIBUNE, a paper of general circulation, on January 17, 2014. The notification provides for a 30-day citizen comment period (January 18, 2014 – February 18, 2014). An opportunity for citizens, general public, local agencies and other interested parties to provide public comment was afforded at the CDBG Citizens Advisory Board meeting of February 5, 2014.

FY 2013 PROJECT ACTIVITIES AMENDMENT

The amendment to the FY 2013 Consolidated Annual Action Plan provides for the City of Lakewood to apply to the Department of Housing and Urban Development for a Section 108 loan in the amount of \$700,000 for the IMG, LLC Curbside Motors project located at 9915 South Tacoma Way, Lakewood, WA. The project proposes the redevelopment of multiple parcels along South Tacoma Way for the purpose of constructing an automotive dealership and associated service and detailing shop. The project will meet a national objective of 570.208(a)(4) Job Creation or Retention through the creation of job opportunities for low and moderate income individuals.

NOTE: Draft form only; document to be completed at loan submission to HUD

**II. CITIZEN COMMENTS ON FY 2013 ANNUAL ACTION PLAN
FOURTH AMENDMENT**

The following comments were received as part of the Fiscal Year 2013 Annual Action Plan Fourth Amendment citizen participation process. The public comment period includes the 30-day comment period from January 18, 2014 – February 18, 2014 and the public hearing held by the CDBG Citizens Advisory Board on February 5, 2014.

CDBG Citizens Advisory Board Public Hearing – February 5, 2014:

Insert public comments here.

30-day Public Comment Period (January 18, 2014 – February 18, 2014):

Insert public comments here.

NOTE: Draft form only; document to be completed at loan submission to HUD

III. NOTICE OF PUBLICATION

City of Lakewood

**2013 Consolidated Annual Action Plan Amendment
Section 108 Loan Guarantee Program**

Notice of Public Hearing and Comment Period

The City of Lakewood is proposing to amend its Fiscal Year 2013 Consolidated Annual Action Plan (AAP) to allow for the application and approval of a Section 108 Loan Guarantee from the U.S. Department of Housing and Urban Development (HUD) up to \$700,000 for the following activity:

FY 2013 IMG, LLC Curbside Motors

A public hearing will be conducted to provide an opportunity for citizens and agencies to provide testimony on the activity described above. The public hearing will be held on Wednesday, February 5, 2014 at 5:30 p.m. in Conference Room 3A of Lakewood City Hall, 6000 Main St. SW, Lakewood, WA.

Persons requiring special accommodations during the hearing are requested to call 253-589-2489 before 5:00 p.m., January 29, 2014.

The Draft FY 2013 AAP Amendment for the Proposed Section 108 Loan Guarantee Application will be available for public review for a period of 30 days from January 18, 2014 to February 18, 2014. Copies of the amendment and application are available for review at the City of Lakewood Community Development Department or on the City's website at www.cityoflakewood.us.

The proposed amendment will be submitted to the Department of Housing and Urban Development for review and approval. Any citizen who wishes to submit written comments regarding this document may do so up to 9:00 am, February 18, 2014 at:

City of Lakewood, Community Development Department,
Attn: Dave Bugher, Assistant City Manager for Development
6000 Main St. SW, Lakewood, WA 98499

Ad published in the News Tribune on January 17, 2014

THE NEWS TRIBUNE

[thenewstribune.com]

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LAKEWOOD WA 98499-5027 USA

Payor Address
6000 MAIN ST SW,
LAKEWOOD WA 98499-5027 USA

Customer Phone
253-589-2489

Payor Phone
253-589-2489

Sales Rep.
crochefort@thenewstribune.com

Order Taker
crochefort@thenewstribune.com

PO Number
MTG 2/5/14

Payment Method

Blind Box

Tear Sheets
1

Proofs
0

Affidavits
1

Net Amount	Tax Amount	Total Amount
\$238.17	\$0.00	\$238.17

Payment Amt	Amount Due
\$0.00	\$238.17

Ad Number	Ad Size	Color
0000866049-01	1.0 X 39 LI	<NONE>

Product Information	# Inserts	Cost
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Placement/Classification

Run Dates

Run Schedule Invoice Text

TAC-NT-News Tribune:Print: 0300 - Legals Classified 1/17/2014 City of Lakewood 2013 Consolidated Annual Action Plan Amendment	1	\$190.86
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TAC-upsell.thenewstribune.com:Online: 0300 - Legals Classified 1/17/2014 City of Lakewood 2013 Consolidated Annual Action Plan Amendment	1	\$47.31
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City of Lakewood
2013 Consolidated Annual Action Plan
Amendment

Section 108 Loan Guarantee Program

Notice of Public Hearing and Comment Period
The City of Lakewood is proposing to amend its Fiscal Year 2013 Consolidated Annual Action Plan (AAP) to allow for the application and approval of a Section 108 Loan Guarantee from the U.S. Department of Housing and Urban Development (HUD) up to \$700,000 for the following activity:

FY 2013 IM6, LLC Curbside Motors

A public hearing will be conducted to provide an opportunity for citizens and agencies to provide testimony on the activity described above. The public hearing will be held on Wednesday, February 5, 2014 at 8:30 p.m. in Conference Room 38 of Lakewood City Hall, 6000 Main St. SW, Lakewood, WA.

Persons requiring special accommodations during the hearing are requested to call 253-689-2489 before 5:00 p.m., January 29, 2014.

The Draft FY 2013 AAP Amendment for the Proposed Section 108 Loan Guarantee Application will be available for public review for a period of 30 days from January 18, 2014 to February 18, 2014. Copies of the amendment and application are available for review at the City of Lakewood Community Development Department or on the City's website at www.cityoflakewood.us.

The proposed amendment will be submitted to the Department of Housing and Urban Development for review and approval. Any citizen who wishes to submit written comments regarding this document may do so up to 9:00 a.m., February 18, 2014 at:

City of Lakewood, Community Development Department,
Attn: Dave Bughes, Assistant City Manager for Development
6000 Main St. SW, Lakewood, WA 98499

1/16/2014 11:45:33AM

1

NOTE: Draft form only; document to be completed at loan submission to HUD

SECTION 108 LOAN GUARANTEE
ENTITLEMENT Public Entity Certifications

In accordance with Section 108 of the Housing and Community Development Act of 1974, as amended (the "Act"), and with 24 CFR Part 570.704(b), the public entity certifies that:

- (3) It possesses the legal authority to make the pledge of grants required under §570.705(b)(2).
- (4) It has made efforts to obtain financing for activities described in the application without the use of the loan guarantee and cannot complete such financing consistent with the timely execution of the program plans without such guarantee.

In accordance with Section 108 of the Housing and Community Development Act of 1974, as amended (the "Act"), and with 24 CFR Part 570.704(b)(8), the public entity further certifies that:

- (i) It possesses the legal authority to submit the application for assistance under this subpart and to use the guaranteed loan funds in accordance with the requirements of this subpart.
- (ii) Its governing body has duly adopted or passed as an official act a resolution, motion or similar official action:
 - (A) Authorizing the person identified as the official representative of the public entity to submit the application and amendments thereto and all understandings and assurances containing therein, and directing and authorizing the person identified as the official representative of the public entity to act in connection with the application to provide such additional information as may be required; and
 - (B) Authorizing such official representative to execute such documents as may be required in order to implement the application and issue debt obligations pursuant thereto (provided that the authorization required by this paragraph (B) may be given by the local governing body after submission of the application but prior to execution of the contract required by §570.705(b).
- (iii) Before submission of its application to HUD, the public entity has:
 - (A) Furnished citizens with information required by §570.704(a)(2)(i);
 - (B) Held at least one public hearing to obtain the views of citizens on community development and housing needs; and
 - (C) Prepared its application in accordance with §570.704(a)(1)(v) and made the application available to the public.
- (iv) It is following a detailed citizen participation plan which meets the requirements described in by §570.704(a)(2).
- (v) The public entity will affirmatively further fair housing, and the guaranteed loan funds will be administered in compliance with:
 - (A) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.); and
 - (B) The Fair Housing Act (42 U.S.C. 3601-3619).
- (vi) In the aggregate, at least 70 percent of all CDBG funds, as defined at §570.3, to be expended during the one, two, or three consecutive years specified by the public entity for its CDBG program will be for activities which benefit low and moderate income persons, as described in criteria at §570.208(a).
- (vii) It will comply with the requirements governing displacement, relocation, real property acquisition, and the replacement of low and moderate income housing described in §570.606.
- (viii) It will comply with the requirements of §570.200(c)(2) with regard to the use of special assessments to recover the capital costs of activities assisted with guaranteed loan funds.
- (ix) (Where applicable.) It lacks sufficient resources from funds provided under this subpart or program income to allow it to comply with the provisions of §570.200(c)(2), and it must therefore assess properties owned and occupied by moderate income persons, to recover the guaranteed loan funded portion of the capital cost without paying such assessments in their behalf from guaranteed loan funds.
- (x) It will comply with the other provisions of the Act and with other applicable laws.

Public Entity's Legal Name _____ Date _____

Signature of Authorized Representative _____

Printed Name and Title _____

NOTE: Draft form only; document to be completed at loan submission to HUD.

24 CFR Part 87-- Certification Regarding Lobbying

Statement for Loan Guarantees and Loan Insurance

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Signature

Date

Name of Authorized Official

Title

NOTE: Draft form only; document to be completed at loan submission to HUD.

