

1. Agenda

Documents:

[08-13-2018 PC AGENDA.PDF](#)

2. Meeting Materials

Documents:

[7-23-2018 PC MINUTES.PDF](#)

[APPROVAL OF FINAL PLAT FINDINGS OF FACT AND CONCLUSIONS.PDF](#)

[FINAL PLAT CA.PDF](#)

[INDUSTRIAL CA.PDF](#)

[MINUTES OF JULY 23, 2018.PDF](#)

[OFF-SITE SIGNAGE DISCUSSION_ IDENTIFY ISSUES OF IMPORTANCE TO COMMISSION.PDF](#)

[PUBLIC HEARING ON INDUSTRIAL ZONES PERFORMANCE STANDARDS CODE AMENDMENT.PDF](#)

[SIGN CODE UPDATE.PDF](#)

[SMALL CELL CA.PDF](#)

[SMALL CELL CODE AMENDMENT DISCUSSION.PDF](#)



PLANNING COMMISSION AGENDA

Monday August 13, 2018 – 6:30PM

Stanwood Fire Station (8117 267th Pl NW)

1. Call to Order
2. Roll Call
3. Public Requests and Comments
4. Minutes of July 23, 2018
5. Old Business
 - Public Hearing on Industrial Zones Performance Standards Code Amendment
 - Approval of Final Plat Findings of Fact and Conclusions
6. New Business
 - Off-Site Signage Discussion: Identify Issues of Importance to Commission
 - Small Cell Code Amendment Discussion
7. Miscellaneous Business
8. Public Comments
9. Recent Council Action on Commission Items
10. Upcoming Items
 - August 27, 2018 Planning Commission meeting – CANCELLED
11. Adjourn

SPECIAL ACCOMMODATIONS: The City of Stanwood strives to provide accessible meetings for people with disabilities. Please contact the Planning Commission Clerk at 360-629-2181 ext. 4512 two business days prior to the meeting.



STANWOOD PLANNING COMMISSION MINUTES

July 23, 2018

Call to Order

Vice Chair Shepro called the meeting to order at 6:30PM with the following Commissioners present: Darrell Robb, Lance Dennis, and Marcus Metz. Commissioners Linda Utgard, Susan Ronken and Randy Heagle were excused. Staff present; Community Development Director Patricia Love, Planning Commission Clerk Devin Sola. Known public in attendance: Anna Nelson, Angie Sievers, Michael and Cathy Wooten.

No Public Requests or Comments

Minutes

The minutes of the July 9, 2018 meeting were approved as corrected.

No New Business

Old Business

Public Hearing: Final Plat Code Amendment

Vice Chair Shepro opened the public hearing. Director Love entered comment letters from Landed Gentry and Master Builders Association into the record as a part of the public hearing.

Public Comment:

Anna Nelson of Landed Gentry Homes and Communities, 504 East Fairhaven Ave, Burlington. Stated that they are busy working with City staff and construction plans for Phase I have recently been approved. Supports the Final Plat Code Amendment.

Cathy Wooten, 27828 84th AVE NW, Stanwood. Explained that she was originally concerned with the proposed changes, but has a better understanding that the amendment does not change the due process. Supports the Final Plat Code Amendment.

Michael Wooten, 27828 84th AVE NW, Stanwood. Believes the appeal process is imbalanced and puts the onus of questioning and the costs on the people who may have an issue with a project rather than the developer.

Ms. Love confirmed that the appealing party would be required to prove their case.

Commissioner Shepro inserted that Ms. Love has provided information showing that comments must be done during the preliminary plat phase and does not believe that this amendment would change this. Asked Ms. Love to explain further.

Ms. Love explained the platting process and opportunities for public comment and appeal.

Commissioners briefly discussed the Stanwood-Camano School District project status.

Angie Sievers of Master Builders Association of King and Snohomish Counties, 335 116th Ave SE, Bellevue. Stated that the MBA submitted a letter and commended City staff for information regarding the process. Supports the Final Plat Code Amendment.

The Planning Commission discussed the following:

- Elimination of public hearing and costs to appeal
- Preliminary plat as vehicle for public to request changes
- Streamlining of process, however all public processes remain the same
- 300ft noticing during preliminary plat process

Motion. Motion by Commissioner Metz second by Commissioner Dennis to change to administrative process and approve draft as written as well as request that staff prepare the findings of fact and conclusions amending the final plat approval procedures and to bring them back to the next planning commission meeting for approval.

Vice Chair Shepro closed the public hearing.

Industrial Zones Performance Standards Code Amendment

Ms. Love gave the staff report, reminding the Commission that they discussed what happens to existing businesses in town and farming at the last meeting. Staff recommends expanding on the exception section and Ms. Love reviewed the changes made to the draft code amendment to address performance standards to reduce negative impacts on surrounding commercial and residential properties from uses in the Light and General Industrial zones. The proposed changes work to reduce and or eliminate vague language in the code which could lead to conflicting interpretations or inconsistent enforcement as well as addresses code enforcement.

The Planning Commission discussed the following:

- Legally permitted uses would still be allowed to operate
- Temporary smoke and odors time limitation
- Releases of odors by existing businesses versus new businesses
- Enforcement issues

Public Comment:

Cathy Wooten, 27828 84th AVE NW, Stanwood. Regarding right-to-farm, would people be allowed to bring outside products and process in town and claim right-to-farm?

Ms. Love answered that products should be grown here locally.

Michael Wooten, 27828 84th AVE NW, Stanwood. Inquired if any code language currently addresses dust control from development, breaking ground or large expanses of open dirt such as the current high school construction.

Ms. Love answered that it does in the Light and General Industrial zones. During construction sites should be watered down. The public may call the Construction Inspector with dust concerns as he is on-site daily at construction sites. Staff will check the nuisance code for dust control.

The Planning Commission discussed the following:

- Cooking smells and other long-term odors: smoke, coffee roasters vs. temporary odors
- 15min or less exception or time frame that is situational if business is able to comply

- Time frame to allow existing businesses to also comply – staff can only require improvements if, for example, a building permit has been submitted
- Require changes if an existing business suddenly emits increased odors
- Dept. of Ecology vs. City regulations, PSRC enforcement ability
- Concerns with imposing stricter regulations on existing businesses
- No known complaints of existing business odor issues

Cathy Wooten, 27828 84th AVE NW, Stanwood. Has spoken with Ms. Love on this issue numerous times. Supports this code amendment.

The Planning Commission agreed to move the public hearing to the August 13, 2018 meeting. The Planning Commission suggested changes to code language and stated that a 15 minute time frame is a reasonable time frame. Ms. Love stated that a range of time could be implemented and the Commission stated their support for language up to thirty minutes.

Cathy Wooten, 27828 84th AVE NW, Stanwood. Inquired what the Commission thought of Ms. Love's idea if an existing facility upgrades up to 50% new regulations would need to be met?

The Planning Commission agreed a 50% threshold is too high and recommended language to the effect that should the proposed improvements increase emissions beyond current levels, etc.

Ms. Love said staff will check building code language.

Miscellaneous Business

- Agenda Packet Distribution Discussion- Goal will be to have online 5 days prior
- Extended Planning Commission Agenda reviewed
- 2018/2019 Docket Advertisement- Ms. Love explained the process, public input and staff's role. Ms. Love has created an application which will be available online.

Cathy Wooten, 27828 84th AVE NW, Stanwood. If a citizen came to the staff or City with concerns wouldn't staff let citizens know about this process that is available to citizens? Expressed appreciation to Commission regarding the level of discussion at the meetings and thanked both the Commission and staff.

Commissioner Dennis thanked Michael and Cathy Wooten for their active participation.

Vice Chair Shepro inquired after Planning Commission bylaws/rules for Commissioner attendance. Staff reviewed the Commission rules of procedure and confirmed that more than three consecutive meetings may be cause for removal.

No Recent Council Action on Commission Items

Upcoming Items

- August 13, 2018 Planning Commission meeting
- August 27, 2018 Planning Commission meeting - CANCELLED

Adjourn

The meeting adjourned at 7:55PM.

Devin M. Sola, City of Stanwood



City of Stanwood, Washington Findings of Fact and Conclusions of Law

Planning Commission Recommendation Final Plat Procedures Code Amendment

A. GENERAL INFORMATION

File Number(s): 2018-0286

Project Summary: Proposed code amendment to the Stanwood Municipal Code, Title 16, Subdivisions and Title 17, Zoning, to amend the final plat approval procedures to allow administrative approvals.

Applicant: City of Stanwood

Location: The code amendment applies to all subdivisions subject to the City's jurisdiction.

Public Hearing Date: July 23, 2018

Location: Stanwood Fire Station; 8117 267th Place NW, Stanwood, WA 98292

Staff Contact: Patricia Love, Community Development Director

B. BACKGROUND AND DESCRIPTION OF PROPOSAL

The Stanwood Planning Commission held a public hearing July 23, 2018 where they recommended amending Stanwood Municipal Code Title 16, Subdivisions and Title 17, Zoning, to allow administrative approvals of final plats.

Changes in state law recently granted local governments the authority to administratively approve final plats. Stanwood has historically required final plats (subdivisions of 10 or more lots) to be approved by the City Council. The new law allows a jurisdiction's administrative staff, such as the Community Development and Public Works Director, to approve final plats if the project conforms to the conditions of approval and the associated infrastructure is in place.

C. CODE AMENDMENT CRITERIA PER SMC 17.155.090

The city may approve or approve with modifications an application for an amendment to the text of the zoning code if:

(a) The purpose and desired effect of the proposed zoning code amendment are consistent with the Stanwood Municipal Code;

Changes in state law recently granted local governments the authority to administratively approve final plats. Stanwood has historically required final plats (subdivisions of 10 or more lots) to be approved by the City Council. The new law allows a jurisdiction's administrative staff, such as the Community Development and Public Works Director, to approve final plats if the project conforms to the conditions of approval and the associated infrastructure is in place.

The purpose of final plat is to determine whether conditions of preliminary plat approval have been satisfied. Final plat approval is not discretionary. By having a final plat reviewed in a public meeting or hearing adds time and confusion to the process: the public and local officials think they have the opportunity to add conditions to a project when in fact there is no such authority by law.

The proposed code amendment ensures that final plats are processed within the confines of the law and expeditiously.

(b) There is a positive relationship to the public health, safety and welfare of the community; and

State law changed to ensure that the final plat process remains an administrative process. With final plats requiring approval by the City Council, elected officials have in the past tried to impose additional conditions on a project based on community comments or concerns. These types of actions have led to lawsuits and exposed cities to legal liability with the potential of paying financial damages to applicants.

Secondly, the process was also changed in simplify and streamline the final plat process. Because cities have no option but to approve a final plat if all the conditions of preliminary plat approval have been met, the process of obtaining City Council approval can be lengthy in some jurisdictions.

Changing the final plat process is in the best interest of the City to ensure consistency with state law and reduce potential City exposure to legal liability.

(c) The proposed amendment is consistent with the Stanwood Comprehensive Plan.

Stanwood's Comprehensive Plan envisions a strong community that balances the needs of residents and business. Housing is an integral part of that balance. The Comprehensive Plan's

economic development policies support streamlining the City's permit process to make it more efficient and expeditious.

EDP-6.1 Ensure that City licensing and permitting procedures and development regulations are coherent, fair, and expeditious.

EDP-6.4 Expedite permits for projects that further Economic Development, while still providing equitable service for all.

Simplifying the final plat process reduces time and cost to housing developers and it brings housing options on the market faster. By taking the focus off the end process, it emphasizes the importance of ensuring that all platting issues are properly addressed at the preliminary plat phase where the legal authority exists to mitigate any impacts.

D. FINDINGS OF FACT

1. Based on the change in state law, city staff initiated a code amendment to allow administrative approvals of final plats if the project conforms to the conditions of preliminary plat approval and the associated infrastructure is in place.
2. Stanwood's subdivision code as provided in Title 16 of the Stanwood Municipal Code provides that formal subdivisions are considered any division of residential land into 10 or more lots. Short subdivisions are divisions of residential land into 9 or fewer lots.
3. Subdivision of land occurs in three distinct phases: preliminary plat, plat construction and final plat. The land use law associated with each phase is very specific regarding a city's legal authority to regulate that process.
4. Applications for preliminary plat are reviewed against the City's adopted subdivision, zoning, environmental, and development standards for compliance with land use regulations as well as for overall life, health, welfare requirements.
5. Public comments are solicited several times during the review stage of the permit: open comment period, during environmental review process and at the public hearing.
6. The Hearing Examiner makes a formal decision to either approve, approve with conditions, or deny the preliminary plat application at the conclusion of the public review process.
7. Conditions may be attached to the approval which have a direct relationship to the projects impacts; this is call "nexus", and to the size of that impact, which is commonly referred to as "proportionality".

8. Upon approval of a plat, all of the building, environmental, and site development issues have been resolved. The applicant now has a legal right to build without any further requirements imposed by the City.
9. Applicants have between five and 10 years to construct their plat depending on the date of plat approval. Projects vest at the time of preliminary plat approval with the conditions required at that time. No new conditions can be added to the project once the preliminary plat has been approved.
10. Once all of the site improvements have been constructed and inspected per the approved plan, the applicant can apply for final plat approval. At the final plat approval stage, the process is essentially administrative: the city verifies all conditions of preliminary plat have been met and site improvements are installed per plan approval.
11. If the City finds that the plat conforms to the preliminary approval, the City must approve the final plat.
12. Stanwood's Comprehensive Plan envisions a strong community that balances the needs of residents and business. Housing is an integral part of that balance. The Comprehensive Plan's economic development policies support streamlining the City's permit process to make it more efficient and expeditious.
 - EDP-6.1 Ensure that City licensing and permitting procedures and development regulations are coherent, fair, and expeditious.
 - EDP-6.4 Expedite permits for projects that further Economic Development, while still providing equitable service for all.
13. On June 22, 2018 the proposed amendments were transmitted to the State of Washington Department of Commerce for state agency review in accordance with RCW 36.70A.106.
14. The Planning Commission held a briefing meeting to discuss the proposed code amendment on June 25, 2018.
15. Notice of the Public hearing was provided in accordance with SMC 17.155.030 and published in the Stanwood Camano News on July 2, 2018.
16. WAC 197-11-800(19) allows exemptions from review under the State Environmental Policy Act for legislative actions adopting resolution or ordinance relating solely to governmental procedures and containing no substantive standards respecting use or modification of the environment. A State Environmental Policy Act (SEPA) threshold exemption was issued on June 26, 2018 as the Final Plat Code Amendment action is a procedural change with no substantive changes to the City's development standards.

17. The code amendment was circulated for public review on July 2, 2018. Two public comments were received: Master Builders Association of Snohomish County and Landed Gentry Homes and Communities. Both companies were supportive of changing the final plat approval process to an administrative approval.
18. The public hearing on this matter was held in front of the planning Commission on July 23, 2018 at 6:30 pm at the Stanwood Fire Station located at 8117 267th Place NW, Stanwood, Washington 98292.
19. Staff prepared a report summarizing the proposed code amendment. This report is part of the public record and was presented to the Planning Commission at the public hearing on July 23, 2018 for their consideration.
20. Public testimony by Landed Gentry Homes and Communities encouraged the Planning Commission to recommend approval of the Final Plat Code Amendment as it would streamline the permit process and allow them, as developers, to provide a variety of new housing choices to current and future Stanwood citizens more quickly.
21. The Master Builders Association of King and Snohomish Counties testified that the code amendment will create a more efficient and predictable process for applicants and City staff.
22. Cathy Wooten, City Resident, noted her support for the draft code amendment upon clarification that the public involvement process should be at the preliminary plat stage and that the final plat process is simply a verification that all conditions of preliminary plat have been met and site improvements are installed per plan approval.
23. Michael Wooten, City Resident, testified of his concern about the burdensome and expensive appeal process if a resident has concerns about the City's approval of both the preliminary and final plat. Mr. Wooten felt that the City's code is written so that the burden rests on residents to ensure the code is followed instead of the developer.
24. Community Development Director Love noted the Council's Community and Economic Development Committee did not recommend that the final plat process be amended to eliminate the Council's approval. The Committee felt it was important to keep the Council as the final check to ensure that all conditions of preliminary plat approval have been met.
25. As an alternative option, to address the Council Committee's concern, Staff proposed an option that the code could be amended to note that the City Council shall approve final plats, but the requirement for public noticing and hearing be eliminated and that clear standards for approving final plats be adopted.
26. After considering staff comments and public testimony, the Planning Commission deliberated on the Final Plat Code Amendment and found that they unanimously supported

changing the final plat approval process to an administrative decision. The Commission felt eliminating the public hearing requirement and noting that final plats are non-discretionary, would help reduce the confusion with the public on the purpose of final plat approvals. They also felt that it would streamline the process and reduce permitting delays.