APPLICATION FOR FEDERAL ASSISTANCE

OMB Approved No. 3076-0006

Version 7/03

1. TYPE OF SUBMISSION: Application <input type="checkbox"/> Construction <input checked="" type="checkbox"/> Non-Construction		2. DATE SUBMITTED Applicant Identifier
<input type="checkbox"/> Pre-application <input type="checkbox"/> Construction <input type="checkbox"/> Non-Construction	3. DATE RECEIVED BY STATE State Application Identifier	4. DATE RECEIVED BY FEDERAL AGENCY Federal Identifier
5. APPLICANT INFORMATION		
Legal Name:		Organizational Unit: Department:
Organizational DUNS:		Division:
Address: Street:		Name and telephone number of person to be contacted on matters involving this application (give area code) Prefix: First Name:
City:		Middle Name
County:		Last Name
State:	Zip Code	Suffix:
Country:		Email:
6. EMPLOYER IDENTIFICATION NUMBER (EIN): □□-□□□□□□□□		Phone Number (give area code) Fax Number (give area code)
8. TYPE OF APPLICATION: <input type="checkbox"/> New <input type="checkbox"/> Continuation <input type="checkbox"/> Revision If Revision, enter appropriate letter(s) in box(es) (See back of form for description of letters.) Other (specify)		7. TYPE OF APPLICANT: (See back of form for Application Types) Other (specify)
10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: TITLE (Name of Program): Labor Management Cooperation Program		9. NAME OF FEDERAL AGENCY:
12. AREAS AFFECTED BY PROJECT (Cities, Counties, States, etc.):		11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:
13. PROPOSED PROJECT Start Date: Ending Date:		14. CONGRESSIONAL DISTRICTS OF: a. Applicant b. Project
15. ESTIMATED FUNDING:		16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?
a. Federal	\$.00	a. Yes. <input type="checkbox"/> THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON
b. Applicant	\$.00	DATE:
c. State	\$.00	b. No. <input checked="" type="checkbox"/> PROGRAM IS NOT COVERED BY E. O. 12372
d. Local	\$.00	<input type="checkbox"/> OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW
e. Other	\$.00	17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?
f. Program Income	\$.00	<input type="checkbox"/> Yes If "Yes" attach an explanation. <input type="checkbox"/> No
g. TOTAL	\$.00	
18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT. THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED.		
a. Authorized Representative		
Prefix	First Name	Middle Name
Last Name		Suffix
b. Title		c. Telephone Number (give area code)
d. Signature of Authorized Representative		e. Date Signed

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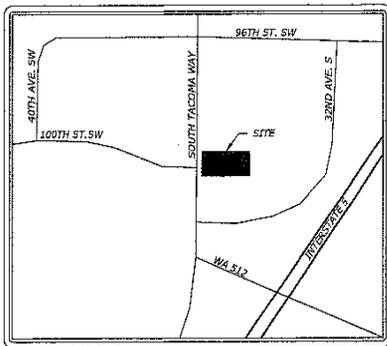
Standard Form 424 (Rev. 9-2003)
 Prescribed by OMB Circular A-102

NOTE: Draft form only; document to be completed at loan submission to HUD.

A PORTION OF SECTION 06, TOWNSHIP 19 N., RANGE 03 E., W.M.

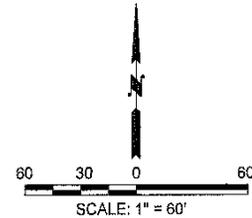
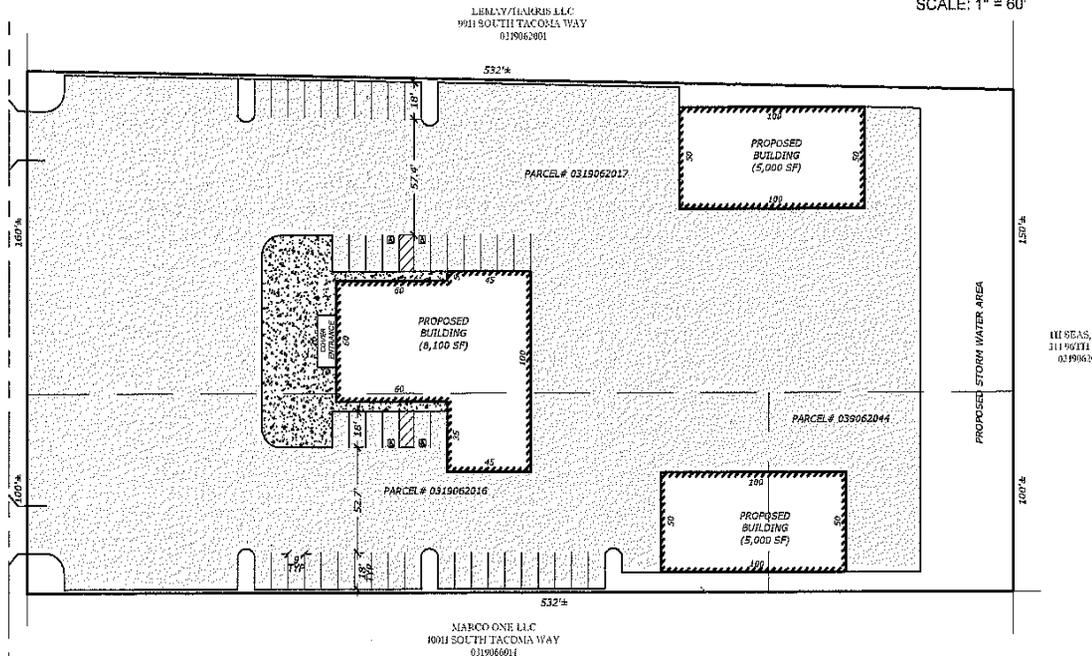
IMG, LLC CURBSIDE MOTORS SITE PLAN

PARCEL # 0319062016, 0319062017, 0319062044



VICINITY MAP
N.T.S.

SOUTH TACOMA WAY



TAX DESCRIPTION
SECTION 06 TOWNSHIP 19 RANGE 03 QUARTER 22 : COM
50 FT S 89 DEG 49 MIN E OF NW COR OF LOT 4 TH S 00
DEG 22 MIN E PAR WITH C/L OF STATE HWY 1157 FT TO
POB TH N 89 DEG 25 MIN E 531.59 FT TH S 01 DEG W 149.7
FT TO S LI OF LOT 4 TH S 89 DEG 18 MIN W 325.49 FT TO E
LI OF STATE HWY TH N ALG E LI OF SD HWY 160.45 FT TO
POB SUBJ TO EASE

TOPOGRAPHIC NOTE
THIS IS NOT A SURVEY. THE EXISTING CULTURAL AND
TOPOGRAPHICAL DATA, SITE FEATURES, ELEVATIONS, AND
PROPERTY BOUNDARIES SHOWN ON THESE DRAWINGS HAVE
BEEN PREPARED BASED UPON INFORMATION FURNISHED BY
THE OWNER, PIERCE COUNTY RECORDS, AND OTHER PUBLIC
GIS INFORMATION. WHILE THIS INFORMATION IS BELIEVED
TO BE RELIABLE, BEYLER CONSULTING CANNOT ENSURE
ACCURACY AND THIS IS NOT RESPONSIBLE FOR THE
ACCURACY OF THAT INFORMATION OR FOR ANY ERRORS OR
OMISSIONS WHICH MAY HAVE BEEN INCORPORATED INTO
THESE DRAWINGS AS A RESULT. IT IS RECOMMENDED THAT
A LICENSED SURVEYOR ALWAYS BE USED TO SET CORNERS,
ESTABLISH LOT LINES AND DETERMINE ELEVATIONS. IT IS
THE SOLE RESPONSIBILITY OF THE OWNER AND/OR HIRED
CONTRACTORS TO VERIFY ALL INFORMATION PRIOR TO
PLACEMENT OF STRUCTURES ON THE PROPERTY.

SITE DATA	
PARCEL NUMBER:	0319062016, 0319062017, 0319062044
SITE ADDRESS:	9915 S TACOMA WAY LAKEWOOD, WA 98499
SITE AREA:	139,311 SF (3.20 ACRES)
ZONING:	C2, AC1, (COMMERCIAL TWO, AIR CORRIDOR ONE)
SETBACKS:	
FRONT:	0'
BACK:	0'
INTERIOR:	0'

PROJECT INFO	
OWNER/CLIENT:	ENGINEER:
STEVE GUIDERSON	BEYLER CONSULTING
6802 SOUTH TACOMA WAY	10314 100TH ST SW
TACOMA, WA 98409	LAKEWOOD, WA 98498
TEL: 253-307-0285	TEL: 253-301-4157

PREPARE FOR:

INCENTIVE
MANAGEMENT GROUP
RECREATION REHABILITATION DIVISION
7602 BRIDGEPORT WAY, SUITE 18, LAKEWOOD WA 98499

CONTRACT:
NO: 253-301-4157
PK: 253-334-3950
mailto:info@beylerconsulting.com
http://www.beylerconsulting.com

BEYLER CONSULTING
Plan. Design. Manage.
10314 100th St SW
Lakewood, WA 98498
www.beylerconsulting.com

WASHINGTON
DATE: 12-18-13
SCALE: 1"=60'
SHEET NUMBER: 13-318-13

IMG, LLC CURBSIDE MOTORS

CITY OF LAKEWOOD, WA
DRAWN BY: MHW
CHECKED BY: LCB

JOB NUMBER:
13-318
SHEET 1 OF 2
022



Rainier Inn – 9915 South Tacoma Way	1.88 acres
Gloria Motel - 10005 South Tacoma Way	1.32 acres total
Total both properties (3 parcels)	3.20 acres



To: Mayor and City Councilmembers

From: David Bugher, Assistant City Manager/Community Development Director

Through: John J. Caulfield, City Manager 

Date: January 27, 2014

Subject: Comprehensive Plan Update

Purpose: State law, RCW 36.70A.130, requires the City of Lakewood to periodically update its comprehensive plan and development regulations. A 10-year update is the normal timeline for these updates, but the State has pushed back the due date because of the economy and staffing levels of jurisdictions. The last major review of the City's Plan occurred in 2004; however, various amendments to the Plan have occurred since it was adopted in 2000.