E. CONCLUSIONS OF LAW

1. The City Council of Stanwood has authority under RCW Title 35A, to adopt plans and regulations related to development and operations within the City of Stanwood.
2. SMC section 17.155.030 requires that the Planning Commission review and make recommendations to the Stanwood City Council regarding code amendments to Title 16, Subdivisions and Title 17 Zoning.
3. The proposal is consistent with the Comprehensive Plan and meets the requirements and intent of the Plan, including land use policies 6.1 and 6.4.
4. Under state law if the City finds that the plat conforms to the preliminary approval, the City must approve the final plat.
5. No new conditions or requirements can be added or requested of a development at the time of final plat approval.
6. State law does not require public hearings for final plat approval.
7. The proposal is beneficial to the public health, safety and welfare and is in the public interest by reducing permitting delays, provides permit predictability, and reinforces the fact that final plats approval is not discretionary.
8. After considering staff comments and public testimony the Stanwood Planning Commission determined the draft code amendment is consistent with the Comprehensive Plan and should be adopted.

F. STAFF RECOMMENDATION

Move that the Planning Commission **ADOPT** the Findings of Fact and Conclusions of Law contained herein and **AUTHORIZE** the Planning Commission Chair to sign the Findings on behalf of the Commission and recommend that the Stanwood City Council **APPROVE** the proposed amendments to Title 16 and 17 of the Stanwood Municipal Code.

Dated this 13th of August 2018.

Linda Utgard, Planning Commission Chair
City of Stanwood



City of Stanwood, Washington Findings of Fact and Conclusions of Law

Planning Commission Recommendation Final Plat Procedures Code Amendment

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E. CONCLUSIONS OF LAW

1. The City Council of Stanwood has authority under RCW Title 35A, to adopt plans and regulations related to development and operations within the City of Stanwood.
2. SMC section 17.155.030 requires that the Planning Commission review and make recommendations to the Stanwood City Council regarding code amendments to Title 16, Subdivisions and Title 17 Zoning.
3. The proposal is consistent with the Comprehensive Plan and meets the requirements and intent of the Plan, including land use policies 6.1 and 6.4.
4. Under state law if the City finds that the plat conforms to the preliminary approval, the City must approve the final plat.
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8. After considering staff comments and public testimony the Stanwood Planning Commission determined the draft code amendment is consistent with the Comprehensive Plan and should be adopted.

F. STAFF RECOMMENDATION

Move that the Planning Commission **ADOPT** the Findings of Fact and Conclusions of Law contained herein and **AUTHORIZE** the Planning Commission Chair to sign the Findings on behalf of the Commission and recommend that the Stanwood City Council **APPROVE** the proposed amendments to Title 16 and 17 of the Stanwood Municipal Code.

Dated this 13th of August 2018.

Linda Utgard, Planning Commission Chair
City of Stanwood



MEMORANDUM

City of Stanwood
10220 270th St NW
Stanwood, WA 98292
360-629-4577

COMMUNITY DEVELOPMENT DEPARTMENT

TO: PLANNING COMMISSION

FROM: Patricia Love, Community Development Director

SUBJECT: Industrial Zones Performance Standards Code Amendment

DATE: August 13, 2018

ATTACHMENT: A. Proposed Draft Code Amendment
B. Findings of Fact and Conclusions

Issue:

The issue before the Planning Commission is to review code changes to adopt performance standards for development within the Light Industrial and General Industrial zoning districts.

Summary:

In recent months, the Planning Commission has been considering zoning code amendments to the Light Industrial (LI) and General Industrial (GI) zone to reduce potential negative impacts from industrial uses on surrounding commercial and residential properties. Issues being addressed include air quality, vibrations, waste storage and disposal, electrical interference, noise, fire and explosive hazards, steam, heat, odors, glare, ground contamination and prohibited uses.

Staff Recommendation:

Attached for your review and consideration is the proposed revised draft Industrial Performance Standards Code Amendment. Staff recommends that the Planning Commission:

1. Open the Public Hearing
2. Receive the Staff Presentation and Ask Questions (if any)
3. Take Public Testimony and Ask Questions (if any)
4. Deliberate or Ask Any Additional Questions of Staff

5. Close the Public Hearing or Continue the Public Hearing to August 13, 2018
6. Recommend approval of the draft code amendment and findings of fact and conclusions to the Stanwood City Council as presented or with amendments.

Planning Commission Options:

- 1) Recommend approval of the proposed edits to Title 17, Zoning to the Stanwood City Council (or add additional amendments) adopting performance standards for development within the Light Industrial and General Industrial zoning districts to City Council.
- 2) Recommend alternative language to the proposed edits to Title 17 and direct staff to make change prior to recommendation to City Council.
- 3) Recommend denial of the proposed Title 17 zoning amendments to the City Council.

Recommended Motions:

I MOVE TO RECOMMEND APPROVAL OF THE INDUSTRIAL ZONES PERFORMANCE STANDARDS CODE AMENDMENT TO THE STANWOOD CITY COUNCIL.

I MOVE TO RECOMMEND APPROVAL OF THE FINDINGS OF FACT AND CONCLUSIONS FOR THE INDUSTRIAL ZONES PERFORMANCE STANDARDS CODE AMENDMENT TO THE STANWOOD CITY COUNCIL.

These motions can be amendment to add any proposed amendments as discussed at the public hearing and during deliberations.

Background:

At the June 11, 2018 Planning Commission meeting, the Commission considered potential changes to the Light Industrial and General Industrial performance standards to reduce negative impacts on surrounding commercial and residential properties. The Commission, after considering staff and public comments, requested the following changes:

1. Work to reduce and / or eliminate “vague” language in the code which could lead to conflicting interpretations or inconsistent enforcement; and
2. Address code enforcement.

In response to the Commissions comments, the following changes were made to the draft code amendment:

- The tone of the chapter changed from outright prohibiting all uses to allowing uses identified in the permitted use matrix with the requirement to meet additional performance standards that mitigate impacts on adjacent commercial and residential properties.

- Revised the prohibited uses subsection, specific uses were identified and those uses that could not meet the performance standards.
- Revised the standards to apply to both the Light Industrial and General Industrial zones, as there were not significant differences between the two zones.
- Required that businesses meet performance standards within their property boundaries, not within the entire zone. The Commission may want to consider if it matters whether a use in the same zone affects another business.
- Added a new section exempting the water and sewer treatment plant from the performance standard requirement as it is an essential public facility.
- Added a new section: Submittal Requirements. This section puts the burden on the applicant to provide proof of compliance with the performance standards and gives the City authority to ask for special studies at the applicants cost if needed. It also gives the City the authority to recover any costs for peer review for technical expertise when needed to fully evaluate a proposal.
- Added a new section: Enforcement. This section provides that violations of the performance standards is subject to the City's enforcement procedures and that the City has the authority to issue either stop work or emergency notices halting any activity that violates the code until corrective actions are implemented.

At the June 25, 2018 meeting, the Planning Commission requested one additional change to the proposed code language and requested that the amendment be prepared for a public hearing on July 23, 2018. The Commission requested that staff consider expanding the exemption list for agriculture or other existing uses that currently operate in the city. In response, staff proposes to amend new section 17.50.025 by adding subsections 2-6 below:

17.50.025 EXCEPTIONS TO PERFORMANCE STANDARDS [NEW SECTION]

The following uses shall be exempted from compliance with this chapter:

- (1) The existing City of Stanwood water and sewer treatment plant as it is an Essential Public Facility;
- (2) Any uses or activities allowed per SMC 17.102, Right-to-Farm Registration;
- (3) Legally permitted uses and / or businesses prior to adoption of Ordinance 1459;
- (4) Temporary smoke or odors originating from uses for a duration of less than 15 minutes per day;
- (5) Street light glare; and / or
- (6) Temporary construction projects.

Financial Impact:

There are no direct financial impacts to the City except the staff time to review any subsequent permit applications.

To the applicant there may be additional permitting costs to show consistency with the proposed standards. As referenced in the summary section, this amendment puts the burden on the applicant to provide proof of compliance with the performance standards and gives the City authority to ask for special studies at the applicants cost if needed. It also gives the City the authority to recover any costs for peer review for technical expertise when needed to fully evaluate a proposal.

**CITY OF STANWOOD
WASHINGTON**

ORDINANCE NO. 1459

AN ORDINANCE OF THE CITY OF STANWOOD, WASHINGTON, AMENDING PORTIONS OF STANWOOD MUNICIPAL CODE TITLE 17 ENTITLED ZONING AND RELATING TO DEVELOPMENT REGULATIONS BY AMENDING STANWOOD MUNICIPAL CODE (SMC) 17.50 ENTITLED “ADDITIONAL STANDARDS – LI (LIGHT INDUSTRIAL) ZONING DISTRICT” AND ESTABLISHING SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, under the State Growth Management Act (GMA), the City is authorized to adopt zoning code amendments to implement its Comprehensive Plan; and

WHEREAS, amendments to the zoning code are required to ensure consistency with the Comprehensive Plan; and

WHEREAS, the development regulation amendment procedures contained in this ordinance are consistent with the procedural guidelines for amendments to the development regulations of the City; and

WHEREAS, on August 13, 2018 the Stanwood Planning Commission reviewed the amendments set forth in this Ordinance during the amendment process; and

WHEREAS, the City of Stanwood SEPA Responsible Official reviewed the amendments and issued a Determination of Non-significance (DNS) on July 6, 2018; and

WHEREAS, on August 13, 2018, following notice as required by law, a public hearing was held by the Planning Commission and all persons wishing to provide public input concerning the proposed amendments set forth in this Ordinance were heard; and

WHEREAS, public notice of the SEPA DNS and the above-referenced public hearing were provided as required by law; and

WHEREAS, the City Council Community Development Committee reviewed the proposed language and amendments set forth in this Ordinance at their April 12, June 14, and July 12, 2018 meeting and reviewed the Planning Commission’s recommendation for the proposed edits to Title 17 relating to industrial development performance standards at their August 9, 2018 meeting; and

WHEREAS, the City Council reviewed the recommendation of the Planning Commission at their September 13, 2018 regular meetings and accepted public comment; and

WHEREAS, pursuant to RCW 36.70A.106, the City has notified the Washington State Department of Commerce of the City's intent to adopt the proposed amendments to the zoning code; and

WHEREAS, the City Council has determined that it is in the best interest of the City and in the interest of the public health, safety and welfare of the City and its citizens to amend Title 17 relating to industrial development performance standards, as further set forth in this Ordinance;

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

Section 1. SMC 17.50 entitled "Additional Standards – LI (Light Industrial) Zoning District" is hereby amended to read as follows:

Chapter 17.50
ADDITIONAL STANDARDS – LI and GI (LIGHT AND GENERAL INDUSTRIAL)
ZONING DISTRICTS

Sections:

- 17.50.005 Purpose of LI and GI Performance Standards
- 17.50.010 Light Industrial Parks.
- 17.50.020 Light Industrial and General Industrial District Prohibited Uses Performance Standards.
- 17.50.025 Exceptions to Performance Standards
- 17.50.030 Environmental Standards.
- 17.50.040 Submittal Requirements
- 17.50.050 Enforcement

17.50.005 Purpose of Additional LI and GI Performance Standards [New Section]

(1) The City's LI and GI zoning districts in many cases are located directly adjacent to businesses and residences that could be negatively impacted by the unintended effects of industrial uses such as odors, noise, vibrations or other impacts that could cause interference with the general welfare of city residents.

(2) The City's comprehensive plan encourages industrial uses that do not adversely affect the health and safety of adjacent non-industrial and residential uses. Therefore, these additional development standards are required of all development in the LI and GI zoning districts to mitigate potential adverse impacts on abutting commercial and residential properties.

17.50.010 Light Industrial Parks.

(1) Purpose Light Industrial Parks.—A Light industrial parks chapter are allowed under of this title is established to:

- (a) Encourage imaginative design by permitting greater flexibility in zoning requirements than is generally permitted by other chapters of this title;
- (b) Preserve or create environmental amenities superior to those generally found in conventional development;
- (c) Encourage comprehensive planning of large industrial sites in order to create a park like environment;
- (d) Preserve to the greatest possible extent the natural characteristics of the land, including topography, natural vegetation, waterways, views, etc.;
- (e) Provide for maximum efficiency in the layout of streets, utility networks, open space, landscaping requirements and other public improvements.

(2) Binding Site Plan. Application for a light industrial park use within the light industrial zone shall be permitted when accompanied with a master plan for the site. The master plan is intended to be used as a guide for the developer and city officials in meeting the purpose and provisions of this subsection and chapter. The master plan shall be submitted during the site plan review and include the required landscape plan (SMC [17.145.090](#)). (Ord. 1294 § 16, 2011).

17.50.020 Light Industrial and General Industrial District Performance Standards. Prohibited uses.

Uses other than those identified or described in SMC ~~17.50.040~~ [17.50.030](#) are prohibited, including but not limited to: shall comply with the following performance standards so they mitigate any potential detrimental effects on adjacent properties and the general public.

- (1) Air Quality. No visible or invisible noxious, toxic, or corrosive fumes or gases or particulate emissions, or suspended particles or fugitive dust emissions, shall be discharged into the atmosphere except such as are common to the normal operation of a heating plant or gasoline or diesel engines in cars, trucks, or railroad engines. Where such emission could be produced as a result of accident or equipment malfunction, adequate safeguards standard for safe operation in the industry involved shall be taken. This shall not be construed to prohibit spraying of pesticides or herbicides on public or private property. Equipment or vents that generate air emissions shall be located on the opposite side of the building from adjoining residentially designated properties.

- (2) Vibrations. Every use shall be so operated that any air or ground vibration generated from equipment other than vehicles is not perceptible without instruments at any point on or beyond the ~~light industrial zone~~ property boundaries.
- (3) Waste Storage and Disposal. The storage or disposal of industrial waste shall be subject to the regulations of the State Health Department and shall comply with the requirements of the Washington Pollution Control Commission.
- (4) Electrical Interference. Provisions must be made for necessary shielding or other preventive measures against interference caused by mechanical, electrical, or nuclear equipment uses or processes with electrical apparatus in nearby buildings or use areas.
- (5) Noise. The noise resulting from any activity other than noise produced by vehicles and other transportation facilities and construction and maintenance of buildings and grounds shall not be audible at any point on or beyond the ~~light industrial zone~~ property boundaries. Equipment or vents that generate noise shall be located on the opposite side of the building from any adjoining residentially designated properties.
- (6) Fire and Explosive Hazards. The manufacture, use, processing or storage of flammable liquids or materials, liquids or gases which produce flammable or explosive vapors or gases shall be permitted in accordance with the regulations of the Uniform Building and Fire Codes, SMC Title [14](#).
- (7) Steam. Any use producing humidity in the form of steam or moist air shall be carried on in such a manner that humidity is not perceptible at or beyond the ~~light industrial zone~~ property boundaries.
- (8) Heat. Any use producing heat shall be carried on in such a manner that heat is not perceptible at or beyond the ~~light industrial zone~~ property boundaries.
- (9) Odors. To promote the health, safety and welfare of the community and to maintain compatibility of surrounding land uses, any use producing odors shall be carried on in such a manner that offensive or obnoxious odor shall not be perceptible by a minimum of five people with ordinary sensitivity without instruments, at or beyond the light industrial zone property boundaries. Facilities shall comply with the “no detectable odor emission” standard, which means: systems shall be designed to remove offensive odors and sized to handle worst-case operating conditions when combinations of meteorological conditions, such as inversions and stagnant air, coincide with peak odor releases from treatment processes. This is not intended to prevent a single odor emission released as a direct result of necessary facility maintenance.
- (10) Glare. Artificial lighting shall be hooded or shaded so that direct light of high intensity lamps will not result in glare when viewed from surrounding areas.

Lighting fixtures that conflict with the readability of traffic control devices, rotate or flash are prohibited.

- (11) Ground Contamination. Materials used or produced in any manufacturing process shall be handled in such a manner as to prevent ground or soil pollution that destroys or endangers natural and environmental resources as noted in SMC 17.50.030.

- (12) The following uses are ~~Examples of prohibited uses are:~~

- (a) Animal slaughtering with the exception of existing legal non-conforming uses or those established prior to September XX, 2018 (set date at expected Council action);
- (b) Sale of livestock, poultry or similar animals;
- (c) Storage, manufacturing or sales of highly volatile or otherwise extremely hazardous substances or materials;
- (d) Incineration or reduction of garbage, sewage, dead animals or refuse
- (e) Septage treatment plants; and
- (f) Uses that cannot meet and/or exceed the performance standards listed in this section
- ~~(e) Any other use not listed which, that produces offensive odor, dust, smoke, gas or noise to the olfactory systems of a majority of a five healthy observers.~~

17.50.025 Exceptions to Performance Standards [New Section]

The following uses shall be exempted from compliance with this chapter:

- (1) The existing City of Stanwood water and sewer treatment plant as it is an Essential Public Facility;
- (2) Any uses or activities allowed per SMC 17.102, Right-to-Farm Registration;
- (3) Legally permitted uses and / or businesses prior to adoption of Ordinance 1459; however, if improvements to the facility / use exceed 50 percent of the accessed building value then the use needs to be brought into compliance with this chapter.
- (4) Temporary smoke or odors originating from uses for the minimum time necessary, but not more than 30 minutes in duration per day;
- (5) Street light glare; and / or
- (6) Temporary construction projects.

17.50.030 Environmental standards.

It shall be the responsibility of the operator and/or the proprietor of any permitted use to provide such reasonable evidence and technical data as the enforcing officer may require to demonstrate that the use or activity is or will be in compliance with the environmental performance standards of SMC Title [17](#) chapters:

17.115 Critical Areas – Geologically Hazardous Areas – Specific Standards

17.120 Critical Areas – Frequently Flooded Areas – Specific Standards

17.125 Critical Areas – Wetlands – Specific Standards

17.130 Critical Areas – Fish and Wildlife Habitat Conservation Areas – Specific Standards

17.135 Critical Areas – Critical Aquifer Recharge Areas – Specific Standards

17.140 Stormwater Management Performance Standards

17.149 State Environmental Policy Act (SEPA)

17.150 Shoreline Management Standards

(Ord. 1294 § 16, 2011).

17.50.040 Submittal Requirements. [new section]

(1) In addition to any other submittal requirements, all facilities and uses subject to this section shall submit information describing the facility or use, location, and potential mitigation measures to address each of the performance standards listed in SMC 17.50.030.

(2) If the City has reasonable doubt that a use is, or can be, conducted within the limits of the performance standards listed in SMC 17.50.030, it may require that the user or proposed user retain, at their expense, an independent, qualified, testing laboratory or expert to prepare an analysis of the use to determine its compliance with the performance standards established in this chapter. Such studies shall be submitted with the associated permit application and shall be approved by the City prior to any land use permit or building permit approval. The City shall have the right to require expert peer review of the studies and the cost of that review shall be the responsibility of the applicant.

17.50.050 Enforcement. [new section]

(1) Industrial and manufacturing uses established per SMC 17.50.030 shall comply with this chapter to ensure compatibility with surrounding residential and commercial areas and to provide for the health, welfare, and safety of the public occupying or visiting such areas. Violations of this chapter shall be considered a nuisance and shall be abated. Violations shall be processed per SMC 13.01, Enforcement.

(2) The enforcing official shall have the authority to issue a stop work or emergency order and require that all activities causing a violation of this chapter cease until any corrective measures, as may be required to eliminate the offense, can be implemented.

(3) It shall be the responsibility of the operator and/or proprietor of any permitted use to provide such reasonable evidence and technical data as the enforcing official may require demonstrating the use or activity is or will be in compliance with the performance standards of this chapter.

Section 2. Findings of Fact and Conclusions. In support of the amendment approved in this Ordinance the Stanwood City Council adopts the Findings of Fact and Conclusions attached hereto as Exhibit "A" and incorporated herein by reference and the analysis contained in the Staff Report on the amendments.

Section 3. Severability. The various parts, sections and clauses of this ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby.

Section 4. Authority to Make Necessary Corrections. The City Clerk and the codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance including, but not limited to, the correction of scrivener's clerical errors, references, ordinance numbers, section/subsection numbers and any references thereto.

Section 5. Conflict. In the event that there is a conflict between the provision of this Ordinance and any other City ordinance, the provision of this Ordinance shall control.

Section 6. Effective Date. This Ordinance shall take effect from and after five (5) days after its passage and publication as required by law.

PASSED AND APPROVED by the Stanwood City Council this ____ day of _____ 2018.

CITY OF STANWOOD

Leonard Kelley, Mayor

ATTEST:

By: _____
David Hammond, City Clerk

APPROVED AS TO FORM:

By: _____
Grant Weed, City Attorney

Date of Publication: _____

Effective Date: _____

Exhibit A
Findings of Fact and Conclusions

DRAFT



City of Stanwood, Washington Findings of Fact and Conclusions of Law

Planning Commission Recommendation Industrial Zoning Code Amendment

A. GENERAL INFORMATION

File Number(s):	2018-0175
Project Summary:	Proposed code amendment to the Stanwood Municipal Code, Chapter 17.50, to adopt development performance standards in the Light Industrial and General Industrial zoning districts.
Applicant:	City of Stanwood
Location:	The code amendment applies to all properties within the Light Industrial and General Industrial zoning districts.
Public Hearing Date:	August 13, 2018
Location:	Stanwood Fire Station; 8117 267 th Place NW, Stanwood, WA 98292
Staff Contact:	Patricia Love, Community Development Director

B. BACKGROUND AND DESCRIPTION OF PROPOSAL

The Stanwood Planning Commission held a public hearing August 13, 2018 where they recommended amending SMC Chapter 17.50, Additional Standards – LI and GI Zoning Districts, to adopt performance standards necessary to develop properties within those zones.

In recent months, the Planning Commission has been considering zoning code amendments to the Light Industrial (LI) and General Industrial (GI) zone to reduce potential negative impacts from industrial uses on surrounding commercial and residential properties. Issues being addressed include air quality, vibrations, waste storage and disposal, electrical interference, noise, fire and explosive hazards, steam, heat, odors, glare, ground contamination and prohibited uses.

C. CODE AMENDMENT CRITERIA PER SMC 17.155.090

The city may approve or approve with modifications an application for an amendment to the text of the zoning code if:

(a) The purpose and desired effect of the proposed zoning code amendment are consistent with the Stanwood Municipal Code;

The purpose of the GI (General Industrial) Zone is to provide opportunities for major employment areas within the city and to allow heavy industrial uses including manufacturing, warehousing, storage, distribution, food processing, trucking and related uses in locations that are environmentally suitable for these activities. This zone also provides a location for major utilities including the sewage treatment plant. Additionally, this designation provides a location for the adult entertainment overlay.

Adding performance standards to the GI zone does not prohibit the types of uses described in the purpose statement, but they would mitigate the unintended effects of these uses on adjacent commercial and residential properties.

(b) There is a positive relationship to the public health, safety and welfare of the community; and

Generally, heavy industrial zones are located away or are buffered from commercial and residential uses; however, in Stanwood's case the GI zone in many cases is located directly adjacent businesses and residents that could be negatively impacted by foul odors. Adopting performance standards that address noise, odor, air quality, vibrations, and hazardous materials supports the public health, welfare and safety of the public visiting those areas and upland / adjacent property owners.

(c) The proposed amendment is consistent with the Stanwood Comprehensive Plan.

The City's Comprehensive Plan includes a well-defined vision for the City: becoming the commercial and cultural center of the greater Stanwood / Camano region. Goals and policies promote a vibrant downtown and livable community which includes a mix of residential, office, retail, entertainment and service uses. Walkability is highly encouraged in the Plan and envisions residential and commercial areas connected with sidewalks, trails, and parks. Industrial uses are encouraged which do not adversely affect the health and safety of adjacent non-industrial and residential uses. Supporting Comprehensive Plan Policies:

LUP 13.1: Discourage industrial development that interferes with residential and commercial land uses in close proximity.

LUP 13.2 Require mitigation of any negative impacts of noise, light, glare, dust and other effects when considering the development of industry.

LUP 19.3General Industrial uses shall not adversely affect the health and safety of adjacent non-industrial and residential uses.

D. FINDINGS OF FACT

1. There has been a request by several members of the community to make changes to the Light Industrial and General Industrial zoning regulations regarding air quality, odor, and dust.
2. The LI and GI zones are intended for industrial uses such as manufacturing, warehousing, fabrication and food processing.
3. Stanwood has adopted additional development standards for light industrial parks within the Light Industrial zoning district. These standards contain specific language prohibiting typical uses that would be bothersome to adjoining commercial or residential neighborhoods which could be applied to both the larger IL and GI districts.
4. Generally, heavy industrial zones are located away or are buffered from commercial and residential uses; however, in Stanwood's case the LI and GI zones are in many cases located directly adjacent to businesses and residents that could be negatively impacted by foul odors.
5. Stanwood's 2015 – 2035 Comprehensive Plan directly addresses compatibility issues between industrial and other zoning districts:

Comprehensive Plan Goal LUG 13: Discourage conflict where industrial land abuts other land uses.

Comprehensive Plan Policies:

- | | |
|------------------|---|
| Policy LUP 13.1: | Discourage industrial development that interferes with residential and commercial land uses in close proximity. |
| Policy LUP 13.2: | Require mitigation of any negative impacts of noise, light, glare, dust and other effects when considering the development of an industry. |
| Policy LUP 13.3: | Require installation of adequate landscape or structural buffer to separate differing land uses from the adverse impacts of industrial development. |
| Policy LUP 13.5: | Protect existing industry from possible future land use conflicts. |

Policy LUP 19.1(I):The GI uses shall not adversely affect the health and safety of adjacent non-industrial and residential neighborhoods.

6. The City felt it was appropriate to consider a code amendment that adopts new development standards for industrial developments to protect adjacent properties from potential non-intended adverse effects such as odors, smoke, and dust that would discourage people from enjoying shopping and dining downtown or from being able to enjoy their property while outdoors.
7. On June 18, 2018 the proposed amendments were transmitted to the State of Washington Department of Commerce for state agency review in accordance with RCW 36.70A.106.
8. Planning Commission briefings to discuss the proposed code amendment were held on April 23, June 11, June 25, and July 23, 2018.
9. Notice of the Public hearing was provided in accordance with SMC 17.155.030 and published in the Stanwood Camano News on July 31, 2018. No public comments were received.
10. A State Environmental Policy Act (SEPA) Determination of Non-Significance (DNS) was issued on the proposed amendment on July 6, 2018. There were no appeals of the DNS and the environmental determination stands as issued.
11. The code amendment was circulated for public review on July 6, 2018. No comments were received on the amendment.
12. The public hearing on this matter was held in front of the planning Commission on August 13, 2018 at 6:30 pm at the Stanwood Fire Station located at 8117 267th Place NW, Stanwood, Washington 98292.
13. Staff prepared a report summarizing the proposed code amendment. This report is part of the public record and was presented to the Planning Commission at the public hearing on August 13, 2018 for their consideration.

E. CONCLUSIONS OF LAW

1. The City Council of Stanwood has authority under RCW Title 35A, to adopt plans and regulations related to development and operations within the City of Stanwood.
2. SMC section 17.155.030 requires that the Planning Commission review and make recommendations to the Stanwood City Council regarding code amendments to Title 17, Zoning.

3. Planning Commission briefings to discuss the proposed code amendment were held on April 23, June 11, June 25, and July 23, 2018.
4. Notice of the public was provided on July 31, 2018 in accordance with SMC Table 17.81A-I, Classification of Permits and Decisions.
5. SEPA review was conducted on the proposal and a Determination of Nonsignificance (DNS) was issued on July 6, 2018 under WAC 197-11-340(2). No appeals of the SEPA determination were filed.
6. The proposal is consistent with the Comprehensive Plan and meets the requirements and intent of the Plan, including land use goal 13 and policies 13.1, 13.2, 13.3, 13.5, and 19.1.
7. The proposal is beneficial to the public health, safety and welfare and is in the public interest by reducing potential negative impacts from industrial developments on adjacent or nearby commercial and residential properties.
8. After considering staff comments and public testimony the Stanwood Planning Commission determined the draft code amendment is consistent with the Comprehensive Plan and should be adopted.

F. STAFF RECOMMENDATION

Move that the Planning Commission **ADOPT** the Findings of Fact and Conclusions of Law contained herein and **AUTHORIZE** the Planning Commission Chair to sign the Findings on behalf of the Commission and recommend that the Stanwood City Council **APPROVE** the proposed amendments to Chapter 17 of the Stanwood Municipal Code.

Dated this 13th of August 2018.

Linda Utgard, Planning Commission Chair
City of Stanwood



STANWOOD PLANNING COMMISSION MINUTES

July 23, 2018

Call to Order

Vice Chair Shepro called the meeting to order at 6:30PM with the following Commissioners present: Darrell Robb, Lance Dennis, and Marcus Metz. Commissioners Linda Utgard, Susan Ronken and Randy Heagle were excused. Staff present; Community Development Director Patricia Love, Planning Commission Clerk Devin Sola. Known public in attendance: Anna Nelson, Angie Sievers, Michael and Cathy Wooten.

No Public Requests or Comments

Minutes

The minutes of the July 9, 2018 meeting were approved as corrected.

No New Business

Old Business

Public Hearing: Final Plat Code Amendment

Vice Chair Shepro opened the public hearing. Director Love entered comment letters from Landed Gentry and Master Builders Association into the record as a part of the public hearing.

Public Comment:

Anna Nelson of Landed Gentry Homes and Communities, 504 East Fairhaven Ave, Burlington. Stated that they are busy working with City staff and construction plans for Phase I have recently been approved. Supports the Final Plat Code Amendment.

Cathy Wooten, 27828 84th AVE NW, Stanwood. Explained that she was originally concerned with the proposed changes, but has a better understanding that the amendment does not change the due process. Supports the Final Plat Code Amendment.

Michael Wooten, 27828 84th AVE NW, Stanwood. Believes the appeal process is imbalanced and puts the onus of questioning and the costs on the people who may have an issue with a project rather than the developer.

Ms. Love confirmed that the appealing party would be required to prove their case.

Commissioner Shepro inserted that Ms. Love has provided information showing that comments must be done during the preliminary plat phase and does not believe that this amendment would change this. Asked Ms. Love to explain further.

Ms. Love explained the platting process and opportunities for public comment and appeal.

Commissioners briefly discussed the Stanwood-Camano School District project status.

Angie Sievers of Master Builders Association of King and Snohomish Counties, 335 116th Ave SE, Bellevue. Stated that the MBA submitted a letter and commended City staff for information regarding the process. Supports the Final Plat Code Amendment.

The Planning Commission discussed the following:

- Elimination of public hearing and costs to appeal
- Preliminary plat as vehicle for public to request changes
- Streamlining of process, however all public processes remain the same
- 300ft noticing during preliminary plat process

Motion. Motion by Commissioner Metz second by Commissioner Dennis to change to administrative process and approve draft as written as well as request that staff prepare the findings of fact and conclusions amending the final plat approval procedures and to bring them back to the next planning commission meeting for approval.

Vice Chair Shepro closed the public hearing.

Industrial Zones Performance Standards Code Amendment

Ms. Love gave the staff report, reminding the Commission that they discussed what happens to existing businesses in town and farming at the last meeting. Staff recommends expanding on the exception section and Ms. Love reviewed the changes made to the draft code amendment to address performance standards to reduce negative impacts on surrounding commercial and residential properties from uses in the Light and General Industrial zones. The proposed changes work to reduce and or eliminate vague language in the code which could lead to conflicting interpretations or inconsistent enforcement as well as addresses code enforcement.

The Planning Commission discussed the following:

- Legally permitted uses would still be allowed to operate
- Temporary smoke and odors time limitation
- Releases of odors by existing businesses versus new businesses
- Enforcement issues

Public Comment:

Cathy Wooten, 27828 84th AVE NW, Stanwood. Regarding right-to-farm, would people be allowed to bring outside products and process in town and claim right-to-farm?

Ms. Love answered that products should be grown here locally.

Michael Wooten, 27828 84th AVE NW, Stanwood. Inquired if any code language currently addresses dust control from development, breaking ground or large expanses of open dirt such as the current high school construction.

Ms. Love answered that it does in the Light and General Industrial zones. During construction sites should be watered down. The public may call the Construction Inspector with dust concerns as he is on-site daily at construction sites. Staff will check the nuisance code for dust control.

The Planning Commission discussed the following:

- Cooking smells and other long-term odors: smoke, coffee roasters vs. temporary odors
- 15min or less exception or time frame that is situational if business is able to comply

- Time frame to allow existing businesses to also comply – staff can only require improvements if, for example, a building permit has been submitted
- Require changes if an existing business suddenly emits increased odors
- Dept. of Ecology vs. City regulations, PSRC enforcement ability
- Concerns with imposing stricter regulations on existing businesses
- No known complaints of existing business odor issues

Cathy Wooten, 27828 84th AVE NW, Stanwood. Has spoken with Ms. Love on this issue numerous times. Supports this code amendment.

The Planning Commission agreed to move the public hearing to the August 13, 2018 meeting. The Planning Commission suggested changes to code language and stated that a 15 minute time frame is a reasonable time frame. Ms. Love stated that a range of time could be implemented and the Commission stated their support for language up to thirty minutes.

Cathy Wooten, 27828 84th AVE NW, Stanwood. Inquired what the Commission thought of Ms. Love's idea if an existing facility upgrades up to 50% new regulations would need to be met?

The Planning Commission agreed a 50% threshold is too high and recommended language to the effect that should the proposed improvements increase emissions beyond current levels, etc.

Ms. Love said staff will check building code language.

Miscellaneous Business

- Agenda Packet Distribution Discussion- Goal will be to have online 5 days prior
- Extended Planning Commission Agenda reviewed
- 2018/2019 Docket Advertisement- Ms. Love explained the process, public input and staff's role. Ms. Love has created an application which will be available online.

Cathy Wooten, 27828 84th AVE NW, Stanwood. If a citizen came to the staff or City with concerns wouldn't staff let citizens know about this process that is available to citizens? Expressed appreciation to Commission regarding the level of discussion at the meetings and thanked both the Commission and staff.

Commissioner Dennis thanked Michael and Cathy Wooten for their active participation.

Vice Chair Shepro inquired after Planning Commission bylaws/rules for Commissioner attendance. Staff reviewed the Commission rules of procedure and confirmed that more than three consecutive meetings may be cause for removal.