The comprehensive plan and zoning code updates are required to be completed by June 2015. The comprehensive plan and zoning code shall be updated based on requirements from the state Department of Commerce (DOC), Puget Sound Regional Council (PSRC) VISION 2040 and Pierce Countywide Planning Policies (CPPs). The update has three parts:

1. Update with mandatory changes, as outlined by DOC, PSRC and CPPs.
2. Update with optional changes, as outlined by DOC, PSRC and CPPs.
3. Update based on locally-desired changes.

This memorandum serves to inform the Lakewood City Council as to the latest progress in updating the comprehensive plan. Similar reports were provided to the City Council on July 8, 2013, September 9, 2013, and also on November 25, 2013, at which time the City Council discussed performing a visioning process as part of the update.

Recent Council Comments: At the September 9, 2013 meeting, the Council had many inquiries. The minutes of that meeting have been excerpted as part of this memorandum:

“Assistant City Manager Bugher provided an overview of the Comprehensive Plan work plan. He reviewed the purpose, status report, and revisions to the public participation plan. He then distributed a timeline for the Comprehensive Plan work plan and asked for Council direction.

Discussion ensued about adding JBLM’s timeline to the schedule; providing for a visioning process; staff bringing up the Puget Sound Regional Council (PSRC) mandates to the process; what did the first SEPA process consist of (non- technical amendments that are non-controversial); Council’s review of the housing incentives section; what is the definition of blight; shouldn’t the capital facilities plan be included with the budget; is the revised subdivision code a part of the Comprehensive Plan (not being proposed to go in the Comprehensive Plan); what is the cost/benefit of urban renewals; developing neighborhood plans with neighborhoods in considering and prioritizing what amenities neighborhoods would like to see to be added to the capital facilities plan; why have the housing incentives regulations not worked in design and review and does the Council want to provide incentives for creating affordable housing if it is not being used; integrating a non-motorized plan with the Comprehensive Plan and Legacy Plan; given the competition, what is Lakewood going to do to make it more desirable to live and play; creating for greater connectivity to the Towne center; promoting more single-family residential housing versus apartments to increase the density; correcting the technical difficulties to view the Comprehensive Plan on the website; what can be done to implement the vision of the Plan and use police powers such as code enforcement to further remove deteriorated properties and look at perpetrators; setting goals that are within the PSRC average or in the range in the Puget Sound area and how to reach densities without wiping out single family housing; how to handle vacant and blighted neighborhood business corridors along Bridgeport to 100th Street, Steilacoom Boulevard from Gravelly Lake Drive to the hospital; creating a visioning plan for the Springbrook neighborhood; supporting the extension of sewers in Tillicum/Woodbrook; and if Woodbrook Middle School moves, what can be provided to Woodbrook residents; and the need for connectivity to the lakes.”

Work-To-Date: The State Department of Commerce has provided a compliance checklist for cities to use as they go through the periodic update process. A copy of the checklist is attached. It provides information as to Lakewood’s performance to-date. There are some areas where substantial progress has been made, and other areas where there are challenges. The challenges are with the public participation process, the capital facilities plan, and the land use capacity analysis. These are not difficult assignments per se, the problem is lack of adequate staffing.

Staff and the Planning Advisory Board (PAB) have produced a 2015 Periodic Update Existing Conditions Report. The report is regularly and remains a work-in-progress, but as of this date it is made up of eight chapters:

- Introduction
- Public participation
- Population and housing narrative
- Population projections
- Demographic comparative analysis with surrounding cities
- Housing comparative analysis with surrounding cities
- Housing resources
- Land use compatibility with military installations

The City's subdivision regulations have been updated. An internal review is currently underway; it is anticipated that the revised code will be released in February, 2014.

A Request for Proposal (RFP) to prepare a community vision plan was released January 9, 2014. The desired outcome is a 5, 10, and 20 year plan that address the following topics:

- Help the City of Lakewood decide what it wants to be in the future, including identification of what makes Lakewood unique and special, and how the City can position itself to be prepared for the future while still retaining those qualities.
- Provide a process that allows general alignment and focus of the City Council, City administration, and staff in addition to citizens, business interests, community groups, etc. to foster a sense of cohesion as to the City's strategic direction.
- Transform the conceptual goals of the visioning process into realistic, achievable targets.
- Serve as a framework for the City's Comprehensive Plan.
- Encourage engagement and spark the interest and excitement of active/passive residents, business & property owners, city officials/ administration and staff, and others in the future potential of the City.
- Generate new ideas and discussion about the built environment, economic development, environmental and fiscal sustainability, sense of place, and the City's overall identity.
- Promote redevelopment practices and land use patterns that eliminate blight and enhance community livability.
- Plan for fiscal sustainability.

Deadline for RFP submittals is February 14, 2014.

The Periodic Update process requires the City to update its Shoreline Management Plan (SMP). The SMP was submitted to the Department of Ecology (DOE) this past fall. City staff is anticipating receipt of the DOE's comment sometime in February, 2014. DOE staff has indicated that the City will be required to make mandatory changes; what these changes look like, or how many, are unknown as of this writing. The City Council should anticipate the SMP to return late spring/early summer, 2014.

Staff and the PAB will begin the process to make draft comprehensive plan goal and policy edits beginning in February, 2014. The edits are substantial. It also this

section where staff will begin to incorporate previous City Council comments. First up will be the economic development element.

The community development department is accepting applications for privately initiated amendments to the *City of Lakewood Comprehensive Plan* through Monday, March 3, 2014. This may include text and/or map amendments to both the plan and zoning. Staff is anticipating at least two applications: one for property located on the southwest corner of Bridgeport Way and Custer Road and another request; and another located in Tillicum to expand commercial uses and zoning on Union Avenue SW. The PAB may also be asked by local residents to submit a city-initiated application to amend the land use and zoning classifications for property located on Zircon Drive SW and Ruby Drive SW.

Attachment:
Compliance Checklist

2015 Comprehensive Plan Update Checklist January 20, 2014	Addressed in current plan or regs? If yes, where?	Changes needed to meet current statute?	Is city considering optional amendments?
1. A Land Use Element that is consistent with countywide planning policies (CWPPs) and RCW 36.70A.070(1) .			
a. A future land use map showing city limits and urban growth area (UGA) boundaries. RCW 36.70A.070(1) and RCW 36.70A.110(6) WAC 365-196-400(2)(d) , WAC 365-196-405(2)(i)(ii)	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes Location(s): <ul style="list-style-type: none"> ▪ Lakewood Ordinance No. 539 (Comp Plan Land Use Map); ▪ See Periodic Update Report Appendices. 	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Further review needed	No
b. Consideration of urban planning approaches that increase physical activity . RCW 36.70A.070(1) , Amended in 2005 WAC 365-196-405 (2)(j)	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes Location(s): <ul style="list-style-type: none"> ▪ Lakewood Station District, Comp Plan Chap 4; ▪ Adopted Non-Motorized Transportation Plan, Motion 2009-29; ▪ Most commercially zoned areas are mixed use; ▪ Legacy Parks Plan; ▪ Sidewalk requirements, LMC 12A.9.050. 	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Further review needed	
c. A consistent population projection throughout the plan which	<input type="checkbox"/> No	<input type="checkbox"/> Yes	

<p>should be consistent with the Office of Financial Management forecast for the county or the county's sub-county allocation of that forecast. RCW 43.62.035, WAC 365-196-405(f)</p>	<input checked="" type="checkbox"/> Yes Location(s): <ul style="list-style-type: none"> ▪ See Periodic Update Report, Chap 4 	<input checked="" type="checkbox"/> No <input type="checkbox"/> Further review needed	
<p>d. Estimates of population densities and building intensities based on future land uses. RCW 36.70A.070(1); WAC 365-196-405(2)(i)</p>	<input type="checkbox"/> No <input type="checkbox"/> Yes Location(s):	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Further review needed	
<p>e. Provisions for protection of the quality and quantity of groundwater used for public water supplies. RCW 36.70A.070(1)</p>	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes Location(s): <ul style="list-style-type: none"> ▪ CP Sec 3.11.7 ▪ LMC 14A.150-Aquifer Recharge Areas; ▪ Lakewood Water Dist Comprehensive Water Plan. 	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Further review needed	
<p>f. Identification of lands useful for public purposes such as utility corridors, transportation corridors, landfills, sewage treatment facilities, stormwater management facilities, recreation, schools, and other public uses. RCW 36.70A.150 and WAC 365-196-340</p>	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes Location(s): <ul style="list-style-type: none"> ▪ CP Sec. 3.8, 3.9 ▪ PI zone ▪ OS zone 	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Further review needed	
<p>g. Identification of open space corridors within and between urban growth areas, including lands useful for recreation, wildlife habitat, trails, and connection of critical areas. RCW 36.70A.160 and WAC 365-196-335</p>	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes Location(s): <ul style="list-style-type: none"> ▪ CP Sec. 3.9.1; ▪ Ft. Steilacoom Park; ▪ Phillips Rd. Game 	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Further review needed	