No Recent Council Action on Commission Items

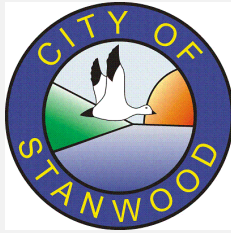
Upcoming Items

- August 13, 2018 Planning Commission meeting
- August 27, 2018 Planning Commission meeting - CANCELLED

Adjourn

The meeting adjourned at 7:55PM.

Devin M. Sola, City of Stanwood



MEMORANDUM

COMMUNITY DEVELOPMENT DEPARTMENT

**10220 270th St NW
Stanwood, WA 98292
360-629-4577**

TO: PLANNING COMMISSION

FROM: Patricia Love, Community Development Director

SUBJECT: Sign Code Amendment

DATE: August 13, 2018

ATTACHMENT: A. Stanwood Municipal Code – Sign Code Sections

The Planning Commission has been asked to consider a change to the sign code to allow for off-site monument or directional signage for businesses. For example, this would allow a business or group of businesses who do not front a main road like 271st St NW to provide signage for their business to be visible. Another option might be to modify the A-board signage requirements to meet this request as well. This request was made by a local business that does not have direct frontage on a main street and wishes to provide better signage and direction to their business.

As part of the code amendment process, this initial discussion on the sign code is to provide staff with feedback and direction from the Commission on what issues are important to address or if there are any general areas of concern related to the sign code.

Attached is the City of Stanwood sign code sections that may be relevant to the discussion.

17.110.010 Purpose.

The purpose of these standards is to establish regulations for the design, construction, installation, and maintenance of signs, as defined in this Title [17](#), in the city of Stanwood in order to:

- (1) Balance the right of individuals to identify their businesses and convey their messages and the right of the public to be protected against the unrestricted proliferation of signs;
- (2) Further the objectives of the comprehensive plan;
- (3) Protect the public health, safety, and welfare;
- (4) Reduce traffic hazards;
- (5) Facilitate the creation of an attractive and harmonious community;
- (6) Protect property values;
- (7) Promote economic development; and
- (8) Preserve the right of free speech exercised through the use of signs containing noncommercial messages. (Ord. 1440 § 5, 2017; Ord. 1262 § 1, 2010).

17.110.060 Exemptions.

The following signs are exempt from the permit requirements of these standards:

- (1) Temporary signs on private property or public property meeting the requirements in SMC [17.110.150](#) (Temporary signs).
- (2) Signs attached to the inside of a window which do not exceed 50 percent of the total window area of the business.
- (3) Signs that are an integral part of the historic character of a landmark building or historic district.
- (4) Public signs regulating vehicular or pedestrian traffic or designating or giving direction to streets, schools, hospitals, historic sites, or public facilities.
- (5) Flags of any government or governmental agency or any patriotic, religious, charitable, civic, educational, or fraternal organization not exceeding 40 square feet in area.
- (6) Hand-held signs not set on or affixed to the ground and not exceeding 10 square feet in area.
- (7) Memorial or commemorative plaques or tablets denoting a building name and/or date of construction or a location of historic significance and not exceeding four square feet in area.
- (8) Signs located on baseball field fencing within city parks. Signs shall be no greater than four feet by eight feet, only up during baseball season, and remain in good condition. The city shall have the right to remove signage that they deem to be in poor condition. (Ord. 1440 § 5, 2017; Ord. 1398 § 24, 2015; Ord. 1311 § 3, 2012; Ord. 1262 § 1, 2010).

17.110.070 Prohibited signs.

The following signs are prohibited:

- (1) Vehicular Signs and Mobile Trailer Signs. No sign or other advertising structure shall be painted on or attached to a motor vehicle used primarily for the display of such sign; provided, that this section shall not prohibit the identification of a business or its products or services on its vehicle(s) operated and parked in a manner appropriate to the normal course of business.
- (2) Moving and Flashing Signs.
 - (a) Moving Signs. No sign or other advertising structure shall have visible moving, revolving, or rotating parts or visible mechanical movement of any kind, except for the movable hands on street clocks, or other apparent visible movement achieved by electrical, electronic or mechanical means, except for time/temperature/date signs and except as permitted in SMC [17.110.080](#)(2).
 - (b) Flashing Signs. No sign or other advertising structure shall have lights or illuminations that flash, move, rotate, scintillate, blink, flicker, vary in intensity or color, or use intermittent electrical pulsations, except as permitted in SMC [17.110.080](#)(2). Time/temperature/date signs are not considered to be flashing signs under this chapter.
- (3) Flags, Banners, Pennants, and Balloons. Flags, banners, pennants, balloons, and other related advertising shall be prohibited, except under the following conditions:
 - (a) Banners or pennants used for temporary purposes such as carnivals, fairs, grand openings, or other special events not to exceed 30 days in duration;
 - (b) National and state flags as exempted under SMC [17.110.060](#);

(c) Balloons or inflatables may be used for a maximum of three days for the purposes of carnivals, fairs, grand openings, or other special events. Balloons and inflatables are not permitted to exceed the height of the roofline or to be located on top of roofs.

(4) Roof Signs. No signage of any type shall be allowed on the roof of any structure except when authorized by variance pursuant to SMC [17.110.120](#).

(5) Billboards and Off-Premises Signs. Billboards and off-premises signs are prohibited. This prohibition includes all surfaces whereon advertising matter is set in view conspicuously and which advertising does not apply to the premises or any use of the premises wherein it is displayed or posted. Existing billboards and off-premises signs must comply with the requirements of SMC [17.110.140](#). This ban does not apply to authorized noncommercial off-premises signs, such as signs that are for public service or community use, direction, or identification of locations within the city.

(6) Permanent Signs on Vacant Lots, Parcels or Easements. No permanent sign shall be located on a lot, parcel or easement as the principal use of that lot, parcel or easement. Signs may only be established as an accessory use to a principally permitted use. (Ord. 1440 § 5, 2017; Ord. 1262 § 1, 2010).

17.110.080 Permitted signs.

(5) "A" Board Signs and Portable Signs.

(a) "A" board and portable signs are allowed only as temporary and supplemental advertising for businesses within the city that have permitted permanent signage. The advertisement contained on any "A" board or portable sign shall pertain only to the business conducted on or within the premises on which such sign is erected or maintained. A separate sign permit is required.

(b) "A" board and portable signs must be a minimum of 30 inches in height and not exceed 48 inches in height when displayed. They must be at least 18 inches in width and not exceed 30 inches in width, and shall not be located within 10 feet of a driveway or other access point.

(c) "A" board and portable signs shall not be located within the paved portion of the vehicular right-of-way or upon traffic islands or crosswalk areas.

(d) Any "A" board or portable sign located on a sidewalk must be located to provide a minimum of five feet of clearance on at least one side for wheelchair and walking access.

(e) No more than one "A" board or portable sign per 25 linear feet of property frontage shall be permitted. No more than two "A" board or portable signs shall be permitted for a given business.

(f) "A" board and portable signs shall be removed nightly.

(g) Owners of "A" board signs located upon the city sidewalk shall assume liability for damage resulting from their use as part of the permit process and shall provide the city with an appropriate document holding the city harmless from such resulting loss. The city shall not assume any liability for any accident incurred in conjunction with an "A" board sign.

(6) Feather Banner Signs.

(a) Feather banner signs are allowed only as supplemental advertising for businesses within the city that have permitted permanent signage. The advertisement contained on any feather banner sign shall pertain only to the business conducted on or within the premises on which such sign is erected or maintained. A separate sign permit is required.

(b) Feather banner signs shall be securely anchored and not greater than 20 feet in height and shall not exceed 40 square feet.

(c) Feather banner signs shall not be located within the paved portion of the vehicular right-of-way or upon traffic islands or crosswalk areas.

(d) Feather banner signs shall not be located within 10 feet of a driveway or other access point and not obstruct views from a driveway to ensure safe ingress and egress from the premises.

(e) Any feather banner signs shall not be located on public sidewalks.

(f) No more than two feather banner signs shall be permitted for a given business.

(g) Feather banner signs shall be removed nightly. (Ord. 1440 § 5, 2017; Ord. 1398 § 25, 2015; Ord. 1323 § 3, 2012; Ord. 1280 §§ 1, 2, 2010; Ord. 1276 § 4, 2010; Ord. 1262 § 1, 2010).

17.110.085 Banners on or within the public right-of-way.

(1) Horizontal over the right-of-way banners are permitted for noncommercial messages for the following events:

(a) Special events as defined in Chapter [5.06](#) SMC when located within the city;

(b) Events which are excluded from the definition of special events when located within the Port Susan geographical area.

- (2) Application shall be made for city installation and removal of banners over or within the public right-of-way on a form provided by the city and according to administrative procedures published by the city. Application shall be made a minimum of 14 days prior to the event.
- (3) Banners that are displayed on or over the public right-of-way require a sign permit and a temporary encroachment permit. Review of sign and encroachment permits may be combined and issued with one permit and fee.
- (4) Sign Standards for Banners.
- (a) Banners shall meet the minimum standards in SMC [17.110.050](#), including but not limited to wind load.
 - (b) Banners shall be three feet high and 20 feet wide and shall not exceed 60 square feet.
 - (c) Materials shall be resistant to ultraviolet rays, mold and mildew and have sewn loops or equivalent for attachment.
 - (d) Banners shall not be erected more than 14 days in advance of the event, and shall be removed within three days after the termination of the event. Vertical banners on light poles used for city marketing may be exempted from this requirement.
 - (e) A temporary banner shall hang a minimum of at least 16 feet above the road.
- (5) The applicant shall maintain general liability insurance for property damage and bodily injury or death throughout the term the banner is in place over the roadway in an amount and terms determined by administrative procedures published by the city. (Ord. 1440 § 5, 2017; Ord. 1311 § 4, 2012).

17.110.120 Variances.

- (1) The community development director may grant a variance to allow the following:
- (a) Setback less than that required under this title; or
 - (b) Area or height of a sign to be increased by up to 50 percent of the maximum allowable height or area subject to the following finding:
 - (i) The unusual shape or topography of the property in question prevents signage allowable under the provisions of these standards from adequately identifying the business or other activity located on such property.
- (2) Off-Site Signage. A variance may also be allowed for off-site signage when the business has no other visible alternative for the placement of signage, as determined by the community development director.
- (3) Roof Signage. The community development director may grant a variance to allow roof signs when the business has no other alternative for the placement of signage. Such approval shall be granted based on the finding that no alternatives are available to the applicant other than roof signage. If roof signage is permitted, it shall conform to all requirements for signs under this chapter. (Ord. 1440 § 5, 2017; Ord. 1262 § 1, 2010).

17.110.150 Temporary signs.

- (1) No Permit Required. No sign permit is required for temporary signs.
- (2) Removal. Temporary signs shall be removed if the sign is in need of repair, is worn, dilapidated or creates a public nuisance.
- (3) City Property (Excluding City Right-of-Way). Temporary signs on city-owned property (excluding city right-of-way) are allowed only in conjunction with an approved special event permit.
- (4) City Right-of-Way outside of the Roadway. Temporary signs on city right-of-way placed outside of the roadway must comply with the following requirements:
- (a) Location. Allowed only between the property line and the back of the nearest curb, or where no curb exists, between the property line and the nearest edge of the pavement. Signs may not be placed on sidewalks, driveways or other paved areas designed for pedestrian or vehicular use, or as conditioned in a right-of-way use permit.
 - (b) Type. Signs on stakes that can be manually pushed or hammered into the ground are allowed. All other signs are prohibited, unless specifically allowed by a right-of-way use permit.
 - (c) Size and Height. Limited to four square feet, and three feet in height.
 - (d) Dilapidated or Nuisance Signs. Any temporary sign in the right-of-way that is dilapidated or a nuisance shall be removed by the person responsible for placement of the sign.
 - (e) Other Signs. The city may allow other signs in city right-of-way with a right-of-way use permit.
- (5) Residential Zones. Temporary signs may be placed on property residentially zoned in accordance with the requirements of this section and the following:
- (a) Freestanding Signs (Includes Post-Mounted and Stake Signs).

- (i) Single-family zones: Temporary freestanding signs shall not exceed four square feet in size and five feet in height, if the sign is mounted on the ground, and not to exceed three feet in height if the sign is stake-mounted.
 - (ii) Multifamily zones: Temporary freestanding signs shall not exceed six square feet in size and five feet in height if the sign is post-mounted on the ground, and not to exceed three feet in height if the sign is stake-mounted.
- (b) Surface-Mounted Signs. Limited to sites two acres or larger:
 - (i) Size. No larger than 32 square feet.
 - (ii) Location. Must be flatly affixed to walls below the fascia or parapet line, or flatly affixed to on-site fences either facing or abutting the street, or facing inward to the subject site. Signs shall not be attached or tethered to other site improvements.
- (6) Nonresidential Zones. Temporary signs are allowed on nonresidentially zoned property in accordance with the requirements of this section and the following:
 - (a) Window Signs. Limited to 50 percent of the window area, subject to the window sign requirements of SMC [17.110.060](#)(2).
 - (b) Freestanding Signs (Including Post-Mounted and Stake Signs) – Size/Height. Limited to four square feet and five feet in height if the temporary sign is mounted in the ground.
 - (c) Surface-Mounted Signs.
 - (i) Size. Limited to 30 square feet.
 - (ii) Location. Must be flatly affixed to walls below the fascia or parapet line, or flatly affixed to on-site fences either facing the abutting street, or facing inward to the subject site. Signs shall not be attached or tethered to other site improvements.
- (7) Temporary Signs on Large Properties, Residential or Nonresidentially Zoned Properties. The following temporary signs may be placed on any site at least two acres in size, in accordance with the requirements of this section and the following:
 - (a) Type. Any type.
 - (b) Size/Height. Not to exceed 64 square feet and up to eight feet above ground level.
 - (c) Exclusivity. The sign allowed under this subsection is in lieu of and shall not be displayed with or be in addition to other temporary signs allowed by this section.
- (8) Duration of Temporary Signs. Temporary signs shall be allowed one time only for a period not to exceed six months in any consecutive 12-month period. (Ord. 1440 § 5, 2017).



MEMORANDUM

City of Stanwood
10220 270th St NW
Stanwood, WA 98292
360-629-4577

COMMUNITY DEVELOPMENT DEPARTMENT

TO: PLANNING COMMISSION

FROM: Patricia Love, Community Development Director

SUBJECT: Industrial Zones Performance Standards Code Amendment

DATE: August 13, 2018

ATTACHMENT: A. Proposed Draft Code Amendment
B. Findings of Fact and Conclusions

Issue:

The issue before the Planning Commission is to review code changes to adopt performance standards for development within the Light Industrial and General Industrial zoning districts.

Summary:

In recent months, the Planning Commission has been considering zoning code amendments to the Light Industrial (LI) and General Industrial (GI) zone to reduce potential negative impacts from industrial uses on surrounding commercial and residential properties. Issues being addressed include air quality, vibrations, waste storage and disposal, electrical interference, noise, fire and explosive hazards, steam, heat, odors, glare, ground contamination and prohibited uses.

Staff Recommendation:

Attached for your review and consideration is the proposed revised draft Industrial Performance Standards Code Amendment. Staff recommends that the Planning Commission:

1. Open the Public Hearing
2. Receive the Staff Presentation and Ask Questions (if any)
3. Take Public Testimony and Ask Questions (if any)
4. Deliberate or Ask Any Additional Questions of Staff

5. Close the Public Hearing or Continue the Public Hearing to August 13, 2018
6. Recommend approval of the draft code amendment and findings of fact and conclusions to the Stanwood City Council as presented or with amendments.

Planning Commission Options:

- 1) Recommend approval of the proposed edits to Title 17, Zoning to the Stanwood City Council (or add additional amendments) adopting performance standards for development within the Light Industrial and General Industrial zoning districts to City Council.
- 2) Recommend alternative language to the proposed edits to Title 17 and direct staff to make change prior to recommendation to City Council.
- 3) Recommend denial of the proposed Title 17 zoning amendments to the City Council.

Recommended Motions:

I MOVE TO RECOMMEND APPROVAL OF THE INDUSTRIAL ZONES PERFORMANCE STANDARDS CODE AMENDMENT TO THE STANWOOD CITY COUNCIL.

I MOVE TO RECOMMEND APPROVAL OF THE FINDINGS OF FACT AND CONCLUSIONS FOR THE INDUSTRIAL ZONES PERFORMANCE STANDARDS CODE AMENDMENT TO THE STANWOOD CITY COUNCIL.

These motions can be amendment to add any proposed amendments as discussed at the public hearing and during deliberations.

Background:

At the June 11, 2018 Planning Commission meeting, the Commission considered potential changes to the Light Industrial and General Industrial performance standards to reduce negative impacts on surrounding commercial and residential properties. The Commission, after considering staff and public comments, requested the following changes:

1. Work to reduce and / or eliminate “vague” language in the code which could lead to conflicting interpretations or inconsistent enforcement; and
2. Address code enforcement.

In response to the Commissions comments, the following changes were made to the draft code amendment:

- The tone of the chapter changed from outright prohibiting all uses to allowing uses identified in the permitted use matrix with the requirement to meet additional performance standards that mitigate impacts on adjacent commercial and residential properties.