	<ul style="list-style-type: none"> Farm; ▪ Chambers Creek Canyon; ▪ Flett Wetlands Complex. 		
<p>h. <i>If there is an airport within or adjacent to the city: policies, land use designations (and zoning) to discourage the siting of incompatible uses adjacent to general aviation airports. [RCW 36.70A.510, RCW 36.70.547, New in 1996]]</i> <i>Note: The plan (and associated regulations) must be filed with the Aviation Division of WSDOT. WAC 365-196-455</i></p>	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes Location(s): <ul style="list-style-type: none"> ▪ No general aviation airports; ▪ See CP Sec.3.7 for JBLM policies. 	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Further review needed	
<p>i. <i>If there is a Military Base within or adjacent to the jurisdiction employing 100 or more personnel: policies, land use designations, (and consistent zoning) to discourage the siting of incompatible uses adjacent to military bases. RCW 36.70A.530(3), New in 2004. See WAC 365-196-475</i></p>	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes Location(s): <ul style="list-style-type: none"> ▪ CP 3.6, 3.7; ▪ JBLM JLUS update in progress; ▪ Draft Operation Noise Management Plan, JBLM; ▪ Draft Land Use Compatibility Analysis, JBLM; ▪ See Periodic Update Report, Chap 4. 	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Further review needed	
<p>j. Where applicable, a review of drainage, flooding, and stormwater run-off in the area and nearby jurisdictions and provide guidance for corrective actions to mitigate or cleanse those discharges that pollute waters of the state. RCW 36.70A.70(1) and WAC 365-196-405(2)(c) <i>Note: RCW 90.56.010(26) defines waters of the state.</i></p>	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes Location(s): <ul style="list-style-type: none"> ▪ CP 3.11.4, 3.11.7. 	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Further review needed	
<p>k. Policies to designate and protect critical areas including wetlands,</p>	<input type="checkbox"/> No	<input type="checkbox"/> Yes	

<p>fish and wildlife habitat protection areas, frequently flooded areas, critical aquifer recharge areas, and geologically hazardous areas. In developing these policies, the city must have included the best available science (BAS) to protect the functions and values of critical areas, and give “special consideration” to conservation or protection measures necessary to preserve or enhance anadromous fisheries. RCW 36.70A.030(5), RCW 36.70A.172, BAS added in 1995. See WAC 365-195-900 through -925, WAC 365-190-080 <i>Note:</i> A voluntary stewardship program was created in 2011 as an alternative for protecting critical areas in areas used for agricultural activities. Counties had the opportunity to opt into this voluntary program before January 22, 2012. See requirements of the voluntary stewardship program. RCW 36.70A.700 through .904.</p>	<input checked="" type="checkbox"/> Yes Location(s): <ul style="list-style-type: none"> ▪ CP 3.11.1, 3.11.2, 3.11.4, 3.11.5, 3.11.8; ▪ LMC 14A.142 et seq. ▪ BAS Report from Geo Engineers dated 8.18.2004 	<input checked="" type="checkbox"/> No <input type="checkbox"/> Further review needed	
<p>1. <i>If forest or agricultural lands of long-term commercial significance are designated inside city: a program authorizing Transfer (or Purchase) of Development Rights.</i> RCW 36.70A.060(4), Amended in 2005</p>	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes Location(s): N/A.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Further review needed	
<p>2. A Housing Element to ensure the vitality and character of established residential neighborhoods and is consistent with relevant CWPPs, and RCW 36.70A.070(2).</p>			
<p>a. Goals, policies, and objectives for the preservation, improvement, and development of housing. RCW 36.70A.070(2)(b) and WAC 365-196-410(2)(a)</p>	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes Location(s):	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Further review needed	
<p>b. An inventory and analysis of existing and projected housing needs over the planning period. RCW 36.70A.070(2)(a) and WAC 365-196-410(2)(b) and (c)</p>	<input type="checkbox"/> No <input type="checkbox"/> Yes Location(s):	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Further review needed	
<p>c. Identification of sufficient land for housing, including but not limited to, government-assisted housing, housing for low-income families, manufactured housing, multifamily housing, group homes, and foster care facilities. RCW 36.70A.070(2)(c)</p>	<input type="checkbox"/> No <input type="checkbox"/> Yes Location(s):	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Further review needed	
<p>d. Adequate provisions for existing and projected housing needs for all economic segments of the community.</p>	<input type="checkbox"/> No <input type="checkbox"/> Yes	<input type="checkbox"/> Yes <input type="checkbox"/> No	

RCW 36.70A.070(2)(d) and WAC 365-196-410	Location(s):	<input type="checkbox"/> Further review needed	
e. <i>If enacting or expanding an affordable housing program under RCW 36.70A.540: identification of land use designations within a geographic area where increased residential development will assist in achieving local growth management and housing policies.</i> RCW 36.70A.540 , New in 2006. WAC 365-196-870	<input type="checkbox"/> No <input type="checkbox"/> Yes Location(s):	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Further review needed	
f. Policies so that manufactured housing is not regulated differently than site built housing. RCW 35.21.684, 35.63.160, 35A.21.312, and 36.01.225, Amended in 2004	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes Location(s): <ul style="list-style-type: none"> ▪ CP LU 7.6; ▪ LMC 18A.50.180. 	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Further review needed	
g. <i>If the city has a population of over 20,000: provisions for accessory dwelling units (ADUs) to be allowed in single-family residential areas.</i> RCW 36.70A.400 , RCW 43.63A.215(3)	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes Location(s): <ul style="list-style-type: none"> ▪ CP LU 6.2, 6.3: ▪ LMC 18A.70.300. 	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Further review needed	
3. A Capital Facilities Plan (CFP) Element to serve as a check on the practicality of achieving other elements of the plan, covering all capital facilities planned, provided, and paid for by public entities including local government and special districts, etc.; including water systems, sanitary sewer systems, storm water facilities, schools, parks and recreational facilities, police and fire protection facilities. Capital expenditures from Park and Recreation elements, if separate, should be included in the CFP Element. The CFP Element must be consistent with CWPPs, and RCW 36.70A.070(3) , and include:			
a. Policies or procedures to ensure capital budget decisions are in conformity with the comprehensive plan. RCW 36.70A.120	<input type="checkbox"/> No <input type="checkbox"/> Yes Location(s):	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Further review needed	
b. An inventory of existing capital facilities owned by public entities. RCW 36.70A.070(3)(a) and WAC 365-196-415(2)(a)	<input type="checkbox"/> No <input type="checkbox"/> Yes Location(s):	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Further review needed	
c. A forecast of needed capital facilities. RCW 36.70A.070(3)(b) and WAC 365-196-415 (b) <i>Note: The forecast of future need should be based on projected</i>	<input type="checkbox"/> No <input type="checkbox"/> Yes	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Further review	

population and adopted levels of service (LOS) over the planning period.	Location(s):	needed	
d. Proposed locations and capacities of expanded or new capital facilities. RCW 36.70A.070(3)(c) and WAC 365-196-415 (3)(C)	<input type="checkbox"/> No <input type="checkbox"/> Yes Location(s):	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Further review needed	
e. A six-year plan (at least) identifying sources of public money to finance planned capital facilities. RCW 36.70A.070(3)(d) and RCW 36.70A.120 WAC 365-196-415	<input type="checkbox"/> No <input type="checkbox"/> Yes Location(s):	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Further review needed	
f. A policy or procedure to reassess the Land Use Element if probable funding falls short of meeting existing needs. RCW 36.70A.070(3)(e) WAC 365-196-415(2)(d)	<input type="checkbox"/> No <input type="checkbox"/> Yes Location(s):	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Further review needed	
g. <i>If impact fees are collected:</i> identification of public facilities on which money is to be spent. RCW 82.02.050(4) WAC 365-196-850	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes Location(s): N/A - no impact fees.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Further review needed	
4. A Utilities Element which is consistent with relevant CWPPs and RCW 36.70A.070(4) and includes:			
a. The general location, proposed location and capacity of all existing and proposed utilities. RCW 36.70A.070(4) WAC 365-196-420	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes Location(s): ▪ CP Ch 7.0- Utilities Element	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Further review needed	
5. A Transportation Element which is consistent with relevant CWPPs and RCW 36.70A.070(6) and includes:			
a. An inventory of air, water, and ground transportation facilities and services, including transit alignments, state-owned transportation facilities, and general aviation airports. RCW 36.70A.070(6)(a)(iii)(A) and WAC 365-196-430(2)(c) .	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes Location(s): ▪ CP Ch 6.0- Transportation	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Further review needed	

	Element.		
<p>b. Adopted levels of service (LOS) standards for all arterials, transit routes and highways. RCW 36.70A.070(6)(a)(iii)(B), New in 1997. WAC 365-196-430</p>	<p><input type="checkbox"/> No <input checked="" type="checkbox"/> Yes</p> <p>Location(s):</p> <ul style="list-style-type: none"> ▪ CP Section 6.6. 	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Further review needed</p>	
<p>c. Identification of specific actions to bring locally-owned transportation facilities and services to established LOS. RCW 36.70A.070(6)(a)(iii)(D), Amended in 2005. WAC 365-196-430</p>	<p><input type="checkbox"/> No <input checked="" type="checkbox"/> Yes</p> <p>Location(s):</p> <ul style="list-style-type: none"> ▪ CP Section 6.3 (TDM); ▪ CP Section 6.7 (Reassessment strategy). 	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Further review needed</p>	
<p>d. A forecast of traffic for at least 10 years, including land use assumptions used in estimating travel. RCW 36.70A.070(6)(a)(i), RCW 36.70A.070(6)(a)(iii)(E) WAC 365-196-430(2)(f).</p>	<p><input type="checkbox"/> No <input type="checkbox"/> Yes</p> <p>Location(s)</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Further review needed</p>	
<p>e. A projection of state and local system needs to meet current and future demand. RCW 36.70A.070(6)(a)(iii)(F) WAC 365-196-430(2)(f)</p>	<p><input type="checkbox"/> No <input checked="" type="checkbox"/> Yes</p> <p>Location(s):</p> <ul style="list-style-type: none"> ▪ CP Section 6.7 (Reassessment strategy). 	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Further review needed</p>	
<p>f. A pedestrian and bicycle component. RCW 36.70A.070(6)(a)(vii), Amended 2005 WAC 365-196-430(2)(j)</p>	<p><input type="checkbox"/> No <input checked="" type="checkbox"/> Yes</p> <p>Location(s):</p> <ul style="list-style-type: none"> ▪ CP Goal T-14 and sub policies; ▪ Non-motorized transportation 	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Further review needed</p>	

	plan.		
g. A description of any existing and planned transportation demand management (TDM) strategies , such as HOV lanes or subsidy programs, parking policies, etc. RCW 36.70A.070(6)(a)(vi) WAC 365-196-430(2)(i)	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes Location(s): ▪ CP section 6.3.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Further review needed	
h. An analysis of future funding capability to judge needs against probable funding resources. RCW 36.70A.070(6)(a)(iv)(A) WAC 365.196-430(2)(k)(iv)	<input type="checkbox"/> No <input type="checkbox"/> Yes Location(s):	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Further review needed	
i. A multiyear financing plan based on needs identified in the comprehensive plan, the appropriate parts of which serve as the basis for the 6-year street, road or transit program. RCW 36.70A.070(6)(a)(iv)(B) and RCW 35.77.010 WAC 365-196-430(2)(k)(ii)	<input type="checkbox"/> No <input type="checkbox"/> Yes Location(s):	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Further review needed	
j. <i>If</i> probable funding falls short of meeting identified needs: a discussion of how additional funds will be raised , or how land use assumptions will be reassessed to ensure that LOS standards will be met. RCW 36.70A.070(6)(a)(iv)(C) ; WAC 365-196-430(2)(l)(ii)	<input type="checkbox"/> No <input type="checkbox"/> Yes Location(s):	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Further review needed	
k. A description of intergovernmental coordination efforts , including an assessment of the impacts of the transportation plan and land use assumptions on the transportation systems of adjacent jurisdictions and how it is consistent with the regional transportation plan. RCW 36.70A.070(6)(a)(v) ; WAC 365-196-430(2)(a)(iv)	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes Location(s): ▪ CP Goals T-2, T-13 and sub policies. ▪ Policy T-19.2	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Further review needed	
6. Provisions for siting essential public facilities (EPFs) , consistent with CWPPs and RCW 36.70A.200 . This section can be included in the Capital Facilities Element, Land Use Element, or in its own element. Sometimes the identification and siting process for EPFs is part of the CWPPs.			
a. A process or criteria for identifying and siting essential public facilities (EPFs) . [RCW 36.70A.200 , Amended in 1997 and 2001] <i>Notes:</i> EPFs are defined in RCW 71.09.020(14) . Cities should consider	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes Location(s):	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Further review needed	

<p>OFM's list of EPFs that are required or likely to be built within the next six years. Regional Transit Authority facilities are included in the list of essential public facilities RCW 36.70A.200, amended 2010. WAC 365-196-550(d)</p>	<ul style="list-style-type: none"> ▪ CP Section 3.8. Chapter 8.0- Public Services 		
<p>b. Policies or procedures that ensure the comprehensive plan does not preclude the siting of EPFs. RCW 36.70A.200(5) <i>Note:</i> If the EPF siting process is in the CWPPs, this policy may be contained in the comprehensive plan as well. WAC 365-196-550(3)</p>	<p><input type="checkbox"/> No <input type="checkbox"/> Yes</p> <p>Location(s):</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Further review needed</p>	
<p>7. Consistency is required by the GMA.</p>			
<p>a. All plan elements must be consistent with relevant county-wide planning policies (CWPPs) and, where applicable, Multicounty Planning Policies (MPPs), and the GMA. RCW 36.70A.100 and 210 WAC 365-196-400(2)(c), 305 and 520</p>	<p><input type="checkbox"/> No <input type="checkbox"/> Yes</p> <p>Location(s):</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Further review needed</p>	
<p>b. All plan elements must be consistent with each other. RCW 36.70A.070 (preamble). WAC 365-197-400(2)(f)</p>	<p><input type="checkbox"/> No <input type="checkbox"/> Yes</p> <p>Location(s):</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Further review needed</p>	
<p>c. The plan must be coordinated with the plans of adjacent jurisdictions. RCW 36.70A.100 WAC 365-196-520</p>	<p><input type="checkbox"/> No <input type="checkbox"/> Yes</p> <p>Location(s):</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Further review needed</p>	
<p>8. Shoreline Provisions</p>			
<p>Comprehensive plan acknowledges that for shorelines of the state, the goals and policies of the shoreline management act as set forth in RCW 90.58.020 are added as one of the goals of this chapter as set forth in RCW 36.70A.020 without creating an order of priority among the fourteen goals. The goals and policies of the shoreline master program approved under RCW 90.58 shall be considered an element of the comprehensive plan. RCW 36.70A.480, WAC 365-196-580</p>	<p><input type="checkbox"/> No <input checked="" type="checkbox"/> Yes</p> <p>Location(s):</p> <ul style="list-style-type: none"> ▪ Comprehensive Plan Section 3.11.3; ▪ SMP currently under DOE review. 	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Further review needed</p>	<p>No</p>
<p>9. Public participation, plan amendments and monitoring.</p>			

Note: House Bill 2834, passed in 2012, eliminates the requirement for cities planning under the GMA to report every 5 years on its progress in implementing its comprehensive plans.

<p>a. A process to ensure public participation in the comprehensive planning process. RCW 36.70A.020(11), .035, and .140; WAC 365-196-600(3) The process should address annual amendments (if the jurisdiction allows for them) [RCW 36.70A.130(2), Amended in 2006], emergency amendments [RCW 36.70A.130(2)(b)], and may include a specialized periodic update process. Plan amendment processes may be coordinated among cities within a county [RCW 36.70A.130(2)(a)] and should be well publicized.</p>	<p><input type="checkbox"/> No <input checked="" type="checkbox"/> Yes</p> <p>Location(s):</p> <ul style="list-style-type: none"> ▪ LMC 18A.2.502, 18A.2.560, 18A.2.656; ▪ Chap 2 existing conditions report update. 	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Further review needed</p>	<p>No</p>
<p>b. A process to assure that proposed regulatory or administrative actions do not result in an unconstitutional taking of private property. See Attorney General's Advisory Memorandum: Avoiding Unconstitutional Takings of Private Property for guidance. RCW 36.70A.370</p>	<p><input type="checkbox"/> No <input type="checkbox"/> Yes</p> <p>Location(s)</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Further review needed</p>	
<p>10.Regulations designating and protecting critical areas are required by RCW 36.70A.170, RCW 36.70A.060(2) and RCW 36.70A.172(1).</p>			
<p><i>Note:</i> A voluntary stewardship program was created in ESHB 1886 (2011) as an alternative for protecting critical areas in areas used for agricultural activities. Counties may choose to opt into this voluntary program before January 22, 2012. Click here for the requirements of the voluntary stewardship program.</p>			
<p>a. Classification and designation of each of the five types of critical areas (<i>wetlands, critical aquifer recharge areas, fish and wildlife habitat conservation areas, frequently flooded areas, and geologically hazardous areas</i>), if they are found within your city. RCW 36.70A.170; WAC 365-196-830(2) <i>Note:</i> Senate Bill 5292 adopted in 2012 clarified that certain water-based artificial features or constructs are excluded from being considered part of a fish and wildlife habitat conservation areas.</p>	<p><input type="checkbox"/> No <input checked="" type="checkbox"/> Yes</p> <p>Location(s):</p> <ul style="list-style-type: none"> ▪ LMC14A.142 et seq. 	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Further review needed</p>	
<p>b. Findings that demonstrate Best Available Science (BAS) was included in developing policies and development regulations to protect the function and values of critical areas. In addition, findings should document special consideration given to conservation or protection measures necessary to preserve or enhance anadromous fisheries. RCW 36.70A.172(1); WAC 365-195, WAC 365-195</p>	<p><input type="checkbox"/> No <input checked="" type="checkbox"/> Yes</p> <p>Location(s):</p> <ul style="list-style-type: none"> ▪ BAS Review prepared by GeoEngineers Inc. dated 8-18- 	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Further review needed</p>	

	2004.		
c. Regulations that protect the functions and values of wetlands . RCW 36.70A.060(2) and RCW 36.70A.172(1) WAC 365-190-090	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes Location(s): ▪ LMC 14A.162.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Further review needed	
d. A definition of wetlands consistent with RCW 36.70A.030(21) WAC 365-190-090 , WAC 173-22-035	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes Location(s): ▪ LMC 14A.165.010.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Further review needed	No
e. Delineation of wetlands using the approved federal wetlands delineation manual and applicable regional supplements [RCW 36.70A.175, RCW 90.58.380 (1995) (2011)] WAC 173-22-035	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes Location(s): ▪ LMC 14A.162.020.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Further review needed	
f. Regulations that protect the functions and values of critical aquifer recharge areas (“areas with a critical recharging effect on aquifers used for potable water” RCW 36.70A.030(5)(b)). RCW 36.70A.060(2) and RCW 36.70A.172(1) WAC 365-190-100	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes Location(s): ▪ LMC 14A.150.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Further review needed	
g. Regulations to protect the quality and quantity of ground water used for public water supplies. RCW 36.70A.070(1)	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes Location(s): ▪ LMC 14A.150; ▪ Lot size and lot coverage limits in zoning code.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Further review needed	
h. Regulations that protect the functions and values of fish and wildlife habitat conservation areas . RCW 36.70A.060(2) and RCW 36.70A.172(1) WAC 365-195-925(3) , 365-190-130	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes Location(s): ▪ LMC 14A.154.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Further review needed	
i. Regulations that protect the functions and values of frequently flooded areas .	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