- Revised the prohibited uses subsection, specific uses were identified and those uses that could not meet the performance standards.
- Revised the standards to apply to both the Light Industrial and General Industrial zones, as there were not significant differences between the two zones.
- Required that businesses meet performance standards within their property boundaries, not within the entire zone. The Commission may want to consider if it matters whether a use in the same zone affects another business.
- Added a new section exempting the water and sewer treatment plant from the performance standard requirement as it is an essential public facility.
- Added a new section: Submittal Requirements. This section puts the burden on the applicant to provide proof of compliance with the performance standards and gives the City authority to ask for special studies at the applicants cost if needed. It also gives the City the authority to recover any costs for peer review for technical expertise when needed to fully evaluate a proposal.
- Added a new section: Enforcement. This section provides that violations of the performance standards is subject to the City's enforcement procedures and that the City has the authority to issue either stop work or emergency notices halting any activity that violates the code until corrective actions are implemented.

At the June 25, 2018 meeting, the Planning Commission requested one additional change to the proposed code language and requested that the amendment be prepared for a public hearing on July 23, 2018. The Commission requested that staff consider expanding the exemption list for agriculture or other existing uses that currently operate in the city. In response, staff proposes to amend new section 17.50.025 by adding subsections 2-6 below:

17.50.025 EXCEPTIONS TO PERFORMANCE STANDARDS [NEW SECTION]

The following uses shall be exempted from compliance with this chapter:

- (1) The existing City of Stanwood water and sewer treatment plant as it is an Essential Public Facility;
- (2) Any uses or activities allowed per SMC 17.102, Right-to-Farm Registration;
- (3) Legally permitted uses and / or businesses prior to adoption of Ordinance 1459;
- (4) Temporary smoke or odors originating from uses for a duration of less than 15 minutes per day;
- (5) Street light glare; and / or
- (6) Temporary construction projects.

Financial Impact:

There are no direct financial impacts to the City except the staff time to review any subsequent permit applications.

To the applicant there may be additional permitting costs to show consistency with the proposed standards. As referenced in the summary section, this amendment puts the burden on the applicant to provide proof of compliance with the performance standards and gives the City authority to ask for special studies at the applicants cost if needed. It also gives the City the authority to recover any costs for peer review for technical expertise when needed to fully evaluate a proposal.

**CITY OF STANWOOD
WASHINGTON**

ORDINANCE NO. 1459

AN ORDINANCE OF THE CITY OF STANWOOD, WASHINGTON, AMENDING PORTIONS OF STANWOOD MUNICIPAL CODE TITLE 17 ENTITLED ZONING AND RELATING TO DEVELOPMENT REGULATIONS BY AMENDING STANWOOD MUNICIPAL CODE (SMC) 17.50 ENTITLED “ADDITIONAL STANDARDS – LI (LIGHT INDUSTRIAL) ZONING DISTRICT” AND ESTABLISHING SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, under the State Growth Management Act (GMA), the City is authorized to adopt zoning code amendments to implement its Comprehensive Plan; and

WHEREAS, amendments to the zoning code are required to ensure consistency with the Comprehensive Plan; and

WHEREAS, the development regulation amendment procedures contained in this ordinance are consistent with the procedural guidelines for amendments to the development regulations of the City; and

WHEREAS, on August 13, 2018 the Stanwood Planning Commission reviewed the amendments set forth in this Ordinance during the amendment process; and

WHEREAS, the City of Stanwood SEPA Responsible Official reviewed the amendments and issued a Determination of Non-significance (DNS) on July 6, 2018; and

WHEREAS, on August 13, 2018, following notice as required by law, a public hearing was held by the Planning Commission and all persons wishing to provide public input concerning the proposed amendments set forth in this Ordinance were heard; and

WHEREAS, public notice of the SEPA DNS and the above-referenced public hearing were provided as required by law; and

WHEREAS, the City Council Community Development Committee reviewed the proposed language and amendments set forth in this Ordinance at their April 12, June 14, and July 12, 2018 meeting and reviewed the Planning Commission’s recommendation for the proposed edits to Title 17 relating to industrial development performance standards at their August 9, 2018 meeting; and

WHEREAS, the City Council reviewed the recommendation of the Planning Commission at their September 13, 2018 regular meetings and accepted public comment; and

WHEREAS, pursuant to RCW 36.70A.106, the City has notified the Washington State Department of Commerce of the City's intent to adopt the proposed amendments to the zoning code; and

WHEREAS, the City Council has determined that it is in the best interest of the City and in the interest of the public health, safety and welfare of the City and its citizens to amend Title 17 relating to industrial development performance standards, as further set forth in this Ordinance;

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

Section 1. SMC 17.50 entitled "Additional Standards – LI (Light Industrial) Zoning District" is hereby amended to read as follows:

Chapter 17.50
ADDITIONAL STANDARDS – LI and GI (LIGHT AND GENERAL INDUSTRIAL)
ZONING DISTRICTS

Sections:

- 17.50.005 Purpose of LI and GI Performance Standards
- 17.50.010 Light Industrial Parks.
- 17.50.020 Light Industrial and General Industrial District Prohibited Uses Performance Standards.
- 17.50.025 Exceptions to Performance Standards
- 17.50.030 Environmental Standards.
- 17.50.040 Submittal Requirements
- 17.50.050 Enforcement

17.50.005 Purpose of Additional LI and GI Performance Standards [New Section]

(1) The City's LI and GI zoning districts in many cases are located directly adjacent to businesses and residences that could be negatively impacted by the unintended effects of industrial uses such as odors, noise, vibrations or other impacts that could cause interference with the general welfare of city residents.

(2) The City's comprehensive plan encourages industrial uses that do not adversely affect the health and safety of adjacent non-industrial and residential uses. Therefore, these additional development standards are required of all development in the LI and GI zoning districts to mitigate potential adverse impacts on abutting commercial and residential properties.

17.50.010 Light Industrial Parks.

(1) Purpose Light Industrial Parks.—A Light industrial parks chapter are allowed under of this title is established to:

- (a) Encourage imaginative design by permitting greater flexibility in zoning requirements than is generally permitted by other chapters of this title;
- (b) Preserve or create environmental amenities superior to those generally found in conventional development;
- (c) Encourage comprehensive planning of large industrial sites in order to create a park like environment;
- (d) Preserve to the greatest possible extent the natural characteristics of the land, including topography, natural vegetation, waterways, views, etc.;
- (e) Provide for maximum efficiency in the layout of streets, utility networks, open space, landscaping requirements and other public improvements.

(2) Binding Site Plan. Application for a light industrial park use within the light industrial zone shall be permitted when accompanied with a master plan for the site. The master plan is intended to be used as a guide for the developer and city officials in meeting the purpose and provisions of this subsection and chapter. The master plan shall be submitted during the site plan review and include the required landscape plan (SMC [17.145.090](#)). (Ord. 1294 § 16, 2011).

17.50.020 Light Industrial and General Industrial District Performance Standards. Prohibited uses.

Uses other than those identified or described in SMC ~~17.50.040~~ 17.50.030 are prohibited, including but not limited to: shall comply with the following performance standards so they mitigate any potential detrimental effects on adjacent properties and the general public.

- (1) Air Quality. No visible or invisible noxious, toxic, or corrosive fumes or gases or particulate emissions, or suspended particles or fugitive dust emissions, shall be discharged into the atmosphere except such as are common to the normal operation of a heating plant or gasoline or diesel engines in cars, trucks, or railroad engines. Where such emission could be produced as a result of accident or equipment malfunction, adequate safeguards standard for safe operation in the industry involved shall be taken. This shall not be construed to prohibit spraying of pesticides or herbicides on public or private property. Equipment or vents that generate air emissions shall be located on the opposite side of the building from adjoining residentially designated properties.

- (2) Vibrations. Every use shall be so operated that any air or ground vibration generated from equipment other than vehicles is not perceptible without instruments at any point on or beyond the ~~light industrial zone~~ property boundaries.
- (3) Waste Storage and Disposal. The storage or disposal of industrial waste shall be subject to the regulations of the State Health Department and shall comply with the requirements of the Washington Pollution Control Commission.
- (4) Electrical Interference. Provisions must be made for necessary shielding or other preventive measures against interference caused by mechanical, electrical, or nuclear equipment uses or processes with electrical apparatus in nearby buildings or use areas.
- (5) Noise. The noise resulting from any activity other than noise produced by vehicles and other transportation facilities and construction and maintenance of buildings and grounds shall not be audible at any point on or beyond the ~~light industrial zone~~ property boundaries. Equipment or vents that generate noise shall be located on the opposite side of the building from any adjoining residentially designated properties.
- (6) Fire and Explosive Hazards. The manufacture, use, processing or storage of flammable liquids or materials, liquids or gases which produce flammable or explosive vapors or gases shall be permitted in accordance with the regulations of the Uniform Building and Fire Codes, SMC Title [14](#).
- (7) Steam. Any use producing humidity in the form of steam or moist air shall be carried on in such a manner that humidity is not perceptible at or beyond the ~~light industrial zone~~ property boundaries.
- (8) Heat. Any use producing heat shall be carried on in such a manner that heat is not perceptible at or beyond the ~~light industrial zone~~ property boundaries.
- (9) Odors. To promote the health, safety and welfare of the community and to maintain compatibility of surrounding land uses, any use producing odors shall be carried on in such a manner that offensive or obnoxious odor shall not be perceptible by a minimum of five people with ordinary sensitivity without instruments, at or beyond the light industrial zone property boundaries. Facilities shall comply with the “no detectable odor emission” standard, which means: systems shall be designed to remove offensive odors and sized to handle worst-case operating conditions when combinations of meteorological conditions, such as inversions and stagnant air, coincide with peak odor releases from treatment processes. This is not intended to prevent a single odor emission released as a direct result of necessary facility maintenance.
- (10) Glare. Artificial lighting shall be hooded or shaded so that direct light of high intensity lamps will not result in glare when viewed from surrounding areas.

Lighting fixtures that conflict with the readability of traffic control devices, rotate or flash are prohibited.

- (11) Ground Contamination. Materials used or produced in any manufacturing process shall be handled in such a manner as to prevent ground or soil pollution that destroys or endangers natural and environmental resources as noted in SMC 17.50.030.

- (12) The following uses are ~~Examples of prohibited uses are:~~

- (a) Animal slaughtering with the exception of existing legal non-conforming uses or those established prior to September XX, 2018 (set date at expected Council action);
- (b) Sale of livestock, poultry or similar animals;
- (c) Storage, manufacturing or sales of highly volatile or otherwise extremely hazardous substances or materials;
- (d) Incineration or reduction of garbage, sewage, dead animals or refuse
- (e) Septage treatment plants; and
- (f) Uses that cannot meet and/or exceed the performance standards listed in this section
- ~~(e) Any other use not listed which, that produces offensive odor, dust, smoke, gas or noise to the olfactory systems of a majority of a five healthy observers.~~

17.50.025 Exceptions to Performance Standards [New Section]

The following uses shall be exempted from compliance with this chapter:

- (1) The existing City of Stanwood water and sewer treatment plant as it is an Essential Public Facility;
- (2) Any uses or activities allowed per SMC 17.102, Right-to-Farm Registration;
- (3) Legally permitted uses and / or businesses prior to adoption of Ordinance 1459; however, if improvements to the facility / use exceed 50 percent of the accessed building value then the use needs to be brought into compliance with this chapter.
- (4) Temporary smoke or odors originating from uses for the minimum time necessary, but not more than 30 minutes in duration per day;
- (5) Street light glare; and / or
- (6) Temporary construction projects.

17.50.030 Environmental standards.

It shall be the responsibility of the operator and/or the proprietor of any permitted use to provide such reasonable evidence and technical data as the enforcing officer may require to demonstrate that the use or activity is or will be in compliance with the environmental performance standards of SMC Title [17](#) chapters:

17.115 Critical Areas – Geologically Hazardous Areas – Specific Standards

17.120 Critical Areas – Frequently Flooded Areas – Specific Standards

17.125 Critical Areas – Wetlands – Specific Standards

17.130 Critical Areas – Fish and Wildlife Habitat Conservation Areas – Specific Standards

17.135 Critical Areas – Critical Aquifer Recharge Areas – Specific Standards

17.140 Stormwater Management Performance Standards

17.149 State Environmental Policy Act (SEPA)

17.150 Shoreline Management Standards

(Ord. 1294 § 16, 2011).

17.50.040 Submittal Requirements. [new section]

(1) In addition to any other submittal requirements, all facilities and uses subject to this section shall submit information describing the facility or use, location, and potential mitigation measures to address each of the performance standards listed in SMC 17.50.030.

(2) If the City has reasonable doubt that a use is, or can be, conducted within the limits of the performance standards listed in SMC 17.50.030, it may require that the user or proposed user retain, at their expense, an independent, qualified, testing laboratory or expert to prepare an analysis of the use to determine its compliance with the performance standards established in this chapter. Such studies shall be submitted with the associated permit application and shall be approved by the City prior to any land use permit or building permit approval. The City shall have the right to require expert peer review of the studies and the cost of that review shall be the responsibility of the applicant.

17.50.050 Enforcement. [new section]

(1) Industrial and manufacturing uses established per SMC 17.50.030 shall comply with this chapter to ensure compatibility with surrounding residential and commercial areas and to provide for the health, welfare, and safety of the public occupying or visiting such areas. Violations of this chapter shall be considered a nuisance and shall be abated. Violations shall be processed per SMC 13.01, Enforcement.

(2) The enforcing official shall have the authority to issue a stop work or emergency order and require that all activities causing a violation of this chapter cease until any corrective measures, as may be required to eliminate the offense, can be implemented.

(3) It shall be the responsibility of the operator and/or proprietor of any permitted use to provide such reasonable evidence and technical data as the enforcing official may require demonstrating the use or activity is or will be in compliance with the performance standards of this chapter.

Section 2. Findings of Fact and Conclusions. In support of the amendment approved in this Ordinance the Stanwood City Council adopts the Findings of Fact and Conclusions attached hereto as Exhibit "A" and incorporated herein by reference and the analysis contained in the Staff Report on the amendments.

Section 3. Severability. The various parts, sections and clauses of this ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby.

Section 4. Authority to Make Necessary Corrections. The City Clerk and the codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance including, but not limited to, the correction of scrivener's clerical errors, references, ordinance numbers, section/subsection numbers and any references thereto.

Section 5. Conflict. In the event that there is a conflict between the provision of this Ordinance and any other City ordinance, the provision of this Ordinance shall control.

Section 6. Effective Date. This Ordinance shall take effect from and after five (5) days after its passage and publication as required by law.

PASSED AND APPROVED by the Stanwood City Council this ____ day of _____ 2018.

CITY OF STANWOOD

Leonard Kelley, Mayor

ATTEST:

By: _____
David Hammond, City Clerk

APPROVED AS TO FORM:

By: _____
Grant Weed, City Attorney

Date of Publication: _____

Effective Date: _____

Exhibit A
Findings of Fact and Conclusions

DRAFT



City of Stanwood, Washington Findings of Fact and Conclusions of Law

Planning Commission Recommendation Industrial Zoning Code Amendment

A. GENERAL INFORMATION

File Number(s): 2018-0175

Project Summary: Proposed code amendment to the Stanwood Municipal Code, Chapter 17.50, to adopt development performance standards in the Light Industrial and General Industrial zoning districts.

Applicant: City of Stanwood

Location: The code amendment applies to all properties within the Light Industrial and General Industrial zoning districts.

Public Hearing Date: August 13, 2018

Location: Stanwood Fire Station; 8117 267th Place NW, Stanwood, WA 98292

Staff Contact: Patricia Love, Community Development Director

B. BACKGROUND AND DESCRIPTION OF PROPOSAL

The Stanwood Planning Commission held a public hearing August 13, 2018 where they recommended amending SMC Chapter 17.50, Additional Standards – LI and GI Zoning Districts, to adopt performance standards necessary to develop properties within those zones.

In recent months, the Planning Commission has been considering zoning code amendments to the Light Industrial (LI) and General Industrial (GI) zone to reduce potential negative impacts from industrial uses on surrounding commercial and residential properties. Issues being addressed include air quality, vibrations, waste storage and disposal, electrical interference, noise, fire and explosive hazards, steam, heat, odors, glare, ground contamination and prohibited uses.

C. CODE AMENDMENT CRITERIA PER SMC 17.155.090

The city may approve or approve with modifications an application for an amendment to the text of the zoning code if:

(a) The purpose and desired effect of the proposed zoning code amendment are consistent with the Stanwood Municipal Code;

The purpose of the GI (General Industrial) Zone is to provide opportunities for major employment areas within the city and to allow heavy industrial uses including manufacturing, warehousing, storage, distribution, food processing, trucking and related uses in locations that are environmentally suitable for these activities. This zone also provides a location for major utilities including the sewage treatment plant. Additionally, this designation provides a location for the adult entertainment overlay.

Adding performance standards to the GI zone does not prohibit the types of uses described in the purpose statement, but they would mitigate the unintended effects of these uses on adjacent commercial and residential properties.