RCW 36.70A.060(2) and RCW 36.70A.172(1) WAC 365-190-110 , WAC 173-158-040	Location(s): ▪ LMC 14A.158.	<input type="checkbox"/> Further review needed	
j. Definition of “fish and wildlife habitat conservation areas” does not include such artificial features or constructs as irrigation delivery systems, irrigation infrastructure, irrigation canals, or drainage ditches that lie within the boundaries of and are maintained by a port district or an irrigation district or company. New in 2012. RCW 36.70A.030(5)	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes Location(s): ▪ Add clarification language LMC 14A.165.010.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Further review needed	
k. Provisions to ensure water quality and stormwater drainage regulations are consistent with applicable Land Use Element policies. RCW 36.70A.070(1)	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes Location(s) ▪ LMC 12A.10, 12A.11; ▪ LMC 14A.150.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Further review needed	
l. Regulation of geologically hazardous areas consistent with public health and safety concerns. RCW 36.70A.030(9) , RCW 36.70A.060(2) and RCW 36.70A.172(1) WAC 365-190-120	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes Location(s): ▪ LMC 14A.146.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Further review needed	
m. Provisions that allow “ reasonable use ” of properties constrained by presence of critical areas. RCW 36.70A.370 . See <i>Attorney General's Advisory Memorandum: Avoiding Unconstitutional Takings of Private Property</i> for guidance	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes Location(s): ▪ LMC 14A.142.80 and 090.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Further review needed	
n. <i>If your city is assuming regulation of forest practices as provided in RCW 76.09.240: forest practices regulations that protect public resources, require appropriate approvals for all phases of conversion of forest lands, are guided by GMA planning goals, and are consistent with adopted critical areas regulations.</i> RCW 36.70A.570 , Amended in 2007, 2010 and RCW 76.09.240 Amended in 2007, 2010 <i>Note: Applies only to counties fully planning under the GMA with a population greater than 100,000 and the cities and towns within those counties where a certain number of Class IV applications have been filed</i>	<input type="checkbox"/> No <input type="checkbox"/> Yes Location(s)	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Further review needed	

<i>within a certain timeframe.</i>			
11. Shoreline Master Program			
See Washington State Department of Ecology's SMP Submittal Checklist			
a. Zoning is consistent with Shoreline Master Program (SMP) environmental designations. <u>RCW 36.70A.070; RCW 36.70A.480</u> <u>WAC 365-196-580</u>	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes Location(s) ▪ Draft SMP Table II –development standards refer to underlying zoning.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Further review needed	
b. <i>If SMP regulations have been updated to meet Ecology's shoreline regulations: protection for critical areas in shorelines is accomplished solely through the SMP.</i> <u>RCW 36.70A.480(4), Amended in 2003 and 2010</u> and <u>RCW 90.58.090(4).</u> <u>WAC 365-196-580</u>	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes Location(s): ▪ Draft SMP Chapter 3, Section B.3	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Further review needed	
12. The Zoning Code should contain the following provisions:			
a. Family daycare providers are allowed in areas zoned for residential or commercial uses. Zoning conditions should be no more restrictive than those imposed on other residential dwellings in the same zone, but may address drop-off and pickup areas and hours of operation. <u>RCW 36.70A.450, WAC 365-196-865</u>	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes Location(s): ▪ LMC 18A.70.100.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Further review needed	
b. Manufactured housing is regulated the same as site-built housing. <u>RCW 35.21.684, 35.63.160, 35A.21.312 and 36.01.225, All Amended in 2004</u>	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes Location(s): ▪ LMC 18A.50.180.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Further review needed	
c. <i>If the city has a population over 20,000</i> accessory dwelling units (ADUs) are allowed in single-family residential areas. <u>RCW 43.63A.215(3)</u>	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes Location(s): ▪ LMC 18A.70.310.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Further review needed	
d. <i>If there is an airport within or adjacent to the city:</i> zoning that discourages the siting of incompatible uses adjacent to general aviation airports.	<input type="checkbox"/> No <input type="checkbox"/> Yes	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Further review	

<p>RCW 36.70A.510, RCW 36.70.547, New in 1996) <i>Note:</i> The zoning regulations must be filed with the Aviation Division of WSDOT. WAC 365-196-455</p>	<p>Location(s) N/A</p>	<p>needed</p>	
<p>e. <i>If</i> there is a Military Base within or adjacent to the jurisdiction employing 100 or more personnel: zoning that discourages the siting of incompatible uses adjacent to military bases. RCW 36.70A.530(3), New in 2004. WAC 365-196-475</p>	<p><input type="checkbox"/> No <input checked="" type="checkbox"/> Yes</p> <p>Location(s):</p> <ul style="list-style-type: none"> ▪ LMC 18A.30.700 ▪ JBLM JLUS update underway 2014 ▪ Chapter 8, Periodic Update Report 	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Further review needed</p>	
<p>f. Residential structures that are occupied by persons with handicaps must be regulated the same as a similar residential structure occupied by a family or other unrelated individuals. RCW 36.70A.410, WAC 365-196-860</p>	<p><input type="checkbox"/> No <input checked="" type="checkbox"/> Yes</p> <p>Location(s)</p> <ul style="list-style-type: none"> ▪ See LMC 18A.90.200 definition of "family". ▪ Allowance for Type 1 Group Homes in all residential zones. 	<p><input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Further review needed</p>	
<p>g. Cities adjacent to I-5, I-90, I-405, or SR 520 and counties -- for lands within 1 mile of these highways -- must adopt regulations that allow electric vehicle infrastructure (EVI) as a use in all areas except those zoned for residential or resource use, or critical areas by July 1, 2011. RCW 36.70A.695, New in 2009</p>	<p><input type="checkbox"/> No <input checked="" type="checkbox"/> Yes</p> <p>Location(s) See Admin Policy 2010-01; Periodic Report Appendix</p>	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Further review needed</p>	
<p>h. Development regulations of all jurisdictions must allow electric vehicle battery charging stations in all areas except those zoned for residential or resource use, or critical areas by July 1, 2011. RCW 36.70A.695, New in 2009</p>	<p><input type="checkbox"/> No <input checked="" type="checkbox"/> Yes</p> <p>Location(s):</p> <ul style="list-style-type: none"> ▪ See Admin Policy 	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Further review needed</p>	

	2010-01; Periodic Report Appendix		
13. Subdivision Code regulations			
a. Subdivision code is consistent with and implements comprehensive plan policies. RCW 36.70A.030(7) and 36.70A.040(4)(d), WAC 365-196-820	<input type="checkbox"/> No <input type="checkbox"/> Yes Location(s):	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Further review needed	
b. Code requires written findings documenting that proposed subdivisions provide appropriate provision under RCW 58.17.110(2)(a) for: Streets or roads, sidewalks, alleys, other public ways, transit stops, and other features that assure safe walking conditions for students; potable water supplies [RCW 19.27.097], sanitary wastes, and drainage ways (stormwater retention and detention); open spaces, parks and recreation, and playgrounds; and schools and school grounds. WAC 365-196-820(1)	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes Location(s): <ul style="list-style-type: none"> ▪ LMC 17.14.030.A.1 and B.1; ▪ LMC 17.22.070.B.1. 	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Further review needed	
c. Subdivision regulations may implement traffic demand management (TDM) policies. RCW 36.70A.070(6)(a)(vi)	<input type="checkbox"/> No <input type="checkbox"/> Yes Location(s)	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Further review needed	
d. Preliminary subdivision approvals under RCW 58.17.140 are valid for a period of five, seven, or nine years. [RCW 58.17.140 and RCW 58.17.170 . Amended 2010 by SB 6544. Expires 2014. Amended 2012 by HB 2152 <i>Note:</i> House Bill 2152, adopted by the Legislature in 2012, modified timelines. The preliminary plat approval is valid for: seven years if the date of preliminary plat approval is on or before December 31, 2014; five years if the preliminary plat approval is issued on or after January 1, 2015; and nine years if the project is located within city limits, not subject to the shoreline management act, and the preliminary plat is approved on or after December 31, 2007.	<input type="checkbox"/> No <input type="checkbox"/> Yes Location(s)	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Further review needed	
14. Concurrency , Impact Fees, and TDM			
a. The transportation concurrency ordinance includes specific language that prohibits development when level of service standards for	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	No

transportation facilities cannot be met. RCW 36.70A.070(6)(b)	Location(s): ▪ LMC 18A.50.195; ▪ LMC 12A.90.	<input type="checkbox"/> Further review needed	
b. <i>If adopted: impact fee methods are consistent with RCW 82.02.050 through 100 <i>Note: The timeframe for expending or encumbering impact fees has been extended to ten years. RCW 82.02.070 and RCW 82.02.080, Amended in 2011. WAC 365-196-850</i></i>	<input type="checkbox"/> No <input type="checkbox"/> Yes Location(s): N/A	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Further review needed	No
<i>If required by RCW 70.94.527: a commute trip reduction ordinance to reduce the proportion of single-occupant vehicle commute trips. RCW 36.70A.200(5); WAC 365-196-550</i>	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes Location(s): ▪ LMC 12A.13	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Further review needed	No
15. Siting Essential Public Facilities (EPFs)			
Regulations are consistent with Essential Public Facility siting process in countywide planning policies or city comprehensive plan, and do not preclude the siting of EPFs. RCW 36.70A.200(5) WAC 365-196-550	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes Location(s): ▪ LMC 18A.20.400.D. 18A.30.830.A.1.b	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Further review needed	No
16. Project Review Procedures			
Project review processes integrate permit and environmental review for: notice of application; notice of complete application; one open-record public hearing; allowing applicants to combine public hearings and decisions for multiple permits; notice of decision; one closed-record appeal. RCW 36.70A.470 , RCW 36.70B and RCW 43.21C WAC 365-196-845	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes Location(s): ▪ LMC 18A.02 et seq	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Further review needed	No
17. General Provisions: The GMA requires that development regulations be consistent with and implement the comprehensive plan. RCW 36.70A.030(7) and .040(4)(d) . Regulations should also include:			
a. A process for early and continuous public participation in the development regulation development and amendment process. RCW 36.70A.020(11) , .035 , .130 and .140	<input type="checkbox"/> No <input type="checkbox"/> Yes Location(s)	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Further review needed	
b. A process to assure that proposed regulatory or administrative actions do	<input type="checkbox"/> No	<input type="checkbox"/> Yes	

<p>not result in an unconstitutional taking of private property. RCW 36.70A.370, WAC 365-196-855 <i>Note: See Attorney General's Advisory Memorandum: Avoiding Unconstitutional Takings of Private Property.</i></p>	<input type="checkbox"/> Yes Location(s)	<input type="checkbox"/> No <input type="checkbox"/> Further review needed	
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To: Mayor and City Councilmembers
From: Matt Kaser, Assistant City Attorney
Through: John J. Caulfield, City Manager
Date: January 27, 2014
Subject: Dangerous and Potentially Dangerous Dogs

Pursuant to state law, chapter 16.08 RCW, the City of Lakewood regulates Dangerous Dogs (DD) and Potentially Dangerous Dogs (PDD). Since 1996, the municipal code has been patterned after that of Pierce County.

Within the last several years, the Washington Court of Appeals issued relevant to the legislation of DD and PDDs. The first, Downey v. Pierce County, 165 Wn. App. 152 (2011) rendered Pierce County's process for appealing determination that a dog is Dangerous or Potentially Dangerous to be a violation of the dog owners' due process rights. The second, Gorman v. Pierce County, 176 Wn. App. 63 (2013), upheld a jury verdict against Pierce County for failure to enforce its dog code.

Because the City of Lakewood has Code language which mirrors Pierce County's and the Court of Appeals' rulings on this language do not carry out Lakewood's intent regarding PDD and DD, changes to the Code are recommended.

SUMMARY OF CHANGES

A number of proposed changes to chapter 6.10 LMC are proposed to bring the Code in line with the holdings of Downey and Gorman and to align the Code with state law.

1. Unified Appeal Procedure.

As proposed, the appeal of both a PDD and a DD would now follow the process set forth in RCW 16.08.080. An initial meeting (not an appeal) is held with the City Manager (or designee) before issuing a final order. That determination can be appealed to the municipal court. Both of these reviews are held without the necessity of paying any filing fees.

2. Clarification of the Obligations of Owners of DD and PDDs.

A new LMC 6.10.025 and 6.10.027 are added which provide clarity for owners of dogs declared dangerous or potentially dangerous. LMC 6.10.025 mirrors the current requirements for PDD owners, but reorganizes them in one location. LMC 6.10.027 would apply to owners of dangerous dogs. It requires compliance with the provisions of LMC 6.10.025, but also adds those requirements specific to dangerous dogs.

In addition, LMC 6.10.030 provides additional requirements which would now apply to both DD and PDD owners.

The fee schedule is updated, and now includes dangerous dogs. For potentially dangerous dogs, both the initial and the annual renewal fee is \$250.00. For dangerous dogs, both the initial and annual renewal are \$500.00. This is the same as currently charged by Pierce County.

One additional geographic-related limitation is clarified; the owner of a DD/PDD must notify the City when such a dog is removed from Lakewood.

3. Addresses the *Gorman* Liability.

LMC 6.10.010(A) would be amended to remove which language states that Lakewood “shall classify,” and make the requirement permissible. This “shall classify,” language formed the basis of Pierce County’s’ liability in Gorman.

4. Clerical Changes

The draft Ordinance also contains several housekeeping items. As an example, LMC 6.10.050 currently contains a number of penalties which may be incurred upon a violation. Those are broken out into different subparts for readability.

Ordinance No. ____

AN ORDINANCE of the City Council of the City of Lakewood, Washington, creating Sections 6.10.005, 6.10.015, 6.10.025, 6.10.027, 6.10.070 and amending Sections 6.10.010, 6.10.030, 6.10.040 and 6.10.050 of the Lakewood Municipal Code relative to Dangerous Dogs and Potentially Dangerous Dogs.

WHEREAS, in light of recent decisions from the Washington Court of Appeals, specifically, Downey v. Pierce County, 165 Wn. App. 152 (2011), rev. denied, 174 Wn.2d 1016 (2012) and Gorman v. Pierce County, 176 Wn. App. 63 (2013), rev. denied, --- Wn.2d ---- (2014), it is necessary for the City of Lakewood to amend its animal control regulations in view of the holdings of these cases; and

WHEREAS, the City of Lakewood has two different tracks for review of determinations of “dangerous dogs,” and “potentially dangerous dogs,” as those terms are defined in RCW 16.08.070, and it is desirable to have the review procedures be identical; and

WHEREAS it is equally desirable for the procedures by which those owners of dogs which have been identified as “potentially dangerous,” and “dangerous” to comply be located in as few code provisions as possible; and

WHEREAS in light of some changes to the animal control regulations used in surrounding jurisdictions, it is appropriate for the City of Lakewood to amend its animal control regulations accordingly

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAKEWOOD, WASHINGTON DO ORDAIN as follows:

Section 1. A new section 6.10.005 of the Lakewood Municipal Code, titled, “Dangerous Dogs, potentially dangerous dogs,” is created to read as follows:

In compliance with State law, Chapter 16.08 RCW, which is adopted in its entirety by reference, the following provisions apply to the keeping of dangerous and potentially dangerous dogs within the City of Lakewood.

Section 2. Section 6.10.010 of the Lakewood Municipal Code currently titled “Declaration of Dogs as Potentially Dangerous – Procedure” is retitled, “Declaration of Dogs as Dangerous or Potentially Dangerous – Procedure,” and amended to read as follows:

A. ~~The animal control agency shall classify potentially dangerous dogs.~~ The agency City of Lakewood may find and declare an animal dangerous or potentially dangerous if an animal control officer has probable cause to believe that the animal falls within the definitions set forth in RCW 16.08.070(1), ~~as adopted by reference~~. The finding must be based upon:

1. The written complaint of a citizen who is willing to testify that the animal has acted in a manner which causes it to fall within the definition of ~~Section 6.02.010, paragraph O, RCW 16.08.070(1) or RCW 16.08.070(2)~~; or
 2. Dog bite reports filed with the animal control agency; or
 3. Actions of the dog witnessed by any animal control officer or law enforcement officer; or
 4. Other substantial evidence.
- B. The declaration ~~of potentially dangerous dog~~ shall be in writing and shall be served on the owner in one of the following methods:
1. Certified mail to the owner's last known address; or
 2. Personally; or
 3. If the owner cannot be located by one of the first two methods, by publication in a newspaper of general circulation.
- C. The declaration shall state at least:
1. The description of the animal.
 2. The name and address of the owner of the animal, if known.
 3. The whereabouts of the animal if it is not in the custody of the owner.
 4. The facts upon which the declaration of dangerous dog or potentially dangerous dog is based.
 5. The availability of a hearing in case the person objects to the declaration, ~~if a request is made within ten days.~~
 6. The restrictions placed on the animal as a result of the declaration of dangerous dog or potentially dangerous dog.
 7. The penalties for violation of the restrictions, including the possibility of destruction of the animal, and imprisonment or fining of the owner.
- ~~D. If the owner of the animal wishes to object to the declaration of potentially dangerous dog:~~
- ~~1. The owner may request a hearing before the City Manager or a representative of the animal control agency designated by the City Manager by submitting a written request and payment of a \$25.00 administrative review fee to said City Manager or the City Manager's designee within ten days of receipt of the declaration, or within ten days of the publication of the declaration pursuant to Section 6.10.010, paragraph B.~~
 - ~~2. If the City Manager or the City Manager's designee finds that there is insufficient evidence to support the declaration, it shall be rescinded, and the restrictions imposed thereby annulled.~~
 - ~~3. If the City Manager or the City Manager's designee finds sufficient evidence to support declaration, the owner may appeal such decision pursuant to and in conformity with the City code requirements for appeals before the City's Hearing Examiner; provided that the appeal and the payment of an appeal fee of \$75.00 must~~

~~be submitted to the animal control agency within ten (10) working days after the City Manager or the City Manager's designee finds sufficient evidence to support the declaration.~~

~~4. An appeal of the Hearing Examiner's decision must be filed in Superior Court within thirty (30) days of the date of the Hearing Examiner's written decision.~~

~~5. During the entire appeal process, it shall be unlawful for the owner appealing the declaration of potentially dangerous dogs to allow or permit such dog to:~~

~~a. Be unconfined on the premises of the owner; or~~

~~b. Go beyond the premises of the owner unless such dog is securely leashed and humanely muzzled or otherwise securely restrained.~~

D. Upon the issuance of a declaration, the owner shall be notified in writing that he or she is entitled to an opportunity to meet with the City Manager or designee, at which meeting the owner may give, orally or in writing, any reasons or information as to why the dog should not be declared dangerous or potentially dangerous. The timing, conduct of the meeting and the ensuing issuance of any orders shall conform with RCW 16.08.080(3).