(b) There is a positive relationship to the public health, safety and welfare of the community; and

Generally, heavy industrial zones are located away or are buffered from commercial and residential uses; however, in Stanwood's case the GI zone in many cases is located directly adjacent businesses and residents that could be negatively impacted by foul odors. Adopting performance standards that address noise, odor, air quality, vibrations, and hazardous materials supports the public health, welfare and safety of the public visiting those areas and upland / adjacent property owners.

(c) The proposed amendment is consistent with the Stanwood Comprehensive Plan.

The City's Comprehensive Plan includes a well-defined vision for the City: becoming the commercial and cultural center of the greater Stanwood / Camano region. Goals and policies promote a vibrant downtown and livable community which includes a mix of residential, office, retail, entertainment and service uses. Walkability is highly encouraged in the Plan and envisions residential and commercial areas connected with sidewalks, trails, and parks. Industrial uses are encouraged which do not adversely affect the health and safety of adjacent non-industrial and residential uses. Supporting Comprehensive Plan Policies:

LUP 13.1: Discourage industrial development that interferes with residential and commercial land uses in close proximity.

LUP 13.2 Require mitigation of any negative impacts of noise, light, glare, dust and other effects when considering the development of industry.

LUP 19.3General Industrial uses shall not adversely affect the health and safety of adjacent non-industrial and residential uses.

D. FINDINGS OF FACT

1. There has been a request by several members of the community to make changes to the Light Industrial and General Industrial zoning regulations regarding air quality, odor, and dust.
2. The LI and GI zones are intended for industrial uses such as manufacturing, warehousing, fabrication and food processing.
3. Stanwood has adopted additional development standards for light industrial parks within the Light Industrial zoning district. These standards contain specific language prohibiting typical uses that would be bothersome to adjoining commercial or residential neighborhoods which could be applied to both the larger IL and GI districts.
4. Generally, heavy industrial zones are located away or are buffered from commercial and residential uses; however, in Stanwood's case the LI and GI zones are in many cases located directly adjacent to businesses and residents that could be negatively impacted by foul odors.
5. Stanwood's 2015 – 2035 Comprehensive Plan directly addresses compatibility issues between industrial and other zoning districts:

Comprehensive Plan Goal LUG 13: Discourage conflict where industrial land abuts other land uses.

Comprehensive Plan Policies:

- | | |
|------------------|---|
| Policy LUP 13.1: | Discourage industrial development that interferes with residential and commercial land uses in close proximity. |
| Policy LUP 13.2: | Require mitigation of any negative impacts of noise, light, glare, dust and other effects when considering the development of an industry. |
| Policy LUP 13.3: | Require installation of adequate landscape or structural buffer to separate differing land uses from the adverse impacts of industrial development. |
| Policy LUP 13.5: | Protect existing industry from possible future land use conflicts. |

Policy LUP 19.1(I):The GI uses shall not adversely affect the health and safety of adjacent non-industrial and residential neighborhoods.

6. The City felt it was appropriate to consider a code amendment that adopts new development standards for industrial developments to protect adjacent properties from potential non-intended adverse effects such as odors, smoke, and dust that would discourage people from enjoying shopping and dining downtown or from being able to enjoy their property while outdoors.
7. On June 18, 2018 the proposed amendments were transmitted to the State of Washington Department of Commerce for state agency review in accordance with RCW 36.70A.106.
8. Planning Commission briefings to discuss the proposed code amendment were held on April 23, June 11, June 25, and July 23, 2018.
9. Notice of the Public hearing was provided in accordance with SMC 17.155.030 and published in the Stanwood Camano News on July 31, 2018. No public comments were received.
10. A State Environmental Policy Act (SEPA) Determination of Non-Significance (DNS) was issued on the proposed amendment on July 6, 2018. There were no appeals of the DNS and the environmental determination stands as issued.
11. The code amendment was circulated for public review on July 6, 2018. No comments were received on the amendment.
12. The public hearing on this matter was held in front of the planning Commission on August 13, 2018 at 6:30 pm at the Stanwood Fire Station located at 8117 267th Place NW, Stanwood, Washington 98292.
13. Staff prepared a report summarizing the proposed code amendment. This report is part of the public record and was presented to the Planning Commission at the public hearing on August 13, 2018 for their consideration.

E. CONCLUSIONS OF LAW

1. The City Council of Stanwood has authority under RCW Title 35A, to adopt plans and regulations related to development and operations within the City of Stanwood.
2. SMC section 17.155.030 requires that the Planning Commission review and make recommendations to the Stanwood City Council regarding code amendments to Title 17, Zoning.

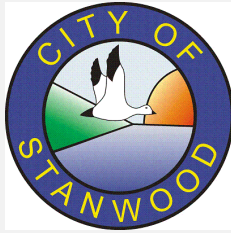
3. Planning Commission briefings to discuss the proposed code amendment were held on April 23, June 11, June 25, and July 23, 2018.
4. Notice of the public was provided on July 31, 2018 in accordance with SMC Table 17.81A-I, Classification of Permits and Decisions.
5. SEPA review was conducted on the proposal and a Determination of Nonsignificance (DNS) was issued on July 6, 2018 under WAC 197-11-340(2). No appeals of the SEPA determination were filed.
6. The proposal is consistent with the Comprehensive Plan and meets the requirements and intent of the Plan, including land use goal 13 and policies 13.1, 13.2, 13.3, 13.5, and 19.1.
7. The proposal is beneficial to the public health, safety and welfare and is in the public interest by reducing potential negative impacts from industrial developments on adjacent or nearby commercial and residential properties.
8. After considering staff comments and public testimony the Stanwood Planning Commission determined the draft code amendment is consistent with the Comprehensive Plan and should be adopted.

F. STAFF RECOMMENDATION

Move that the Planning Commission **ADOPT** the Findings of Fact and Conclusions of Law contained herein and **AUTHORIZE** the Planning Commission Chair to sign the Findings on behalf of the Commission and recommend that the Stanwood City Council **APPROVE** the proposed amendments to Chapter 17 of the Stanwood Municipal Code.

Dated this 13th of August 2018.

Linda Utgard, Planning Commission Chair
City of Stanwood



MEMORANDUM

COMMUNITY DEVELOPMENT DEPARTMENT

10220 270th St NW
Stanwood, WA 98292
360-629-4577

TO: PLANNING COMMISSION

FROM: Patricia Love, Community Development Director

SUBJECT: Sign Code Amendment

DATE: August 13, 2018

ATTACHMENT: A. Stanwood Municipal Code – Sign Code Sections

The Planning Commission has been asked to consider a change to the sign code to allow for off-site monument or directional signage for businesses. For example, this would allow a business or group of businesses who do not front a main road like 271st St NW to provide signage for their business to be visible. Another option might be to modify the A-board signage requirements to meet this request as well. This request was made by a local business that does not have direct frontage on a main street and wishes to provide better signage and direction to their business.

As part of the code amendment process, this initial discussion on the sign code is to provide staff with feedback and direction from the Commission on what issues are important to address or if there are any general areas of concern related to the sign code.

Attached is the City of Stanwood sign code sections that may be relevant to the discussion.

17.110.010 Purpose.

The purpose of these standards is to establish regulations for the design, construction, installation, and maintenance of signs, as defined in this Title [17](#), in the city of Stanwood in order to:

- (1) Balance the right of individuals to identify their businesses and convey their messages and the right of the public to be protected against the unrestricted proliferation of signs;
- (2) Further the objectives of the comprehensive plan;
- (3) Protect the public health, safety, and welfare;
- (4) Reduce traffic hazards;
- (5) Facilitate the creation of an attractive and harmonious community;
- (6) Protect property values;
- (7) Promote economic development; and
- (8) Preserve the right of free speech exercised through the use of signs containing noncommercial messages. (Ord. 1440 § 5, 2017; Ord. 1262 § 1, 2010).

17.110.060 Exemptions.

The following signs are exempt from the permit requirements of these standards:

- (1) Temporary signs on private property or public property meeting the requirements in SMC [17.110.150](#) (Temporary signs).
- (2) Signs attached to the inside of a window which do not exceed 50 percent of the total window area of the business.
- (3) Signs that are an integral part of the historic character of a landmark building or historic district.
- (4) Public signs regulating vehicular or pedestrian traffic or designating or giving direction to streets, schools, hospitals, historic sites, or public facilities.
- (5) Flags of any government or governmental agency or any patriotic, religious, charitable, civic, educational, or fraternal organization not exceeding 40 square feet in area.
- (6) Hand-held signs not set on or affixed to the ground and not exceeding 10 square feet in area.
- (7) Memorial or commemorative plaques or tablets denoting a building name and/or date of construction or a location of historic significance and not exceeding four square feet in area.
- (8) Signs located on baseball field fencing within city parks. Signs shall be no greater than four feet by eight feet, only up during baseball season, and remain in good condition. The city shall have the right to remove signage that they deem to be in poor condition. (Ord. 1440 § 5, 2017; Ord. 1398 § 24, 2015; Ord. 1311 § 3, 2012; Ord. 1262 § 1, 2010).

17.110.070 Prohibited signs.

The following signs are prohibited:

- (1) Vehicular Signs and Mobile Trailer Signs. No sign or other advertising structure shall be painted on or attached to a motor vehicle used primarily for the display of such sign; provided, that this section shall not prohibit the identification of a business or its products or services on its vehicle(s) operated and parked in a manner appropriate to the normal course of business.
- (2) Moving and Flashing Signs.
 - (a) Moving Signs. No sign or other advertising structure shall have visible moving, revolving, or rotating parts or visible mechanical movement of any kind, except for the movable hands on street clocks, or other apparent visible movement achieved by electrical, electronic or mechanical means, except for time/temperature/date signs and except as permitted in SMC [17.110.080](#)(2).
 - (b) Flashing Signs. No sign or other advertising structure shall have lights or illuminations that flash, move, rotate, scintillate, blink, flicker, vary in intensity or color, or use intermittent electrical pulsations, except as permitted in SMC [17.110.080](#)(2). Time/temperature/date signs are not considered to be flashing signs under this chapter.
- (3) Flags, Banners, Pennants, and Balloons. Flags, banners, pennants, balloons, and other related advertising shall be prohibited, except under the following conditions:
 - (a) Banners or pennants used for temporary purposes such as carnivals, fairs, grand openings, or other special events not to exceed 30 days in duration;
 - (b) National and state flags as exempted under SMC [17.110.060](#);

(c) Balloons or inflatables may be used for a maximum of three days for the purposes of carnivals, fairs, grand openings, or other special events. Balloons and inflatables are not permitted to exceed the height of the roofline or to be located on top of roofs.

(4) Roof Signs. No signage of any type shall be allowed on the roof of any structure except when authorized by variance pursuant to SMC [17.110.120](#).

(5) Billboards and Off-Premises Signs. Billboards and off-premises signs are prohibited. This prohibition includes all surfaces whereon advertising matter is set in view conspicuously and which advertising does not apply to the premises or any use of the premises wherein it is displayed or posted. Existing billboards and off-premises signs must comply with the requirements of SMC [17.110.140](#). This ban does not apply to authorized noncommercial off-premises signs, such as signs that are for public service or community use, direction, or identification of locations within the city.

(6) Permanent Signs on Vacant Lots, Parcels or Easements. No permanent sign shall be located on a lot, parcel or easement as the principal use of that lot, parcel or easement. Signs may only be established as an accessory use to a principally permitted use. (Ord. 1440 § 5, 2017; Ord. 1262 § 1, 2010).

17.110.080 Permitted signs.

(5) "A" Board Signs and Portable Signs.

(a) "A" board and portable signs are allowed only as temporary and supplemental advertising for businesses within the city that have permitted permanent signage. The advertisement contained on any "A" board or portable sign shall pertain only to the business conducted on or within the premises on which such sign is erected or maintained. A separate sign permit is required.

(b) "A" board and portable signs must be a minimum of 30 inches in height and not exceed 48 inches in height when displayed. They must be at least 18 inches in width and not exceed 30 inches in width, and shall not be located within 10 feet of a driveway or other access point.

(c) "A" board and portable signs shall not be located within the paved portion of the vehicular right-of-way or upon traffic islands or crosswalk areas.

(d) Any "A" board or portable sign located on a sidewalk must be located to provide a minimum of five feet of clearance on at least one side for wheelchair and walking access.

(e) No more than one "A" board or portable sign per 25 linear feet of property frontage shall be permitted. No more than two "A" board or portable signs shall be permitted for a given business.

(f) "A" board and portable signs shall be removed nightly.

(g) Owners of "A" board signs located upon the city sidewalk shall assume liability for damage resulting from their use as part of the permit process and shall provide the city with an appropriate document holding the city harmless from such resulting loss. The city shall not assume any liability for any accident incurred in conjunction with an "A" board sign.

(6) Feather Banner Signs.

(a) Feather banner signs are allowed only as supplemental advertising for businesses within the city that have permitted permanent signage. The advertisement contained on any feather banner sign shall pertain only to the business conducted on or within the premises on which such sign is erected or maintained. A separate sign permit is required.

(b) Feather banner signs shall be securely anchored and not greater than 20 feet in height and shall not exceed 40 square feet.

(c) Feather banner signs shall not be located within the paved portion of the vehicular right-of-way or upon traffic islands or crosswalk areas.

(d) Feather banner signs shall not be located within 10 feet of a driveway or other access point and not obstruct views from a driveway to ensure safe ingress and egress from the premises.

(e) Any feather banner signs shall not be located on public sidewalks.

(f) No more than two feather banner signs shall be permitted for a given business.

(g) Feather banner signs shall be removed nightly. (Ord. 1440 § 5, 2017; Ord. 1398 § 25, 2015; Ord. 1323 § 3, 2012; Ord. 1280 §§ 1, 2, 2010; Ord. 1276 § 4, 2010; Ord. 1262 § 1, 2010).

17.110.085 Banners on or within the public right-of-way.

(1) Horizontal over the right-of-way banners are permitted for noncommercial messages for the following events:

(a) Special events as defined in Chapter [5.06](#) SMC when located within the city;

(b) Events which are excluded from the definition of special events when located within the Port Susan geographical area.

- (2) Application shall be made for city installation and removal of banners over or within the public right-of-way on a form provided by the city and according to administrative procedures published by the city. Application shall be made a minimum of 14 days prior to the event.
- (3) Banners that are displayed on or over the public right-of-way require a sign permit and a temporary encroachment permit. Review of sign and encroachment permits may be combined and issued with one permit and fee.
- (4) Sign Standards for Banners.
- (a) Banners shall meet the minimum standards in SMC [17.110.050](#), including but not limited to wind load.
 - (b) Banners shall be three feet high and 20 feet wide and shall not exceed 60 square feet.
 - (c) Materials shall be resistant to ultraviolet rays, mold and mildew and have sewn loops or equivalent for attachment.
 - (d) Banners shall not be erected more than 14 days in advance of the event, and shall be removed within three days after the termination of the event. Vertical banners on light poles used for city marketing may be exempted from this requirement.
 - (e) A temporary banner shall hang a minimum of at least 16 feet above the road.
- (5) The applicant shall maintain general liability insurance for property damage and bodily injury or death throughout the term the banner is in place over the roadway in an amount and terms determined by administrative procedures published by the city. (Ord. 1440 § 5, 2017; Ord. 1311 § 4, 2012).

17.110.120 Variances.

- (1) The community development director may grant a variance to allow the following:
- (a) Setback less than that required under this title; or
 - (b) Area or height of a sign to be increased by up to 50 percent of the maximum allowable height or area subject to the following finding:
 - (i) The unusual shape or topography of the property in question prevents signage allowable under the provisions of these standards from adequately identifying the business or other activity located on such property.
- (2) Off-Site Signage. A variance may also be allowed for off-site signage when the business has no other visible alternative for the placement of signage, as determined by the community development director.
- (3) Roof Signage. The community development director may grant a variance to allow roof signs when the business has no other alternative for the placement of signage. Such approval shall be granted based on the finding that no alternatives are available to the applicant other than roof signage. If roof signage is permitted, it shall conform to all requirements for signs under this chapter. (Ord. 1440 § 5, 2017; Ord. 1262 § 1, 2010).

17.110.150 Temporary signs.

- (1) No Permit Required. No sign permit is required for temporary signs.
- (2) Removal. Temporary signs shall be removed if the sign is in need of repair, is worn, dilapidated or creates a public nuisance.
- (3) City Property (Excluding City Right-of-Way). Temporary signs on city-owned property (excluding city right-of-way) are allowed only in conjunction with an approved special event permit.
- (4) City Right-of-Way outside of the Roadway. Temporary signs on city right-of-way placed outside of the roadway must comply with the following requirements:
- (a) Location. Allowed only between the property line and the back of the nearest curb, or where no curb exists, between the property line and the nearest edge of the pavement. Signs may not be placed on sidewalks, driveways or other paved areas designed for pedestrian or vehicular use, or as conditioned in a right-of-way use permit.
 - (b) Type. Signs on stakes that can be manually pushed or hammered into the ground are allowed. All other signs are prohibited, unless specifically allowed by a right-of-way use permit.
 - (c) Size and Height. Limited to four square feet, and three feet in height.
 - (d) Dilapidated or Nuisance Signs. Any temporary sign in the right-of-way that is dilapidated or a nuisance shall be removed by the person responsible for placement of the sign.
 - (e) Other Signs. The city may allow other signs in city right-of-way with a right-of-way use permit.
- (5) Residential Zones. Temporary signs may be placed on property residentially zoned in accordance with the requirements of this section and the following:
- (a) Freestanding Signs (Includes Post-Mounted and Stake Signs).