Section 3. A new section 6.10.015 of the Lakewood Municipal Code titled, "Appeal of Declaration of Potentially Dangerous or Dangerous Dog" is created as follows:

A. The owner of the animal may appeal the declaration of a dangerous dog or potentially dangerous dog by filing an appeal of the declaration to municipal court.

B. The owner must submit a written notice of appeal within twenty calendar days of service of the declaration. The notice shall be filed with the Clerk of the Municipal Court. No fee shall be required for the filing of the notice of appeal.

C. At the hearing, the burden shall be on the City to prove, by a preponderance of evidence, that the animal is a "dangerous dog," or a "potentially dangerous dog," as defined in RCW 16.08.070 and that the exclusion contained in RCW 16.08.090(3) does not apply.

D. During the entire appeal process, it shall be unlawful for the owner appealing the declaration of a dangerous or potentially dangerous dog to allow or permit such dog to be outside the proper enclosure unless the dog is muzzled and restrained by a substantial chain or leash and under physical restraint of a responsible person. The muzzle shall be made in a manner that will not cause injury to the dog or interfere with its vision or respiration but shall prevent it from biting any person or animal.

Section 4. Section 6.10.020 of the Lakewood Municipal Code, titled, "Permits and Fees" is amended to read as follows:

A. Following a declaration of potentially dangerous dog and the exhaustion of the appeal therefrom, the owner of a potentially dangerous dog shall obtain a permit for such dog from the animal control agency, and shall be required to pay the fee for such permit in the amount of \$250.00. In addition, the owner of a potentially dangerous dog shall pay an annual renewal fee for such permit in the amount of ~~\$50.00~~\$250.00. ~~Should the owner of a potentially dangerous dog fail to obtain a permit for such dog from the animal control~~

~~agency or to appeal the declaration of potentially dangerous dog, the animal control agency is authorized to seize and impound such dog and, after notification to the owner, hold the dog for a period of no more than five (5) days before destruction of such dog by the animal control agency.~~

B. Following a declaration of dangerous dog and the exhaustion of the appeal therefrom, the owner of a dangerous dog shall obtain a permit for such dog from the animal control agency, and shall be required to pay the fee for such permit in the amount of \$500.00. In addition, the owner of a dangerous dog shall pay an annual renewal fee for such permit in the amount of \$500.00

C. Should the owner of a dog subject to the provisions of this Chapter fail to obtain a permit for such dog from the animal control agency or to appeal the declaration of potentially dangerous dog or dangerous dog, the animal control agency is authorized to seize and impound such dog and, after notification to the owner, hold the dog for a period of no more than five (5) days before destruction of such dog by the animal control agency.

Section 5. A new section 6.10.025 of the Lakewood Municipal Code titled, “Owner requirements – Dog declared potentially dangerous” is created as follows:

Following the declaration of a potentially dangerous animal and the exhaustion of the appeal therefrom, the owner of the dog shall be required to:

A. Register the dog with the City of Lakewood and pay the initial registration fee set forth in LMC 6.10.020. The annual registration renewal fee is due on the anniversary date of the initial registration.

B. Keep the dog securely indoors or in a securely enclosed and locked pen or structure suitable to prevent the entry of young children and designed to prevent the dog from escaping. The pen or structure shall have a locking door with a padlock, secure sides, a concrete floor or if the pen or structure has no bottom secured to the sides, then the sides must be embedded in the ground no less than one foot, and a secure top attached to the sides, and shall provide protection for the dog from the elements.

C. Keep the dog muzzled and on a substantial leash not to exceed eight feet in length and under the control of a competent person while off the owner’s property. The muzzle shall be made in a manner that will not cause injury to the dog or interfere with its vision or respiration, but shall prevent it from biting any person or animal.

D. Conspicuously display a sign on the owner’s property warning of the presence of a potentially dangerous dog, posted and visible from all streets and public rights-of-way adjacent thereto, clearly stating “Warning, Potentially Dangerous Dog,” with letter size not smaller than two and one-half inches in height. In addition, the sign shall conspicuously display a warning symbol that informs children of the presence of a potentially dangerous dog.

E. Implant a microchip in the dog for permanent identification. This information must be on record with the microchip company and the offices of The Humane Society for Tacoma and Pierce County.

Section 6. A new section 6.10.027 of the Lakewood Municipal Code entitled, “Owner Requirements – Dog declared dangerous,” is created as follows:

When a dog is declared dangerous by a law enforcement officer or animal control officer, except where inconsistent with this section, the owner of the dog shall be required to abide by the conditions set forth in LMC 6.10.025. The following conditions shall also apply:

A. Possess a surety bond in the sum of at least \$250,000, payable to any person injured by the dog, or possess a liability insurance policy, such as homeowner’s insurance, in the amount of at least \$250,000, insuring the owner for any personal injuries inflicted by the dog.

B. Conspicuously display a sign on the owner’s property warning of the presence of a dangerous dog, posted and visible from all streets and public rights-of-way adjacent thereto, clearly stating “Warning, Dangerous Dog,” with letter size not smaller than two and one-half inches in height. In addition, the sign shall conspicuously display a warning symbol that informs children of the presence of a dangerous dog.

Section 7. Section 6.10.030 of the Lakewood Municipal Code currently titled “Confinement of Potentially Dangerous Dogs,” is retitled to read “Confinement of Dogs,” and amended to read as follows:

Following a declaration of ~~potentially dangerous~~ dangerous dog or potentially dangerous dog and the exhaustion of the appeal therefrom, it shall be unlawful for the person owning or harboring or having care of such ~~potentially dangerous~~ dog to allow and/or permit such dog to:

- A. Be unconfined on the premises of such person; or
- B. Go beyond the premises of such person unless such dog is securely leashed and humanely muzzled or otherwise securely restrained.
- ~~C. Potentially dangerous dogs must be tattooed or have a microchip implanted for permanent identification. This information must be on record at the offices of The Humane Society for Tacoma and Pierce County.~~
- ~~D. The residence or property where a potentially dangerous dog is confined must have a warning sign conspicuously posted and visible from all streets and public rights-of-way adjacent thereto, clearly stating "Warning, Potentially Dangerous Dog," with letter size not smaller than two and one half inches in height.~~

Section 8. Section 6.10.040 of the Lakewood Municipal Code currently entitled “Notification of Status of Potentially Dangerous Dog” is retitled “Notification of Status of Dangerous Dog or Potentially Dangerous Dog,” and amended to read as follows:

The owner of a dog that has been classified as a dangerous dog or potentially dangerous dog shall immediately notify the animal control agency when such dog:

- A. Is loose or unconfined; or
- B. Has bitten or otherwise injured a human being or attached another animal; or
- C. Is sold or given away or dies;
- D. Is moved to another address.
- E. Is removed from the City of Lakewood.

Prior to a dangerous dog or potentially dangerous dog being sold or given away, the owner shall provide the name, address, and telephone number of the new owner to the animal control agency. The owner shall comply with all of the requirements of this Chapter.

Section 9. Section 6.10.050 of the Lakewood Municipal Code titled, “Penalty for Violation,” is amended to read as follows:

A. Excepting those circumstances where the provisions of chapter 16.08 RCW provides a different penalty, Any person who violates a provision of this Chapter shall, upon conviction thereof, be found guilty of a misdemeanor. In addition, any person found guilty of violating this Chapter shall pay all expenses, including shelter, food, veterinary expenses for identification or certification of the breed of the animal or boarding and veterinary expenses necessitated by the seizure of any dog for the protection of the public, and such other expenses as may be required for the destruction of any such dog. Provided, that any potentially dangerous dog which is in violation of the restrictions contained in Section 6.10.020 of this Code or restrictions imposed as part of a declaration as a potentially dangerous dog, shall be seized and impounded. Furthermore, any potentially dangerous dog which attacks a human being or domestic animal may be ordered destroyed when, in the Court’s judgment, such potentially dangerous dog represents a continuing threat of serious harm to human beings or domestic animals.

B. Any dangerous dog or potentially dangerous dog shall be immediately confiscated by an animal control upon the commission of any act identified in RCW 16.08.100(1) or as may otherwise be allowed by law.

C. Any person violating this Chapter shall pay all expenses, including shelter, food, veterinary expenses for identification or certification of the breed of the animal or boarding and veterinary expenses necessitated by the seizure of any dog for the protection of the public, and such other expenses as may be required for the destruction of any such dog.

D. Any dangerous dog or potentially dangerous dog which attacks a human being or domestic animal may be ordered destroyed when, in the Court’s judgment, such dog represents a continuing threat of serious harm to human beings or domestic animals.

Section 10. Section 6.10.060 of the Lakewood Municipal Code is repealed.

Section 11. Severability. If any section, sentence, clause, or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such

invalidity or unconstitutionality shall not affect the validity of any other section, sentence, clause, or phrase of this ordinance.

Section 12. Effective Date. This ordinance shall take place thirty (30) days after its publication or publication of a summary of its intent and contents.

ADOPTED by the City Council this ____ day of _____, 2014.

CITY OF LAKEWOOD

Don Anderson, Mayor

Attest:

Alice M. Bush, MMC, City Clerk

Approved as to Form:

Heidi A. Wachter City Attorney