- (i) Single-family zones: Temporary freestanding signs shall not exceed four square feet in size and five feet in height, if the sign is mounted on the ground, and not to exceed three feet in height if the sign is stake-mounted.
 - (ii) Multifamily zones: Temporary freestanding signs shall not exceed six square feet in size and five feet in height if the sign is post-mounted on the ground, and not to exceed three feet in height if the sign is stake-mounted.
- (b) Surface-Mounted Signs. Limited to sites two acres or larger:
 - (i) Size. No larger than 32 square feet.
 - (ii) Location. Must be flatly affixed to walls below the fascia or parapet line, or flatly affixed to on-site fences either facing or abutting the street, or facing inward to the subject site. Signs shall not be attached or tethered to other site improvements.
- (6) Nonresidential Zones. Temporary signs are allowed on nonresidentially zoned property in accordance with the requirements of this section and the following:
 - (a) Window Signs. Limited to 50 percent of the window area, subject to the window sign requirements of SMC [17.110.060](#)(2).
 - (b) Freestanding Signs (Including Post-Mounted and Stake Signs) – Size/Height. Limited to four square feet and five feet in height if the temporary sign is mounted in the ground.
 - (c) Surface-Mounted Signs.
 - (i) Size. Limited to 30 square feet.
 - (ii) Location. Must be flatly affixed to walls below the fascia or parapet line, or flatly affixed to on-site fences either facing the abutting street, or facing inward to the subject site. Signs shall not be attached or tethered to other site improvements.
- (7) Temporary Signs on Large Properties, Residential or Nonresidentially Zoned Properties. The following temporary signs may be placed on any site at least two acres in size, in accordance with the requirements of this section and the following:
 - (a) Type. Any type.
 - (b) Size/Height. Not to exceed 64 square feet and up to eight feet above ground level.
 - (c) Exclusivity. The sign allowed under this subsection is in lieu of and shall not be displayed with or be in addition to other temporary signs allowed by this section.
- (8) Duration of Temporary Signs. Temporary signs shall be allowed one time only for a period not to exceed six months in any consecutive 12-month period. (Ord. 1440 § 5, 2017).



MEMORANDUM

COMMUNITY DEVELOPMENT DEPARTMENT

**10220 270th St NW
Stanwood, WA 98292
360-629-4577**

TO: PLANNING COMMISSION
FROM: Patricia Love, Community Development Director
SUBJECT: Small Cell Code Amendment
DATE: August 13, 2018
ATTACHMENT: A. MRSC News Articles

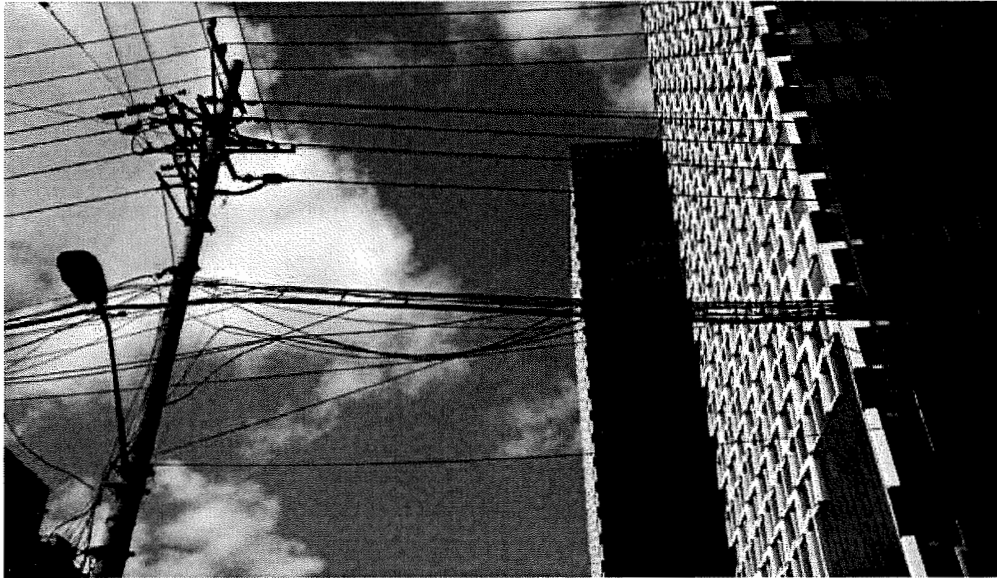
Since 2016 the telecommunications industry has been putting significant pressure on Federal and State governments to deregulate the cell tower industry. They have argued that Cities and Counties have interfered in the delivery of internet and phone services. Cities and Counties have argued that we have the right to protect the use of our right-of-ways and aesthetic character of our communities. With the industry promoting its 5G technology, lobbyists are gearing up for another push during the 2019 legislative session, at again both the Federal and State level, to exempt the telecommunications industry from local control.

Currently the City has a “cell tower” code, but it is out of date as it relates to the “small cell” technology and federal regulations. The City will need to update its code in the coming months to address the most recent federal requirements. However, regulations regarding small cell technology and use of right-of-way is still a moving target.

The purpose of the August 13 meeting is to introduce the issue and bring to your attention several articles that have been written describing the technology and issues affecting cities.

Preparing for Small Cell Deployments

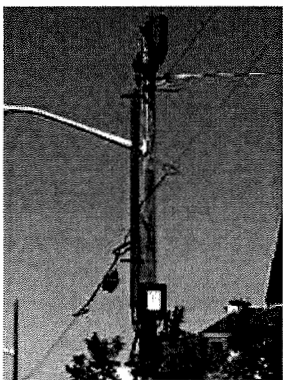
September 1, 2017 by Elana Zana
Category: Telecommunications



During 2017, the wireless industry targeted local regulation for preemption in filings before the Federal Communications Commission, as well as orchestrated a concerted national effort in the state legislatures, including in Olympia. Though new legislation (see SB 5711) was not passed this year, the deployment of small cells will intensify and the industry is likely to return to the legislature. During the next several months, cities are encouraged to evaluate their approach to small cell

deployment and determine how to appropriately respond to requests for cell siting by companies such as Verizon, AT&T, and Mobilitie.

What is a Small Cell?



Put simply, a small cell is smaller than the macro cell tower facilities which serve as the backbone of the wireless industry. It contains radios and antennas (often multiple) as well as requires power and fiber in order to transmit cellular phone and data signals. Typically, small cells are attached to utility poles or light/traffic poles within the rights-of-way. The purpose of the small cells is to augment capacity for data traffic in dense areas (primarily downtown cores and residential neighborhoods), and they are typically 25-45 feet in height, rather than tall macro towers that extend beyond 75 feet. For a better understanding of the fundamentals of small cells, visit T-Mobile's website. (*Photo Courtesy of Verizon.*)

Recommendations on Preparing for Small Cell Deployment

As you prepare your city for small cell deployment, here is a top ten list of recommendations:

1. **Involve Multiple Departments.** Since the location of small cells is primarily in the public rights-of-way, the involvement of multiple departments including the public works/engineering, transportation and planning/development services is necessary. Further, if city-owned poles are rented, then the real estate or

finance department should also participate. Determine which department is best suited to take the lead on small cell siting.

2. **Educate Planning Commission and City Council.** Engage the council and the public in conversations about small cell deployment and how best to accommodate appropriate technology in the cityscape.
3. **Engage with the Wireless Industry.** The industry can provide educational material and explain their anticipated deployments in the city. Working cooperatively together will help both parties plan effectively to ensure that the cell sites fit with the city's design standards and meet the industry's coverage and capacity needs.
4. **Include the Pole Owners.** In many cities, the electric utility owns the majority of the utility poles in the public rights-of-way. These companies restrict telecommunications attachments and designs, including height of the pole and the necessity for pole replacements. Make sure that the city's design standards consider the design requirements imposed by the pole owner.
5. **Draft Code Revisions.** Current wireless communications codes were developed to address macro facilities located on dedicated towers and monopoles or attached to buildings or water towers. The old codes do not typically contemplate the use of public rights-of-way or design standards for utility pole attachments. Further, many codes do not address the federal shot clocks and utilize conditional use permit processes which may extend past the timelines.
6. **Prepare for Franchise Applications.** Develop a franchise application specific to small cells and draft a template franchise/master permit for small cells. Though similar to other telecommunications franchises, small cells focus less on wireline technology and more on infrastructure attached to facilities in the rights-of-way.
7. **Wireline Deployments.** In order for small cells to function they need a fiber connection which requires either an aerial or underground line (in some circumstances microwave technology is used). Expect an increase in telecommunications wireline permits and franchise applications in conjunction with small cell deployment.
8. **Track Shot Clocks.** State law imposes a 120-day shot clock for issuing new franchises/master permits and 30 days for right of way use permits. See [RCW 35.99.030](#). Federal law has shot clock requirements for siting or modifying cell facilities (90 days for colocations, 150 days for new facilities, and 60 days for eligible facilities requests). Mark the date a complete application is received and issue permits in a timely fashion.
9. **Streamline Permit Process.** Small cells are typically deployed in batches of 15-30. Create a process for the streamlined review of permits internally and encourage the wireless applicant to apply for the proposed buildout of entire neighborhoods in order to assess the cumulative impact.
10. **Create Design Standards.** Develop generally applicable design standards to guide both the city and telecommunications industry. The technology may drive the design, so collaboration with the industry is beneficial. Also identify if there are some districts in which small cell deployment is not feasible or desirable.

The wireless industry has submitted applications for small cell deployment in many cities within Washington. Preparing in advance of these applications is helpful to ensure consistency between the telecommunications applicants and appropriate planning for the city's street designs. For more information about small cells, listen to the [AWC/Ogden Murphy Wallace](#) webcast or attend the September [NATOA conference](#) in Seattle.

Questions? Comments?

If you have comments about this blog post, please email me at ezana@omwlaw.com or my colleague Scott Snyder at ssnyder@omwlaw.com. If you have questions about small cells or other local government issues, feel free to contact MRSC using the [Ask MRSC form](#) or by calling MRSC at (206) 625-1300 or (800) 933-6772.



About Elana Zana

Elana Zana, a telecommunications attorney, counsels municipalities on a broad range of telecommunications related matters and is a member attorney with the Seattle-based law firm Ogden Murphy Wallace, P.L.L.C.

She represents municipalities, both individually and in consortiums, working with them to negotiate telecommunications and cable franchises, lease agreements, small cell agreements, pole attachment agreements, drafting right of way use ordinances and zoning codes.

Elana has also represented cities in litigation related to utility tax refund requests. Currently, she is advising over 25 cities in Washington State on telecommunications issues including the deployment of small cell infrastructure.

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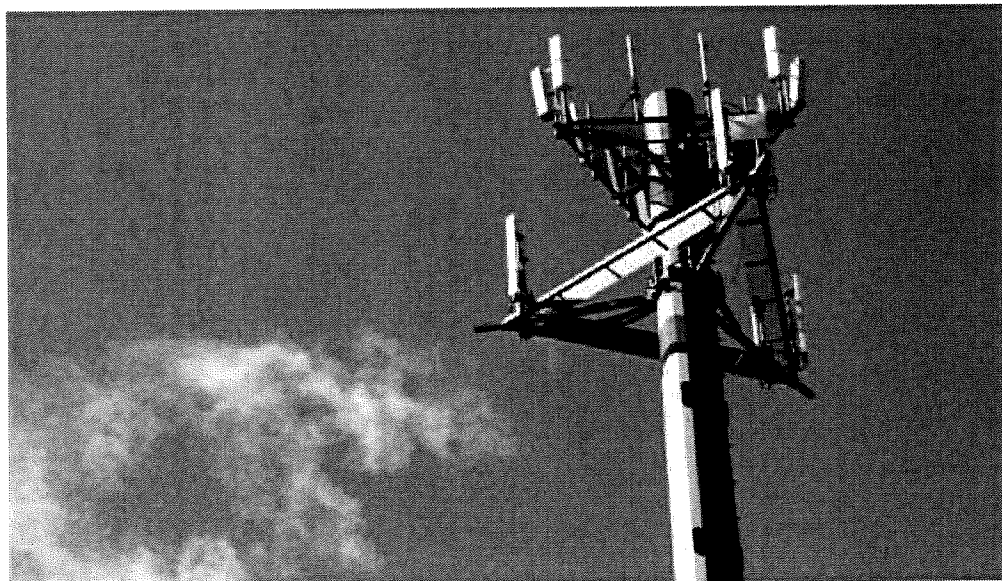
0 comments on Preparing for Small Cell Deployments

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Model Ordinances for New Wireless Antenna Facility Siting Regulations

March 17, 2015 by Jim Doherty
Category: Telecommunications



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The regulatory changes were enacted at the request of the telecommunications industry to ease local government regulations that, in the industry's opinion, unduly delayed the siting approval process. These changes primarily affect modifications to existing wireless antenna facilities – typically colocations on existing facilities. The crucial wording from the federal legislation reads:

a State or local government may not deny, and shall approve, any eligible facilities request for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station.

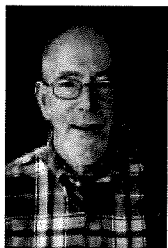
Interpreting exactly what the above language means was the FCC's primary task. As stated in the FCC order:

Section 6409(a) includes a number of undefined terms, however, that bear directly on how the provision applies to infrastructure deployments, and the record confirms that there are substantial disputes on a wide range of interpretive issues under the provision. We accordingly adopt rules that clarify many of these terms and enforce their requirements, thus advancing Congress's goal of facilitating rapid deployment.

The FCC's interpretation of Section 6409(a) has, however, caused controversy, and we have heard that a coalition of local governments is being assembled nationally for the purpose of challenging the FCC rules as being in conflict with federal law. We'll keep an eye on that.

Meanwhile, to aid in the implementation of Section 6409(a) and the FCC regulations, a consortium that included PCIA (a wireless telecom infrastructure association), the National League of Cities (NLC) and the National Association of Counties (NaCO) developed a [model ordinance](#) and implementation [checklist](#). The Kenyon Disend PLLC law firm in Issaquah has also released a [model ordinance](#) to their municipal clients and has graciously made it available for other local governments to use. NLC has provided a [detailed summary](#) of the provisions of the new regulations with the greatest impact on local governments.

We encourage Washington local governments to review these documents and work with their legal counsel and planning staff to ensure that their regulations are consistent with the FCC regulations. The new regulations go into effect in early April, so you should not delay starting your update process. Local governments will need to act on any complete application for wireless facilities modifications meeting the federal requirements within 60 days, or the application will be deemed automatically granted.



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The New York Times

5G Cell Service Is Coming. Who Decides Where It Goes?

By Allan Holmes

March 2, 2018

WASHINGTON — The future of cellular service is coming to a neighborhood near you.

But who gets to decide when, where and how it gets delivered is still a heated fight.

The new technology, known as 5G, delivers wireless internet at far faster speeds than existing cellular connections. But it also requires different hardware to deliver the signals.

Instead of relying on large towers placed far apart, the new signals will come from smaller equipment placed an average of 500 feet apart in neighborhoods and business districts. Much of the equipment will be on streetlights or utility poles, often accompanied by containers the size of refrigerators on the ground. More than 300,000 cell stations now provide wireless connections, and 5G will bring hundreds of thousands — perhaps millions — more.

The prospect of their installation has many communities and their officials, from Woodbury, N.Y., to Olympia, Wash., insisting that local governments control the placement and look of the new equipment. They say that the cell stations could clutter neighborhoods with eyesores and cost the communities a lot of potential revenue.

“Residents across the country are just now beginning to understand the harms that hasty and insensitive small cell deployments can inflict on their communities,” said Jim Baller, the president of Baller Stokes & Lide, a law firm in Washington that represents municipalities on communications issues.

But telecommunications companies — hoping to cash in on what is predicted to be \$250 billion in annual service revenue from 5G by 2025 — are pushing to build the system as quickly and cheaply as possible. And they have the federal government on their side.

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The companies, like Verizon Communications and AT&T, say that the equipment will be safe and unobtrusive, and that it is needed to support future applications like driverless cars. Dotting them throughout neighborhoods is necessary for full coverage, they say, because the new 5G signals do not travel as far as the radio frequencies now in use.

The new equipment, AT&T told the Federal Communications Commission last year, “will revolutionize the way consumers and businesses use mobile broadband services, and of the emerging internet of things.”

To get their way, the telecom firms have lobbyists working state legislatures, advocating laws that restrict local oversight of 5G. Since 2016, 13 states have passed bills that limit local control, and several other states are considering similar laws. Wireless companies are also lobbying Congress, which is considering several bills on the issue.

And the F.C.C., under the leadership of Ajit Pai, its Republican chairman, has strongly encouraged weakening regulations to accelerate the deployment of new 5G technology — including reducing the role of local governments.

This week, another Republican F.C.C. commissioner, Brendan Carr, announced details of a plan to streamline the environmental and historic review process for 5G infrastructure, saying it could cut costs by 80 percent. The agency will vote on the measure this month.

Mr. Pai and Mr. Carr have said regulatory changes are necessary to keep pace with global competitors. But bringing high-speed service to underserved areas — closing the digital divide — has also been one of Mr. Pai’s central arguments for reining in local regulations. The money companies save from fewer regulations, he says, can be used to expand broadband into rural areas.

City officials are not buying it. Mobilitie, one of the nation’s largest cell-tower operators, submitted an unofficial plan in Montgomery County, Md., in the fall, designating where the company might want to place small cells. Of the 215 small-cell sites in that plan, only 11 were in areas with fewer than 1,000 people per square mile.

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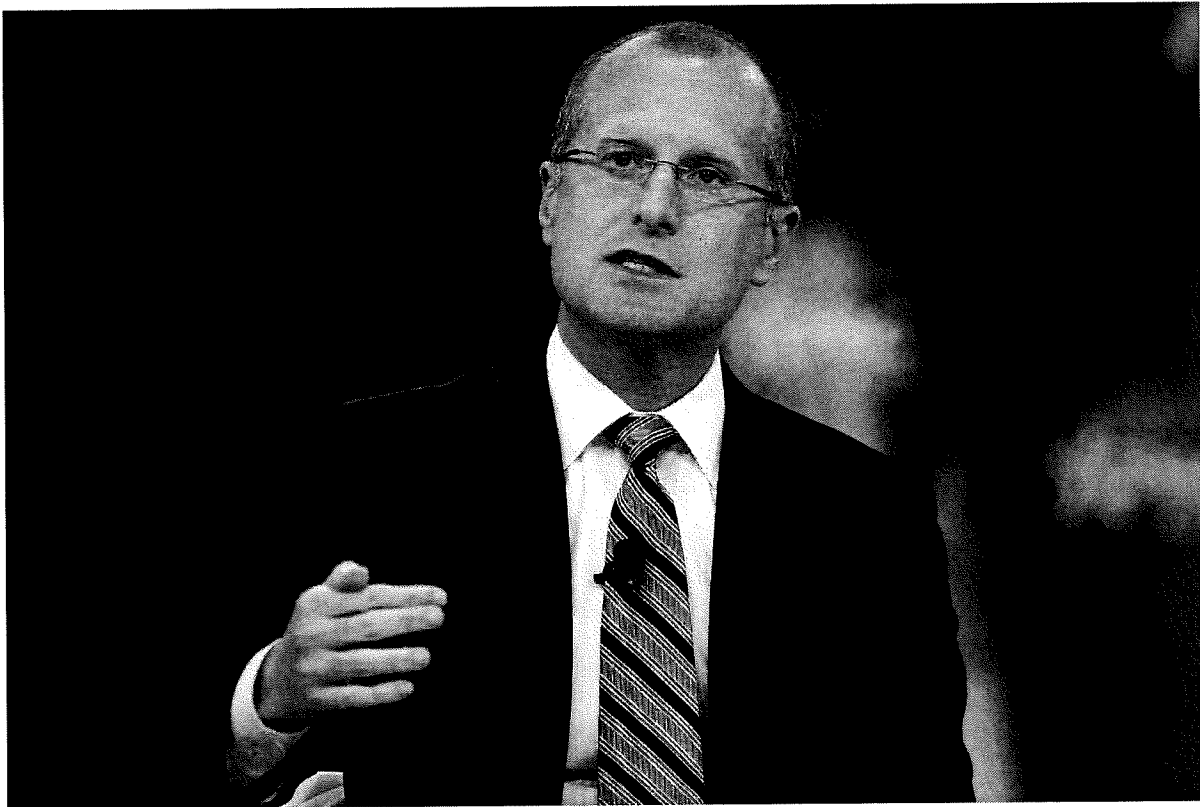
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The maneuvering in Washington has left people like Marc King, 71, a longtime resident of Germantown, Md., feeling resigned.

“A Russian woman stood up to speak at one of these public meetings, and she said that when she lived in Russia, the government slam dunked her and she had no say,” Mr. King said. “Now she lives in the United States of America, where she’s getting slam dunked by the government and she has no say. That gives you a window into what’s going on here.”

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MEMORANDUM

COMMUNITY DEVELOPMENT DEPARTMENT

**10220 270th St NW
Stanwood, WA 98292
360-629-4577**

TO: PLANNING COMMISSION
FROM: Patricia Love, Community Development Director
SUBJECT: Small Cell Code Amendment
DATE: August 13, 2018
ATTACHMENT: A. MRSC News Articles

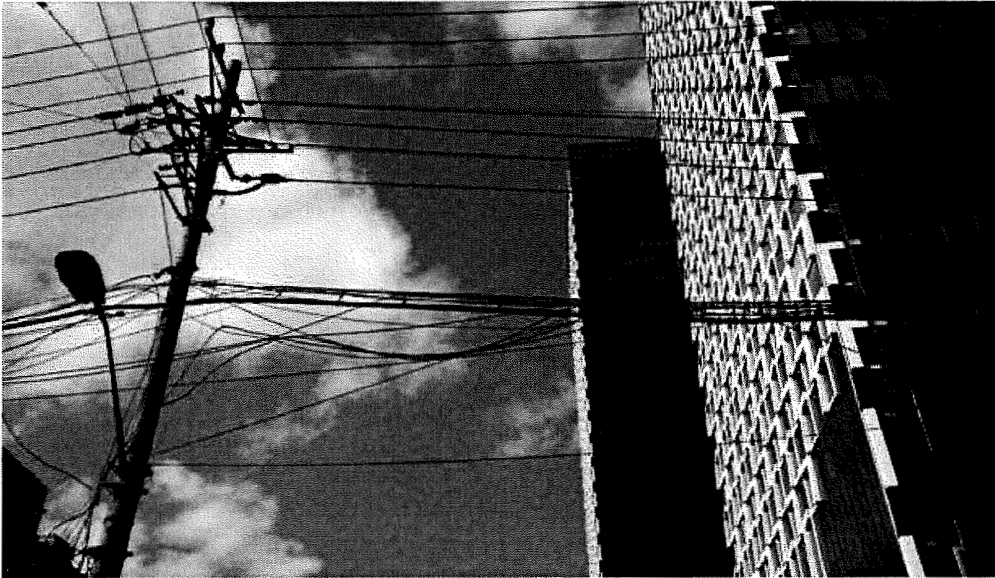
Since 2016 the telecommunications industry has been putting significant pressure on Federal and State governments to deregulate the cell tower industry. They have argued that Cities and Counties have interfered in the delivery of internet and phone services. Cities and Counties have argued that we have the right to protect the use of our right-of-ways and aesthetic character of our communities. With the industry promoting its 5G technology, lobbyists are gearing up for another push during the 2019 legislative session, at again both the Federal and State level, to exempt the telecommunications industry from local control.

Currently the City has a “cell tower” code, but it is out of date as it relates to the “small cell” technology and federal regulations. The City will need to update its code in the coming months to address the most recent federal requirements. However, regulations regarding small cell technology and use of right-of-way is still a moving target.

The purpose of the August 13 meeting is to introduce the issue and bring to your attention several articles that have been written describing the technology and issues affecting cities.

Preparing for Small Cell Deployments

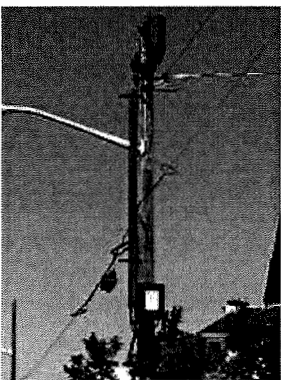
September 1, 2017 by Elana Zana
Category: Telecommunications



During 2017, the wireless industry targeted local regulation for preemption in filings before the Federal Communications Commission, as well as orchestrated a concerted national effort in the state legislatures, including in Olympia. Though new legislation (see SB 5711) was not passed this year, the deployment of small cells will intensify and the industry is likely to return to the legislature. During the next several months, cities are encouraged to evaluate their approach to small cell

deployment and determine how to appropriately respond to requests for cell siting by companies such as Verizon, AT&T, and Mobilitie.

What is a Small Cell?



Put simply, a small cell is smaller than the macro cell tower facilities which serve as the backbone of the wireless industry. It contains radios and antennas (often multiple) as well as requires power and fiber in order to transmit cellular phone and data signals. Typically, small cells are attached to utility poles or light/traffic poles within the rights-of-way. The purpose of the small cells is to augment capacity for data traffic in dense areas (primarily downtown cores and residential neighborhoods), and they are typically 25-45 feet in height, rather than tall macro towers that extend beyond 75 feet. For a better understanding of the fundamentals of small cells, visit T-Mobile's website. (*Photo Courtesy of Verizon.*)

Recommendations on Preparing for Small Cell Deployment

As you prepare your city for small cell deployment, here is a top ten list of recommendations:

1. **Involve Multiple Departments.** Since the location of small cells is primarily in the public rights-of-way, the involvement of multiple departments including the public works/engineering, transportation and planning/development services is necessary. Further, if city-owned poles are rented, then the real estate or

finance department should also participate. Determine which department is best suited to take the lead on small cell siting.

2. **Educate Planning Commission and City Council.** Engage the council and the public in conversations about small cell deployment and how best to accommodate appropriate technology in the cityscape.
3. **Engage with the Wireless Industry.** The industry can provide educational material and explain their anticipated deployments in the city. Working cooperatively together will help both parties plan effectively to ensure that the cell sites fit with the city's design standards and meet the industry's coverage and capacity needs.
4. **Include the Pole Owners.** In many cities, the electric utility owns the majority of the utility poles in the public rights-of-way. These companies restrict telecommunications attachments and designs, including height of the pole and the necessity for pole replacements. Make sure that the city's design standards consider the design requirements imposed by the pole owner.
5. **Draft Code Revisions.** Current wireless communications codes were developed to address macro facilities located on dedicated towers and monopoles or attached to buildings or water towers. The old codes do not typically contemplate the use of public rights-of-way or design standards for utility pole attachments. Further, many codes do not address the federal shot clocks and utilize conditional use permit processes which may extend past the timelines.
6. **Prepare for Franchise Applications.** Develop a franchise application specific to small cells and draft a template franchise/master permit for small cells. Though similar to other telecommunications franchises, small cells focus less on wireline technology and more on infrastructure attached to facilities in the rights-of-way.
7. **Wireline Deployments.** In order for small cells to function they need a fiber connection which requires either an aerial or underground line (in some circumstances microwave technology is used). Expect an increase in telecommunications wireline permits and franchise applications in conjunction with small cell deployment.
8. **Track Shot Clocks.** State law imposes a 120-day shot clock for issuing new franchises/master permits and 30 days for right of way use permits. See [RCW 35.99.030](#). Federal law has shot clock requirements for siting or modifying cell facilities (90 days for colocations, 150 days for new facilities, and 60 days for eligible facilities requests). Mark the date a complete application is received and issue permits in a timely fashion.
9. **Streamline Permit Process.** Small cells are typically deployed in batches of 15-30. Create a process for the streamlined review of permits internally and encourage the wireless applicant to apply for the proposed buildout of entire neighborhoods in order to assess the cumulative impact.
10. **Create Design Standards.** Develop generally applicable design standards to guide both the city and telecommunications industry. The technology may drive the design, so collaboration with the industry is beneficial. Also identify if there are some districts in which small cell deployment is not feasible or desirable.

The wireless industry has submitted applications for small cell deployment in many cities within Washington. Preparing in advance of these applications is helpful to ensure consistency between the telecommunications applicants and appropriate planning for the city's street designs. For more information about small cells, listen to the [AWC/Ogden Murphy Wallace](#) webcast or attend the September [NATOA conference](#) in Seattle.

Questions? Comments?

If you have comments about this blog post, please email me at ezana@omwlaw.com or my colleague Scott Snyder at ssnyder@omwlaw.com. If you have questions about small cells or other local government issues, feel free to contact MRSC using the [Ask MRSC form](#) or by calling MRSC at (206) 625-1300 or (800) 933-6772.



About Elana Zana

Elana Zana, a telecommunications attorney, counsels municipalities on a broad range of telecommunications related matters and is a member attorney with the Seattle-based law firm Ogden Murphy Wallace, P.L.L.C.

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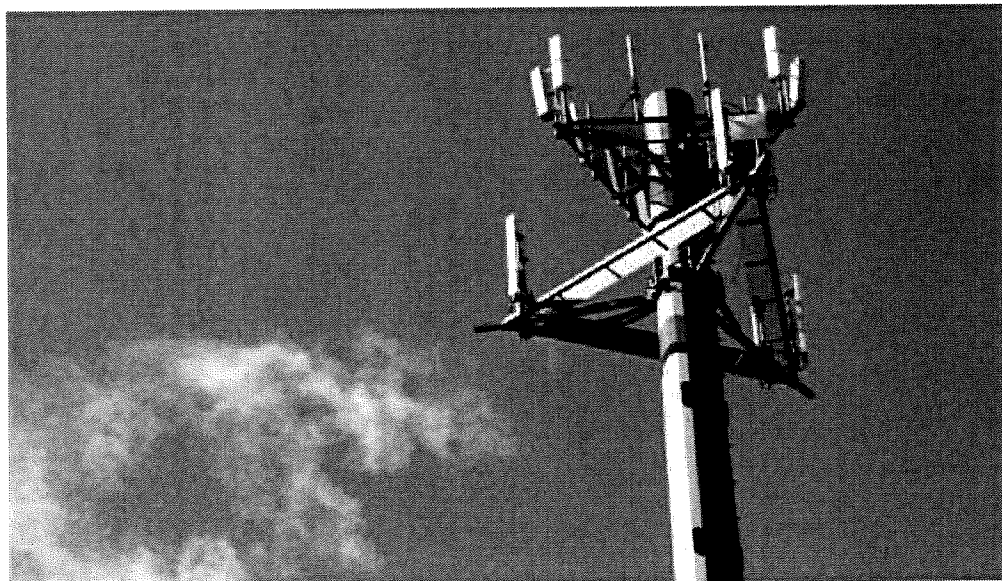
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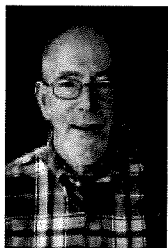
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The New York Times

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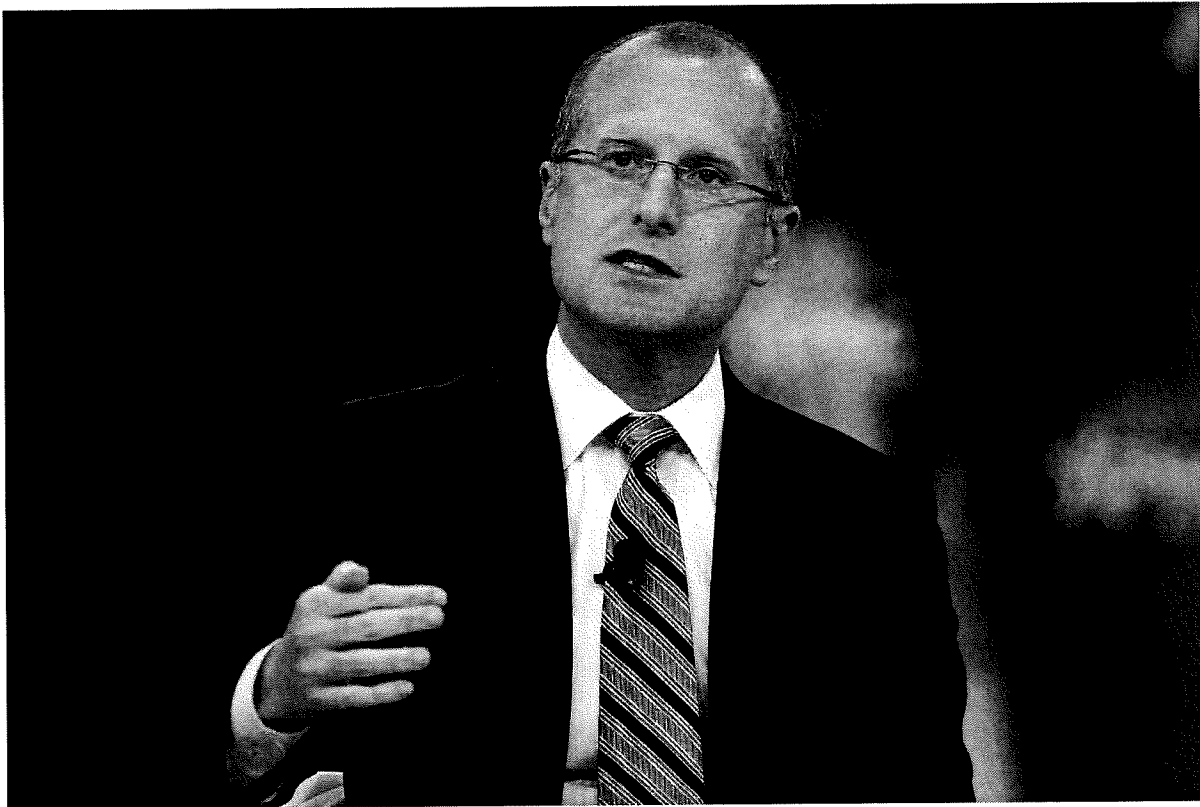
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